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HOUSE BILL 1790

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State of Washington                      58th Legislature                      2003 Regular Session

By Representatives O'Brien and Boldt

Read first time 02/10/2003. Referred to Committee on Judiciary.

1            AN ACT Relating to establishing the lead poisoning prevention act;  
2 adding a new chapter to Title 64 RCW; and prescribing penalties.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

4            NEW SECTION.    **Sec. 1.** This chapter may be known and cited as the  
5 lead poisoning prevention act.

6            NEW SECTION.    **Sec. 2.** The legislature finds that:

7            (1) Nearly one million American children may have levels of lead in  
8 their blood in excess of ten micrograms per deciliter. Unless  
9 prevented or treated, elevated blood lead levels in egregious cases may  
10 result in impairment of the ability to think, concentrate, and learn;

11            (2) A significant cause of lead poisoning in children is the  
12 ingestion of lead particles from deteriorating or abraded lead-based  
13 paint from older, poorly maintained residences;

14            (3) The health and development of these children and many others  
15 are endangered by chipping or peeling lead-based paint or excessive  
16 amounts of lead-contaminated dust in poorly maintained homes;

17            (4) Ninety percent of lead-based paint still remaining in occupied

1 housing exists in units built before 1960, with the remainder in units  
2 built before 1978;

3 (5) The dangers posed by lead-based paint can be substantially  
4 reduced and largely eliminated by taking measures to prevent paint  
5 deterioration and limiting children's exposure to paint chips and lead  
6 dust;

7 (6) The deterioration of lead-based paint in older residences  
8 results in increased expenses each year for the state in the form of  
9 special education and other education expenses, medical care for  
10 lead-poisoned children, and expenditures for delinquent youth and  
11 others needing special supervision;

12 (7) Older housing units remain an important part of this state's  
13 housing stock, particularly for those of modest or limited incomes;

14 (8) The existing system of enforcing housing codes has proven  
15 ineffective in inducing widespread lead-based paint hazard abatement,  
16 mitigation, and control;

17 (9) The financial incentives currently in place have not proven  
18 sufficient to motivate landlords and other property owners to undertake  
19 widespread and effective lead-based paint hazard abatement, mitigation,  
20 and control;

21 (10) Insurance coverage generally is not available to landlords or  
22 other property owners to protect them against potentially ruinous legal  
23 actions brought on behalf of lead-poisoned children;

24 (11) The possibility of liability exposure among landlords has led  
25 many to abandon older properties or to place them in shell corporations  
26 in order to avoid personal liability; and

27 (12) Knowledge of lead-based paint hazards, their control,  
28 mitigation, abatement, and risk avoidance is not sufficiently  
29 widespread, especially outside urban areas.

30 NEW SECTION. **Sec. 3.** To promote the elimination of childhood lead  
31 poisoning, it is the purpose of this chapter to:

32 (1) Substantially reduce, and eventually eliminate, the incidence  
33 of childhood lead poisoning;

34 (2) Increase the supply of affordable rental housing in which  
35 measures have been taken to reduce substantially the risk of childhood  
36 lead poisoning;

1 (3) Make enforcement of lead hazard control standards more certain  
2 and more effective;

3 (4) Improve public awareness of lead safety issues and educate both  
4 property owners and tenants about practices that can reduce the  
5 incidence of lead poisoning;

6 (5) Provide protection from potentially ruinous tort actions for  
7 those landlords who undertake specified lead hazard reduction measures;

8 (6) Assure the availability and affordability of liability  
9 insurance protection to those landlords and other owners who undertake  
10 specified lead hazard reduction measures;

11 (7) Mandate the testing of children likely to suffer the  
12 consequences of lead poisoning so that prompt diagnosis and treatment,  
13 as well as the prevention of harm, are possible;

14 (8) Provide a mechanism to facilitate prompt payment of medical and  
15 rehabilitation expenses and relocation costs for those remaining  
16 individuals who are affected by childhood lead poisoning; and

17 (9) Define the scope of authority of state agencies and departments  
18 for lead hazard control, mitigation, education, and insurance  
19 availability, and to provide for the coordination of these efforts.

20 NEW SECTION. **Sec. 4.** The definitions in this section apply  
21 throughout this chapter unless the context clearly requires otherwise.

22 (1) "Abatement" means any set of measures designed to permanently  
23 eliminate lead-based paint or lead-based paint hazards. "Abatement"  
24 includes the removal of lead-based paint and dust-lead hazards, the  
25 permanent enclosure or encapsulation of lead-based paint, the  
26 replacement of components or fixtures painted with lead-based paint,  
27 and the removal or permanent covering of soil-based hazards.

28 (2) "Affected property" means a room or group of rooms within a  
29 property constructed before 1978 that form a single independent  
30 habitable dwelling unit for occupation by one or more individuals that  
31 has living facilities with permanent provisions for living, sleeping,  
32 eating, cooking, and sanitation. "Affected property" does not include:

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

35 (b) A unit within a hotel, motel, or similar seasonal or transient  
36 facility unless the unit is occupied by one or more persons at risk for  
37 a period exceeding thirty days;

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

2 (d) A unit that is not offered for rent.

3 "Affected property" excludes any property owned or operated by a  
4 unit of federal, state, or local government, or any public,  
5 quasi-public, or municipal corporation, if the property is subject to  
6 lead standards that are equal to, or more stringent than, the  
7 requirements for lead-safe status under section 6 of this act.

8 (3) "Change in occupancy" means a change of tenant in an affected  
9 property in which the property is vacated and possession is either  
10 surrendered to the owner or abandoned.

11 (4) "Chewable surface" means an interior or exterior surface  
12 painted with lead-based paint that a child under the age of six can  
13 mouth or chew. Hard metal substrates and other materials that cannot  
14 be dented by the bite of a child under the age of six are not  
15 considered chewable.

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

20 (6) "Deteriorated paint" means any interior or exterior paint or  
21 other coating that is peeling, chipping, chalking, or cracking, or any  
22 paint or coating located on an interior or exterior surface or fixture  
23 that is otherwise damaged or separated from the substrate.

24 (7) "Director" means the director of lead paint poisoning  
25 prevention.

26 (8) "Dust-lead hazard" means surface dust in a residential dwelling  
27 or a facility occupied by a person at risk that contains a mass per  
28 area concentration of lead equal to or exceeding forty micrograms per  
29 square foot on floors or two hundred fifty micrograms per square foot  
30 interior windowsills based on wipe samples.

31 (9) "Dwelling unit" means:

32 (a) A single-family dwelling, including attached structures such as  
33 porches and stoops; or

34 (b) A housing unit in a structure that contains more than one  
35 separate housing unit, and in which each unit is used or occupied, or  
36 intended to be used or occupied, in whole or in part, as the home or  
37 separate living quarters of one or more persons.

1 (10) "Elevated blood lead" means a quantity of lead in whole venous  
2 blood, expressed in micrograms per deciliter, that exceeds fifteen  
3 micrograms per deciliter or such other level as may be specifically  
4 provided in this chapter.

5 (11) "Encapsulation" means the application of a covering or coating  
6 that acts as a barrier between the lead-based paint and the environment  
7 and that relies for its durability on adhesion between the encapsulant  
8 and the painted surface, and on the integrity of the existing bonds  
9 between paint layers and between the paint and the substrate.  
10 Encapsulation may be used as a method of abatement if it is designed  
11 and performed so as to be permanent.

12 (12) "Exterior surfaces" means:

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

14 (b) All outside surfaces of an affected property that are  
15 accessible to a child under the age of six and that:

16 (i) Are attached to the outside of an affected property; or

17 (ii) Consist of other buildings that are part of the affected  
18 property; and

19 (c) All painted surfaces in stairways, hallways, entrance areas,  
20 recreation areas, laundry areas, and garages within a multifamily  
21 rental dwelling unit that are common to individual dwelling units and  
22 are accessible to a child under the age of six.

23 (13) "Friction surface" means an interior or exterior surface that  
24 is subject to abrasion or friction, including, but not limited to,  
25 certain window, floor, and stair surfaces.

26 (14) "Hazard reduction" means measures designed to reduce or  
27 eliminate human exposure to lead-based hazards through methods  
28 including interim controls or abatement or a combination of the two.

29 (15) "High efficiency particle air vacuum" means a device capable  
30 of filtering out particles of 0.3 microns or greater from a body of air  
31 at an efficiency of 99.97 percent or greater.

32 (16) "Impact surface" means an interior or exterior surface that is  
33 subject to damage from the impact of repeated sudden force, such as  
34 certain parts of door frames.

35 (17) "Inspection" means a comprehensive investigation to determine  
36 the presence of lead-based paint hazards and the provision of a report  
37 explaining the results of the investigation.

1 (18) "Interim controls" means a set of measures designed to reduce  
2 temporarily human exposure to lead-based paint hazards. "Interim  
3 controls" include, but are not limited to, repairs, painting, temporary  
4 containment, specialized cleaning, clearance, ongoing lead-based paint  
5 maintenance activities, and the establishment and operation of  
6 management and resident education programs.

7 (19) "Interior windowsill" means a portion of the horizontal window  
8 ledge that is protruding into the interior of a room.

9 (20) "Lead-based paint" means paint or other surface coatings that  
10 contain lead equal to or exceeding 1.0 milligram per square centimeter  
11 or 0.5 percent by weight or five thousand parts per million by weight.

12 (21) "Lead-based paint hazard" means paint-lead hazards and  
13 dust-lead hazards.

14 (22) "Lead-contaminated dust" means dust in affected properties  
15 that contains an area or mass concentration of lead in excess of the  
16 lead content level determined by the director.

17 (23) "Director's local designee" means a municipal, county, or  
18 other official designated by the director as responsible for assisting  
19 the director, relevant state agencies, and relevant county and  
20 municipal authorities, in implementing the activities specified for the  
21 geographical area in which the affected property is located.

22 (24) "Owner" means a person, firm, corporation, nonprofit  
23 organization, partnership, government, guardian, conservator, receiver,  
24 trustee, executor, or other judicial officer, or other entity which,  
25 alone or with others, owns, holds, or controls the freehold or  
26 leasehold title or part of the title to property, with or without  
27 actually possessing it. "Owner" includes a vendee who possesses the  
28 title, but does not include a mortgagee or an owner of a reversionary  
29 interest under a ground rent lease. "Owner" includes any authorized  
30 agent of the owner, including a property manager or leasing agent.

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

32 (a) Any lead-based paint on a friction surface that is subject to  
33 abrasion and where the dust-lead levels on the nearest horizontal  
34 surface underneath the friction surface are equal to or greater than  
35 the dust-lead hazard levels defined in subsection (8) of this section;

36 (b) Any damaged or otherwise deteriorated lead-based paint on an  
37 impact surface that is caused by impact from a related building  
38 material;

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

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

6 (26) "Permanent" means an expected design life of at least twenty  
7 years.

8 (27) "Person at risk" means a child under the age of six years or  
9 a pregnant woman who resides or regularly spends at least twenty-four  
10 hours per week in an affected property.

11 (28) "Relocation expenses" means all expenses necessitated by the  
12 relocation of a tenant's household to lead-safe housing, including  
13 moving and hauling expenses, vacuuming all upholstered furniture by a  
14 high efficiency particle air vacuum, payment of a security deposit for  
15 the lead-safe housing, and installation and connection of utilities and  
16 appliances.

17 (29) "Soil-lead hazard" means soil on residential real property or  
18 on property of a facility occupied by a person at risk that contains  
19 total lead equal to or exceeding four hundred parts per million in a  
20 play area or average of one thousand two hundred parts per million of  
21 bare soil in the rest of the yard based on soil samples.

22 (30) "Tenant" means the individual named as the lessee in a lease,  
23 rental agreement, or occupancy agreement for a dwelling unit.

24 (31) "Wipe sample" means a sample collected by wiping a  
25 representative surface of known area, with lead determination conducted  
26 by an accredited laboratory participating in the environmental lead  
27 laboratory accreditation program.

28 NEW SECTION. **Sec. 5.** (1) The governor shall appoint a director of  
29 lead paint poisoning prevention who shall serve at the pleasure of the  
30 governor. The director is responsible, subject to the authority of the  
31 governor, for carrying out and administering all programs created under  
32 this chapter. To the extent necessary, the director shall designate  
33 the officers in local governments necessary to assist in carrying out  
34 these duties. The director may contract with any agency, individual,  
35 or group for the provision of necessary services, subject to  
36 appropriation; and shall issue and from time to time amend the rules as  
37 may be necessary.

1 (2) The director shall chair a lead poisoning prevention  
2 coordinating council that also includes a designee of the office of  
3 community development and the department of health.

4 (3) Subject to appropriation, the director, working in coordination  
5 with the lead poisoning prevention coordinating council, shall  
6 establish a statewide program for the prevention, screening, diagnosis,  
7 and treatment of lead poisoning, including elimination of the sources  
8 of poisoning, through the research, educational, epidemiologic, and  
9 clinical activities as may be necessary.

10 (4) The governor shall appoint a lead poisoning prevention  
11 commission.

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

13 (i) Study and collect information on the effectiveness of this  
14 chapter in fulfilling its legislative purposes;

15 (ii) Make policy recommendations on achieving the legislative  
16 purposes of this chapter;

17 (iii) Consult with the director and the responsible departments of  
18 state government on the implementation of this chapter; and

19 (iv) Write and submit a report annually to the governor on the  
20 results of implementing this chapter.

21 (b) The commission consists of fourteen members. The membership  
22 includes:

23 (i) The director and the additional two members of the lead  
24 poisoning prevention coordinating council;

25 (ii) One member of the senate, appointed by the president of the  
26 senate;

27 (iii) One member of the house of representatives appointed by the  
28 speaker of the house of representatives; and

29 (iv) Nine members appointed by the governor including:

30 (A) A child advocate;

31 (B) A health care provider;

32 (C) A parent of a lead-poisoned child;

33 (D) A representative of local government;

34 (E) Two owners of rental property in the state;

35 (F) A representative from the insurance industry that offers  
36 premises liability coverage in the state;

37 (G) Either a lead hazard control professional or contractor or a  
38 lead hazard identification professional; and



1 (H) One other member of the public whose experience and expertise  
2 indicate his or her contributions to the commission will be meaningful.

3 (c) The terms of the members are as follows:

4 (i) The term of a member appointed by the governor is four years;

5 (ii) A member appointed by the president of the senate or the  
6 speaker of the house of representatives serves at the pleasure of the  
7 appointing officer;

8 (iii) The terms of the first members may be shortened or lengthened  
9 so that the terms of future members are staggered;

10 (iv) At the end of a term, a member continues to serve until a  
11 successor is appointed and qualifies; and

12 (v) A member who is appointed after a term has begun serves only  
13 for the remainder of the term and until a successor is appointed.

14 NEW SECTION. **Sec. 6.** (1) An affected property must be in  
15 compliance with the requirements of either "lead-free" status, as  
16 defined in this section, or "lead-safe" status, as defined in this  
17 section, on or before two years following the effective date of this  
18 act, except as otherwise provided in this section.

19 (2) An owner of five or more affected properties may apply to the  
20 director or the director's local designee for an extension of time in  
21 which to comply with this section. The extension of time in which to  
22 comply may be for a period of three years. The director may grant the  
23 owner's request for an extension if the owner of the affected property:

24 (a) States under penalty of perjury that the affected property for  
25 which an extension is sought is not occupied by a person at risk; and

26 (b) Has complied with the requirements of subsection (1) of this  
27 section for more than fifty percent of the other affected properties  
28 which the owner owns or in which he or she has a beneficial interest.

29 (3) An affected property is "lead-free" if:

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

31 (b) The owner of the affected property submits to the director or  
32 the director's designee for the jurisdiction in which the property is  
33 located an inspection report that indicates the affected property has  
34 been tested for the presence of lead in accordance with standards and  
35 procedures established by the rules adopted by the director and states  
36 that:

1 (i) All interior surfaces of the affected property are lead-free;  
2 and

3 (ii)(A) All exterior painted surfaces of the affected property that  
4 were chipping, peeling, or flaking have been restored with  
5 nonlead-based paint; or

6 (B) No exterior painted surfaces of the affected property are  
7 chipping, peeling, or flaking.

8 (c) In order to maintain an exemption under this chapter, the owner  
9 of any affected property with lead-based paint on any exterior surface  
10 that has been certified as lead-free submits to the director or the  
11 director's designee for the jurisdiction in which the property is  
12 located every three years a certification, by an inspector, accredited  
13 under section 8 of this act, stating that no exterior painted surface  
14 of the affected property is chipping, peeling, or flaking.

15 (4) An affected property is "lead-safe" if the following treatments  
16 to reduce lead-based paint hazards have been completed by an accredited  
17 person and in compliance with the rules adopted by the director:

18 (a) Visual review of all exterior and interior painted surfaces;

19 (b) Removal and repainting of chipping, peeling, or flaking paint  
20 on exterior and interior painted surfaces;

21 (c) Stabilization and repainting of any interior or exterior  
22 painted surface which has lead-based paint hazards;

23 (d) Repair of any structural defect that is causing the paint to  
24 chip, peel, or flake that the owner of the affected property has  
25 knowledge of or, with the exercise of reasonable care, should have  
26 knowledge of;

27 (e) Stripping and repainting, replacing, or encapsulating all  
28 interior windowsills and window troughs with vinyl, metal, or any other  
29 durable materials that render the surface smooth and cleanable;

30 (f) Installation of caps of vinyl, aluminum, or any other material  
31 in a manner and under conditions approved by the director in all window  
32 wells in order to make the window wells smooth and cleanable;

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

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

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

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

4 (k) High efficiency particle air vacuuming and washing of the  
5 interior of the affected property with high phosphate detergent or its  
6 equivalent, as determined by the director.

7 (5)(a) Whenever an owner of an affected property intends to make  
8 repairs or perform maintenance work that will disturb the paint on  
9 interior surfaces of an affected property, the owner shall give any  
10 tenant in the affected property at least forty-eight hours' written  
11 notice. The owner shall make reasonable efforts to ensure that all  
12 persons who are not persons at risk are not present in the area where  
13 work is performed and that all persons at risk are removed from the  
14 affected property when the work is performed.

15 (b) A tenant shall allow access to an affected property, at  
16 reasonable times, to the owner to perform any work required under this  
17 chapter.

18 (c) If a tenant must vacate an affected property for a period of  
19 twenty-four hours or more in order to allow an owner to perform work  
20 that will disturb the paint on interior surfaces, the owner shall pay  
21 the reasonable expenses that the tenant incurs directly related to the  
22 required relocation.

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

28 (e) If an owner has made all reasonable efforts to gain access to  
29 an affected property in order to perform any work required under this  
30 chapter, and the tenant refuses to allow access, even after receiving  
31 reasonable notice of the need for access, the owner is not liable for  
32 any damages arising from the tenant's refusal to allow access.

33 NEW SECTION. **Sec. 7.** (1)(a) Initial inspection of each affected  
34 property must occur on or before two years following the effective date  
35 of the act, except as provided in section 6 of this act.

36 (b) Subsequent inspections must occur at intervals of not greater  
37 than three years.

1 (c) The requirement for a subsequent inspection may be satisfied by  
2 certification of the owner with the director or the director's designee  
3 for the jurisdiction in which the property is located, under penalty of  
4 perjury, that the tenants occupying an affected property have not  
5 changed since the last inspection and that no one residing within the  
6 affected property is a person at risk.

7 (d) If the requirement for reinspection of an affected property has  
8 been satisfied by certification, the requirement for a reinspection is  
9 reactivated by either a change in tenancy or the residence of a person  
10 at risk within the affected property.

11 (2) The director or the director's designee shall order an  
12 inspection of an affected property, at the expense of the owner of the  
13 affected property, whenever the director or the director's designee,  
14 after two years following the effective date of this act, is notified  
15 that the affected property does not reasonably appear to comply with  
16 either the lead-free standard or the lead-safe standard and a person at  
17 risk resides in the affected property or spends more than twenty-four  
18 hours per week in the affected property. An inspection required under  
19 this subsection must be completed within ninety days after notification  
20 of the director or the director's designee.

21 (3) The director or the director's designee shall order an  
22 inspection of an affected property, at the expense of the owner of the  
23 affected property, whenever the director or the director's designee is  
24 notified that a person at risk who resides in the affected property or  
25 spends more than twenty-four hours per week in the affected property  
26 has an elevated blood lead level greater than or equal to fifteen  
27 micrograms per deciliter. An inspection under this subsection must be  
28 completed within fifteen days after notification of the director or the  
29 director's designee.

30 (4) The inspector shall submit a verified report of the result of  
31 the inspection to the director or the director's designee, the owner,  
32 and the tenant, if any, of the affected property.

33 NEW SECTION. **Sec. 8.** (1) A person may not act as a contractor or  
34 supervisor to perform the work necessary for lead-hazard abatement  
35 unless that person is accredited by the director. The director shall  
36 accredit for these purposes any person meeting one of the following  
37 standards:

1 (a) Rules adopted by the director governing the accreditation of  
2 individuals to engage in lead-based paint activities sufficient to  
3 satisfy the requirements of 40 C.F.R. Sec. 745.325 (2001) or any  
4 applicable successor;

5 (b) Certification by the United States environmental protection  
6 agency to engage in lead-based paint activities under 40 C.F.R. Sec.  
7 745.226 (2001) or any applicable successor; or

8 (c) Certification by a state or tribal program authorized by the  
9 United States environmental protection agency to certify individuals  
10 engaged in lead-based paint activities under 40 C.F.R. Sec. 745.325  
11 (2001) or any applicable successor.

12 The director shall, by rule, create exceptions to the accreditation  
13 requirement for instances where the disturbance of lead-based paint is  
14 incidental.

15 (2) An inspector accredited by the director shall conduct all  
16 inspections required by this chapter. The director shall accredit as  
17 an inspector any individual meeting the following requirements:

18 (a) Rules adopted by the director governing the accreditation of  
19 individuals eligible to conduct the inspections required by this  
20 chapter; or

21 (b) Certification to conduct risk assessments by the United States  
22 environmental protection agency under 40 C.F.R. Sec. 745.226(b) (2001)  
23 or any applicable successor.

24 (3) The accreditation of contractors or supervisors of those  
25 performing the work necessary for lead hazard abatement, and the  
26 accreditation of those performing the inspections required by this  
27 section, are valid for a period of three years unless the director has  
28 probable cause to believe a person accredited under this section has  
29 violated the terms of the accreditation or engaged in illegal or  
30 unethical conduct related to inspections required by this chapter. The  
31 accreditation to perform inspections may be suspended pending a hearing  
32 under chapter 34.05 RCW.

33 (4) The director shall establish by rule a schedule of fees for the  
34 registration of persons performing lead hazard abatement and a separate  
35 schedule for persons performing inspections. These fees are required  
36 to be paid at the time of initial registration and at the time of  
37 subsequent renewal of registration, and must be sufficient to cover all

1 costs, including the costs of state personnel, attributable to  
2 accreditation activities conducted under this section.

3 (a) Fees collected under this subsection must be placed in a  
4 continuing, nonlapsing special account to be used for accreditation  
5 purposes under this section.

6 (b) The state treasurer shall hold and the state auditor shall  
7 account for this account.

8 (c) The account established under this subsection must be invested  
9 and reinvested.

10 NEW SECTION. **Sec. 9.** (1) On or before two years following the  
11 effective date of this act, the owner of an affected property shall  
12 register the affected property with the director or the director's  
13 designee.

14 (2) The owner shall register each affected property using forms  
15 prepared by the director, including the following information:

16 (a) The name and address of the owner;

17 (b) The address of the affected property;

18 (c) If applicable, the name and address of each property manager  
19 employed by the owner to manage the affected property;

20 (d) The name and address of each insurance company providing  
21 property insurance or lead hazard coverage for the affected property,  
22 together with the policy numbers of that insurance or coverage;

23 (e) The name and address of a resident agent, other agent of the  
24 owner, or contact person in the state with respect to the affected  
25 property;

26 (f) The date of construction of the affected property;

27 (g) The date of the latest change in occupancy of the affected  
28 property; and

29 (h) The latest date, if any, on which the affected property has  
30 been certified to be in compliance with section 6 of this act, and the  
31 name and address of the person conducting the inspection.

32 (3) Registration must be renewed every two years. However, owners  
33 shall update the information contained in the owner's registration  
34 within thirty days after any change in the registration information.

35 (4) The information provided by an owner under this section is open  
36 to the public.

1 (5) The director shall establish by rule a schedule of fees for the  
2 registration of affected properties, required to be paid at the time of  
3 initial registration and at the time of subsequent renewals of  
4 registration, sufficient to cover all costs, including the costs of  
5 state personnel, involved with registration activities conducted under  
6 this section.

7 (a) Fees collected under this subsection must be placed in a  
8 continuing, nonlapsing special account to be used for registration  
9 purposes under this section.

10 (b) The state treasurer shall hold and the state auditor shall  
11 account for this account.

12 (c) The account established under this subsection must be invested  
13 and reinvested.

14 (d) An owner of an affected property who fails to pay the fees  
15 imposed under this subsection is liable for a civil penalty of triple  
16 the cumulative amount of any and all unpaid registration fees or one  
17 hundred fifty dollars, whichever is greater, together with all costs of  
18 collection, including reasonable attorneys' fees. These penalties may  
19 be collected in a civil action in any court of competent jurisdiction.  
20 Any unpaid penalty constitutes a lien against the affected property.

21 NEW SECTION. **Sec. 10.** (1) This section applies to all potential  
22 bases of civil liability for alleged injury or loss to a person caused  
23 by the ingestion of lead by a person at risk in an affected property.  
24 However, this section does not apply to any claim in which the elevated  
25 blood lead level of the person at risk is documented to have existed  
26 on or before the date sixty days after the affected property where the  
27 person at risk resides or otherwise allegedly was exposed to lead has  
28 been certified as lead-free or lead-safe.

29 (2) A property owner and his or her agents and employees are immune  
30 from civil liability to a person at risk, or his or her parent or legal  
31 guardian, for injuries or damages resulting from the ingestion of lead  
32 contained in an affected property if:

33 (a) The property has been certified as lead-free or lead-safe; and

34 (b) The property owner or his or her agent has made a qualified  
35 offer as defined in this section to the person at risk, or his or her  
36 parent or legal guardian, in a case in which the person at risk has a  
37 documented elevated blood lead level of fifteen micrograms per

1 deciliter or more performed more than sixty days following  
2 certification of the premises as lead-safe or lead-free, regardless of  
3 whether the qualified offer has been accepted or rejected by the person  
4 at risk, or his or her parent or legal guardian.

5 (3) The immunity under subsection (2) of this section does not  
6 apply if it is shown that one of the following has occurred:

7 (a) The owner or his or her employee or agent obtained the  
8 certification of lead-free or lead-safe status by fraud;

9 (b) The owner or his or her employee or agent violated a condition  
10 of the certification;

11 (c) During renovation, remodeling, maintenance, or repair after  
12 receiving the certificate, the owner or his or her employee or agent  
13 created a lead-based paint hazard that was present in the affected  
14 property at the time the person at risk either was exposed to a  
15 lead-based paint hazard or first was tested with an elevated blood lead  
16 level greater than fifteen micrograms per deciliter;

17 (d) The owner or his or her employee or agent failed to respond in  
18 a timely manner to notification by a tenant, the director, the  
19 director's designee, or a local health department that a lead-based  
20 paint hazard might be present; or

21 (e) The lead poisoning or lead exposure was caused by a source of  
22 lead in the affected property other than lead-based paint.

23 (4) A person may not bring an action against an owner of an  
24 affected property whose property has been certified as lead-free or  
25 lead-safe for damages arising from alleged injury or loss to a person  
26 at risk caused by a lead-based paint hazard unless he or she documents  
27 his or her alleged injury with a test for elevated blood levels and  
28 presents written notice to the owner of the affected property or his or  
29 her agent or employee of the claim and test results.

30 (a) If the test results show an elevated blood level of less than  
31 fifteen micrograms per deciliter, the person at risk, or his or her  
32 parent or legal guardian, may not recover damages from the owner of the  
33 affected property or his or her agents or employees unless the person  
34 at risk, or his or her parent or legal guardian, can show by clear and  
35 convincing evidence that the person at risk's damage or injury resulted  
36 from exposure to lead-based paint and was caused by either:

37 (i) Intentional acts by the owner or his or her agents or  
38 employees; or



1 (ii) Actions of the owner or his or her agents or employees with  
2 knowledge with a substantial certainty that the actions would injure  
3 the person at risk or others similarly situated.

4 (b) If the test results show an elevated blood level of fifteen  
5 micrograms per deciliter or greater, the owner of the affected property  
6 or his or her agent or employees have the opportunity to make a  
7 qualified offer under this section.

8 (c) If the concentration of lead in a whole venous blood sample of  
9 a person at risk tested within sixty days after the person at risk  
10 begins residence or regularly spends at least twenty-four hours per  
11 week in an affected property that is certified as being in compliance  
12 with section 6 of this act is equal to or greater than fifteen  
13 micrograms per deciliter, it is presumed that the exposure to  
14 lead-based paint occurred before a person at risk began residing or  
15 regularly spending at least twenty-four hours per week in the affected  
16 property.

17 (5)(a) A qualified offer under this section may be made to a person  
18 at risk by the owner of the affected property, an insurer of the owner,  
19 or an agent, employee, or attorney of the owner.

20 (b) To qualify for the protection of liability under this section,  
21 a qualified offer must be made in writing and delivered by certified  
22 mail, return receipt requested, within thirty days after the owner of  
23 the affected property or his or her agent or employee receives notice  
24 of the elevated blood level.

25 (c) A qualified offer made under this section may be accepted or  
26 rejected by a person at risk or, if a person at risk is a minor, the  
27 person's parent or legal guardian. If the qualified offer is not  
28 accepted within thirty days of receipt of the qualified offer, it is  
29 rejected. By mutual agreement, the parties may extend the period for  
30 acceptance of the qualified offer.

31 (d) Subject to the exception in subsection (5) of this section,  
32 acceptance of a qualified offer by a person at risk, or by a parent,  
33 legal guardian, or other person authorized to respond on behalf of a  
34 person at risk, discharges and releases all potential liability of the  
35 offeror under (a) of this subsection, the offeror's insured or  
36 principal, and any participating co-offeror to the person at risk and  
37 to the parent or legal guardian of the person at risk for alleged

1 injury or loss caused by the lead-based paint hazard in the affected  
2 property.

3 (e) An owner of an affected property or his or her agent, employee,  
4 attorney, or anyone else acting on his or her behalf may not represent  
5 to a person at risk, his or her parent or guardian, or anyone else  
6 acting on his or her behalf, that an offer of settlement in an action  
7 resulting from a lead-based paint hazard in an affected property is a  
8 qualified offer unless the affected property has been certified as  
9 lead-free or lead-safe and unless the offeror under (a) of this  
10 subsection reasonably believes that the settlement offer satisfies all  
11 requirements of this section. Any settlement resulting from a  
12 settlement offer purporting to be a qualified offer that does not  
13 satisfy the requirements of this section, is at the election of the  
14 person at risk, or his or her parent or guardian or other  
15 representative, void. Further, misrepresentation of a settlement offer  
16 as a qualified offer when in fact the offer does not meet these  
17 requirements may subject the offeror to criminal penalties and  
18 professional disciplinary codes, if applicable. The statute of  
19 limitations for an action by a person at risk with an elevated blood  
20 level or his or her parent or legal guardian is tolled until the  
21 misrepresentation is discovered.

22 (f) A copy of the qualified offer must be sent to the director.  
23 The director shall maintain a copy of the qualified offer in the case  
24 management file of the person at risk. In addition, the director shall  
25 directly notify the person at risk, or in the case of a minor, the  
26 parent or legal guardian of the minor, of state and local resources  
27 available for lead poisoning prevention and treatment.

28 (g) A qualified offer must include payment for reasonable expenses  
29 and costs incurred by the person at risk with an elevated blood level  
30 of fifteen micrograms per deciliter or greater for:

31 (i) The relocation of the household of the person at risk to a  
32 lead-safe dwelling unit of comparable size and quality that may provide  
33 either:

34 (A) The permanent relocation of the household of the affected  
35 person at risk to lead-safe housing, including relocation expenses, a  
36 rent subsidy, and incidental expenses; or

37 (B) The temporary relocation of the household of the affected

1 person at risk to lead-safe housing while necessary lead hazard  
2 reduction treatments are being performed in the affected property to  
3 make that affected property lead-safe; and

4 (ii) Medically necessary treatment for the affected person at risk  
5 as determined by the treating physician or other health care provider  
6 or case manager of the person at risk that is necessary to mitigate the  
7 effects of lead poisoning, as defined by the department of health by  
8 rule, and in the case of a child, until the child reaches the age of  
9 eighteen years; and

10 (iii) Reasonable attorneys' fees, not to exceed the lesser of two  
11 thousand five hundred dollars or actual time spent in the  
12 investigation, preparation, and presentation of the claim multiplied by  
13 an hourly rate of one hundred fifty dollars per hour.

14 (h) An offeror under (a) of this subsection is required to pay  
15 reasonable expenses for the medically necessary treatments under this  
16 section only if coverage for these treatments is not otherwise provided  
17 by government assistance or by a health insurance plan under which the  
18 person at risk has coverage or in which the person at risk is enrolled.  
19 The health insurance plan does not have the right of subrogation  
20 against the party making the qualified offer.

21 (i) The amounts payable under a qualified offer made under this  
22 section are subject to the following aggregate maximum caps:

23 (i) Twenty-five thousand dollars for all medically necessary  
24 treatments as provided and limited in this subsection (5); and

25 (ii) Ten thousand dollars for all relocation benefits as provided  
26 and limited in this subsection (5).

27 All payments under a qualified offer must be paid to the provider  
28 of the service, except that payment of incidental expenses may be paid  
29 directly to the person at risk, or in the case of a child, to the  
30 parent or legal guardian of the person at risk.

31 The payments under a qualified offer may not be considered income  
32 or an asset of the person at risk, the parent of a person at risk who  
33 is a child, or the legal guardian, for purposes of determining  
34 eligibility under any state or federal entitlement program.

35 (j) A qualified offer must include a certification by the owner of  
36 the affected property, under the penalties of perjury, that the owner  
37 has complied with section 6 of this act and this section in a manner  
38 that qualified the owner to make a qualified offer.

1 (k) A qualified offer may not be treated as an offer of compromise  
2 for purposes of admissibility in evidence, notwithstanding that the  
3 amount is not in controversy.

4 (l) The director may adopt rules as necessary to implement this  
5 section.

6 (6)(a) An owner of an affected property, who is not in compliance  
7 with this section during the period of residency of a person at risk,  
8 is presumed to have failed to exercise reasonable care with respect to  
9 lead-based paint hazards during that period in an action seeking  
10 damages on behalf of the person at risk for alleged injury or loss  
11 resulting from exposure to lead-based paint hazards in the affected  
12 property. The owner has the burden of rebutting this presumption by  
13 clear and convincing evidence.

14 (b) The plaintiff in an action against an owner of an affected  
15 property under (a) of this subsection, in addition to recovering all  
16 other legally cognizable damages, including punitive damages when  
17 appropriate, is entitled to recover reasonable attorneys' fees.

18 NEW SECTION. **Sec. 11.** (1) Except as otherwise provided in this  
19 chapter, an insurer licensed by the insurance commissioner to provide  
20 liability coverage to rental property owners may not exclude, after a  
21 date determined by the insurance commissioner, coverage for losses or  
22 damages caused by exposure to lead-based paint. The insurance  
23 commissioner may not permit, authorize, or approve any exclusion for  
24 injury or damage resulting from exposure to lead-based paint, except as  
25 specifically provided for in this chapter, that was not in effect on  
26 the effective date of this act, and all previously approved exclusions  
27 terminate on or before a date determined by the insurance commissioner.

28 (2) All insurers issuing liability insurance policies, including  
29 commercial lines insurance policies, personal lines insurance policies,  
30 or any other policies, covering affected properties that are in  
31 compliance with this chapter must offer coverage for bodily injury  
32 caused by exposure to lead-based paint. This coverage must encompass  
33 any and all claims made more than sixty days after certification of the  
34 affected property as lead-free or lead-safe asserting injury resulting  
35 from exposure to lead-based paint on the premises of an affected  
36 property. Policy limits for this coverage must be in an amount equal

1 to or greater than the underlying policy limits of the applicable  
2 policy insuring the affected property.

3 (a) Liability coverage under this subsection for losses or damages  
4 caused by lead-based paint at the insured premises may be limited to  
5 the damages defined under section 10 of this act.

6 (b) In order for the owner of the affected property to be eligible  
7 for the liability coverage under this subsection, the owner may, at the  
8 time insurance is sought, be required to present to the insurer proof  
9 of meeting the lead-free standard or lead-safe standard in the form of  
10 an affidavit signed by the owner or designated party that certification  
11 has been provided under section 7 of this act and that the property has  
12 been properly registered under section 9 of this act.

13 (3) This chapter does not prevent insurers from offering an  
14 endorsement for personal or bodily injury liability coverage for  
15 injuries resulting from exposure to lead-based paint for properties not  
16 in compliance with section 6 of this act.

17 (4)(a) Rates for the coverage specified in subsection (2) of this  
18 section must be approved by the insurance commissioner using the  
19 following standards:

20 (i) Rates must not be excessive, inadequate, or unfairly  
21 discriminatory; and

22 (ii) In establishing rates, consideration must be given to:

23 (A) Past and prospective loss experience;

24 (B) A reasonable margin for profits and contingencies;

25 (C) Past and prospective expenses;

26 (D) Other data the commissioner chooses; and

27 (E) The past history of the owner with regard to lead poisoning or  
28 any other liability or violations of ordinances or statutes relating to  
29 the affected property or similar properties reasonably believed by the  
30 insurer to be relevant.

31 (b) The insurance commissioner shall determine within two years  
32 following the effective date of this act the availability of the  
33 necessary liability personal or bodily injury coverage, and may if  
34 coverage is not generally available, establish a market assistance plan  
35 or take other measures to assure the availability of coverage that  
36 offers a liability limit of at least three hundred thousand dollars or  
37 shall require that coverage be made available through a joint  
38 underwriting plan.

1        NEW SECTION.    **Sec. 12.** (1) An individual, corporation, or other  
2 business entity, is entitled to a sales tax credit for removal of  
3 lead-based paint or other repairs or renovations of an affected  
4 property necessary to comply with section 6 of this act when he, she,  
5 or it:

6        (a) Has the required removal of lead-based paint hazards or other  
7 repairs or renovations performed by a contractor accredited under  
8 section 8 of this act;

9        (b) Pays for the removal of lead-based paint hazards or other  
10 repairs or renovations identified in this subsection; and

11        (c) Obtains written certification by an inspector, accredited under  
12 section 8 of this act, that the required removal of lead-based paint  
13 hazards or other repairs or renovations for the affected property has  
14 been completed in accordance with all applicable requirements and that  
15 the affected property can now be certified as either lead-free or  
16 lead-safe.

17        (2) The tax credit in this section is available to someone who owns  
18 and occupies his or her own dwelling unit in the same manner and to the  
19 same extent as it is available to the owner of an affected property who  
20 leases the premises.

21        (3) The tax credit is equal to the amount actually paid for the  
22 lead-based paint hazard reduction up to a maximum of two thousand five  
23 hundred dollars per affected property.

24        (4) Any amount of tax credit not used in the taxable year of  
25 certification may be carried forward and applied to the individual's  
26 tax liability for any one or more of the succeeding five taxable years.  
27 The credit may not be applied until all other credits available to the  
28 taxpayer for that taxable year have been applied.

29        NEW SECTION.    **Sec. 13.** (1) The lead-safe or lead-free property  
30 revolving loan account is created in the state treasury. The account  
31 consists of proceeds received from the sale of bonds under subsection  
32 (2) of this section and any sums that the state may from time to time  
33 appropriate, as well as donations, gifts, bequests, or otherwise from  
34 any public or private source. Expenditures from the account may be  
35 spent only to assist owners of residential properties in meeting the  
36 standards for either lead-free or lead-safe certification. Moneys may  
37 be spent only after appropriation.

1 (2) The state shall issue bonds in an amount specified for the  
2 purpose of funding the lead-safe or lead-free property revolving loan  
3 account.

4 (a) Any bonds issued or to be issued under this subsection are  
5 subject to all the requirements and conditions established by the state  
6 for the sale of bonds.

7 (b) The interest rate and other terms upon which bonds are issued  
8 under this subsection may not create a prospective obligation of the  
9 state in excess of the amount of revenues that can reasonably be  
10 expected from the loan repayments, interests on the loans, and fees  
11 that the state can reasonably expect to charge under this chapter.

12 (c) All money received from the sale of bonds must be deposited  
13 into the lead-safe or lead-free property revolving loan account.

14 (3) The treasurer shall contract for the administration and  
15 disbursement of funding. The director shall adopt rules that provide  
16 for the orderly and equitable disbursement and repayment of funds.

17 (4) Funds placed in the lead-safe or lead-free property revolving  
18 loan account must be made available, at the discretion of the director,  
19 to the owners of affected properties or nonprofit organizations for the  
20 purpose of bringing affected properties into compliance with section 6  
21 of this act. An owner of a unit built before 1978 who owns and  
22 occupies the dwelling unit is eligible for loans under this section in  
23 the same manner, and to the same extent, as an owner of an affected  
24 property.

25 (5) Loans made available under this section may be made directly,  
26 or in cooperation with other public and private lenders, or any agency,  
27 department, or bureau of the federal government or the state.

28 (6) The proceeds from the repayment of any loans made for that  
29 purpose must be deposited in and returned to the lead-safe or lead-free  
30 property revolving loan account to constitute a continuing revolving  
31 fund for the purposes provided in this section.

32 (7) The director shall take any action necessary to obtain federal  
33 assistance for lead hazard reduction to be used in conjunction with the  
34 lead-safe or lead-free property revolving loan account.

35 NEW SECTION. **Sec. 14.** (1) Owners of affected properties who fail  
36 to comply with section 6 of this act are in violation of state and  
37 local building codes. The county prosecutor shall enforce civil

1 remedies or criminal penalties provided for by law arising out of the  
2 failure to comply with the requirements of this chapter and may seek  
3 injunctive relief when appropriate.

4 (2)(a) Any civil or criminal action by a county prosecutor to  
5 enforce the provisions of this chapter must be reported to the  
6 director.

7 (b) The director shall issue an annual report outlining  
8 specifically the enforcement actions brought under subsection (1) of  
9 this section, the identity of the owners of the affected properties,  
10 the authority bringing the enforcement action, the nature of the  
11 action, and describing the criminal penalties or civil relief.

12 (3) After the second written notice from the director of violations  
13 of this chapter occurring within an affected property, or after two  
14 criminal or civil actions under subsection (1) of this section brought  
15 by either state or local officials to enforce this chapter arising out  
16 of violations occurring within an affected property, unless the  
17 violations alleged to exist are corrected, the affected property is  
18 considered abandoned, and the attorney general and the director have  
19 the specific power to request the court to appoint a receiver for the  
20 property. The court may specifically authorize the receiver to apply  
21 for loans, grants, and other forms of funding necessary to correct  
22 lead-based paint hazards and meet the standards for lead-safe or  
23 lead-free status, and to hold the affected property for the period of  
24 time as the funding source may require to assure that the purposes of  
25 the funding have been met. The costs of this receivership constitute  
26 a lien against the property that, if not discharged by the owner upon  
27 receipt of the receiver's demand for payment, constitutes grounds for  
28 foreclosure proceedings instituted by the receiver to recover the  
29 costs.

30 NEW SECTION. **Sec. 15.** (1) A person at risk has a right, effective  
31 two years following the effective date of this act, to housing which is  
32 lead-free or lead-safe as outlined in this chapter.

33 (2) If an owner of an affected property fails to comply, a private  
34 right of action exists that allows a person at risk or the parent or  
35 legal guardian of a person at risk to seek injunctive relief from a  
36 court with jurisdiction against the owner of the affected property in



1 the form of a court order to compel compliance with the requirements of  
2 this chapter.

3 (3) A court may not grant the injunctive relief requested unless,  
4 at least thirty days prior to the filing requesting the injunction, the  
5 owner of the affected property has received written notice of the  
6 violation of standards contained in section 6 of this act and has  
7 failed to bring the affected property into compliance with the  
8 applicable standards. This notice to the owner of the affected  
9 property is satisfied when any of the following has occurred:

10 (a) A person at risk, his or her parent or legal guardian, or  
11 attorney, has notified the owner of an affected property that the  
12 property fails to meet the requirements for either lead-free status or  
13 lead-safe status;

14 (b) A public official has notified the owner of the affected  
15 property of violations of this chapter occurring within an affected  
16 property; or

17 (c) A criminal or civil action has been brought by either state or  
18 local enforcement officials to enforce this chapter arising out of  
19 violations occurring within an affected property.

20 (4) A person who prevails in an action is entitled to an award of  
21 the costs of the litigation and to an award of reasonable attorneys'  
22 fees in an amount to be fixed by the court.

23 (5) Cases brought before the court under this section must be  
24 granted an accelerated hearing.

25 NEW SECTION. **Sec. 16.** (1) An owner of an affected property may  
26 not evict or take any other retaliatory action against a person at risk  
27 or his or her parent or legal guardian in response to the actions of  
28 the person at risk or his or her parent or legal guardian in:

29 (a) Providing information to the owner of the affected property,  
30 the director, the director's designee for the jurisdiction in which  
31 such property is located, local health officials, or local housing  
32 officials concerning lead-based paint hazards within an affected  
33 property or elevated blood levels of a person at risk; or

34 (b) Enforcing any of his or her rights under this chapter.

35 (2) For purposes of this section, a retaliatory action includes any  
36 of the following actions in which the activities protected under this  
37 section are a material factor in motivating the action:

1 (a) A refusal to renew a lease;

2 (b) Termination of a tenancy;

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

5 (d) Any form of constructive eviction.

6 (3) A person at risk or his or her parent or legal guardian subject  
7 to an eviction or retaliatory action under this section is entitled to  
8 the relief as may be provided by statute and any further relief deemed  
9 just and equitable by the court, and is eligible for reasonable  
10 attorneys' fees and costs.

11 NEW SECTION. **Sec. 17.** (1) In order to achieve the purposes of  
12 this chapter, a statewide, multifaceted, ongoing educational program  
13 designed to meet the needs of tenants, property owners, health care  
14 providers, early childhood educators, and care providers, realtors and  
15 real estate agents, insurers and insurance agents, and local building  
16 officials, is hereby established.

17 (2) The governor, in conjunction with the director and the lead  
18 poisoning prevention coordinating council, shall sponsor a series of  
19 public service announcements on radio, television, the World Wide Web,  
20 and print media about the nature of lead-based paint hazards, the  
21 importance of lead-free and lead-safe housing, and the purposes and  
22 responsibilities set forth in this chapter. In developing and  
23 coordinating this public information initiative the sponsors shall seek  
24 the participation and involvement of private industry organizations,  
25 including those involved in real estate, insurance, mortgage banking,  
26 and pediatrics.

27 (3) Within one hundred twenty days following the effective date of  
28 this act, the director, in consultation with the lead poisoning  
29 prevention coordinating council and the lead poisoning prevention  
30 commission, shall develop culturally and linguistically appropriate  
31 information pamphlets regarding childhood lead poisoning, the  
32 importance of testing for elevated blood levels, prevention of  
33 childhood lead poisoning, treatment of childhood lead poisoning, and  
34 when appropriate, the requirements of this chapter. It is a  
35 requirement of this chapter that these information pamphlets be  
36 distributed to parents or the other legal guardians of children six  
37 years of age or younger on the following occasions:

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

5 (b) By the health care provider at the time of the child's birth  
6 and at the time of any childhood immunization or vaccine unless it is  
7 established that the information pamphlet has been provided previously  
8 to the parent or legal guardian by the health care provider within the  
9 prior twelve months; and

10 (c) By the owner or operator of any child care facility, preschool,  
11 or kindergarten class on or before October 15th of the calendar year.

12 (4) The director, within one hundred twenty days following the  
13 effective date of this act, shall establish guidelines and a trainer's  
14 manual for a "Lead-Safe Housing Awareness Seminar" with a total class  
15 time of three hours or less. The courses must be offered by  
16 professional associations and community organizations with a training  
17 capacity, existing accredited educational institutions, and for-profit  
18 educational providers. All proposals must be reviewed and approved on  
19 the criteria of seminar content and qualifications of instructors.

20 (5) The insurance commissioner within eighteen months after the  
21 effective date of this act, shall:

22 (a) Adopt rules for and issue an advisory bulletin to all state  
23 licensed, admitted insurers providing liability coverage for property  
24 owners regarding their responsibilities under this chapter; and

25 (b) Adopt rules for and issue an advisory bulletin to all state  
26 licensed insurance agents and brokers outlining the provisions of this  
27 chapter and the new requirements for state licensed, admitted insurers.

28 (6) The department of licensing, within eighteen months after the  
29 effective date of this act, shall:

30 (a) Require reasonable familiarity of the relevant portions of this  
31 chapter for the licensure or renewal of licenses of real estate brokers  
32 and salespersons; and

33 (b) Develop an educational program for real estate brokers and  
34 salespersons regarding their duties and responsibilities.

35 NEW SECTION. **Sec. 18.** (1) The director shall establish a program  
36 for early identification of persons at risk with elevated blood lead  
37 levels. This program must systematically screen children under six

1 years of age in the target populations identified in subsection (2) of  
2 this section for the presence of elevated blood lead levels. Children  
3 within the specified target populations must be screened with a blood  
4 lead test at ages twelve and twenty-four months or at ages thirty-six  
5 to seventy-two months if they have not previously been screened. The  
6 director shall, after consultation with recognized professional medical  
7 groups and other sources as he or she deems appropriate, adopt rules  
8 establishing (a) the means by which and the intervals at which children  
9 under six years of age are screened for lead poisoning and elevated  
10 blood lead levels, and (b) guidelines for the medical follow-up on  
11 children found to have elevated blood lead levels.

12 (2) In developing screening programs to identify persons at risk  
13 with elevated blood lead levels, the director shall give priority to  
14 persons within the following categories:

15 (a) All children enrolled in medicaid at ages twelve and  
16 twenty-four months or at ages thirty-six to seventy-two months if they  
17 have not previously been screened;

18 (b) Children under the age of six exhibiting delayed cognitive  
19 development or other symptoms of childhood lead poisoning;

20 (c) Persons at risk residing in the same household, or recently  
21 residing in the same household, as another person at risk with a blood  
22 lead level of ten micrograms per deciliter or greater;

23 (d) Persons at risk residing, or who have recently resided, in  
24 buildings or geographical areas where significant numbers of cases of  
25 lead poisoning or elevated blood lead levels have recently been  
26 reported;

27 (e) Persons at risk residing, or who have recently resided, in  
28 affected properties contained in buildings which during the preceding  
29 three years have been subject to enforcement actions described in  
30 section 14 of this act, receivership actions under section 14 of this  
31 act, or where injunctive relief has been sought under section 15 of  
32 this act;

33 (f) Persons at risk residing, or who have recently resided, in  
34 other affected properties with the same owner as another building  
35 containing affected properties which during the preceding three years  
36 have been subject to enforcement actions described in section 14 of  
37 this act, receivership actions under section 14 of this act, or where  
38 injunctive relief has been sought under section 15 of this act; and

1 (g) Persons at risk residing in other buildings or geographical  
2 areas where the director reasonably determines there to be a  
3 significant risk of affected individuals having a blood lead level of  
4 ten micrograms per deciliter or greater.

5 (3) The director shall maintain comprehensive records of all  
6 screenings conducted under this section. These records shall be  
7 indexed geographically and by owner in order to determine the location  
8 of areas of relatively high incidence of lead poisoning and other  
9 elevated blood lead levels. These records, with the names of tested  
10 individuals removed for privacy purposes, are public records.

11 All cases or probable cases of lead poisoning, as defined by rule  
12 by the director, found in the course of screenings conducted under this  
13 section shall be reported immediately to the affected individual, to  
14 his or her parent or legal guardian if he or she is a minor, and to the  
15 director.

16 NEW SECTION. **Sec. 19.** Sections 1 through 18 of this act  
17 constitute a new chapter in Title 64 RCW.

--- END ---