



100TH GENERAL ASSEMBLY

State of Illinois

2017 and 2018

HB2838

by Rep. Anna Moeller

SYNOPSIS AS INTRODUCED:

See Index

Amends the Lead Poisoning Prevention Act. Provides that the Department of Public Health shall establish the Office of Ombudsman for Lead Poisoning Prevention. Provides that the Office of Ombudsman for Lead Poisoning Prevention shall advocate on behalf of individuals on matters related to the adverse effects of lead; investigate claims or complaints brought against the Department; work to ensure transparency; and otherwise provide oversight on matters covered by the Act. Provides that the Department shall adopt any rules necessary to implement provisions concerning the Office of Ombudsman. Provides that if the State's Attorney brings an action against an individual for a violation of the Act and the individual is unable to afford adequate legal representation, then the Department shall ensure that the individual is provided with adequate legal representation for purposes of that action. Provides that as soon as is practicable after the Department receives notification that a regulated facility is occupied by a child of less than 3 years of age with an elevated blood lead level, the Department shall provide the parent or guardian of the child with a specified questionnaire form. Provides that the Department shall provide an inspection report to a property owner and to the occupants of a dwelling no later than 30 days after an inspection. Provides that the Department shall establish an appeals process for a property owner served with a mitigation notice. Provides that the Department must make a good faith effort to respond to a mitigation plan submitted by an owner within 8 business hours. Provides that the Department must maintain a specified paint list and follow certain requirements for forms. Makes other changes.

LRB100 10344 MJP 20536 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning health.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Lead Poisoning Prevention Act is amended by
5 changing Sections 8, 9, and 10 and by adding Sections 6.02,
6 6.03, and 12.3 as follows:

7 (410 ILCS 45/6.02 new)

8 Sec. 6.02. Paint list. The Department must maintain a list
9 of paints appropriate for application over surfaces containing
10 lead. The list maintained under this Section must, at a
11 minimum, be made available on the Department's website.

12 (410 ILCS 45/6.03 new)

13 Sec. 6.03. Forms. Any form developed by the Department
14 under this Act for public dissemination shall be made available
15 both on the Department's website and as a physical copy. Any
16 form developed by the Department under this Act for public
17 dissemination shall be made available in both a raw data and
18 spreadsheet format. Any form developed by the Department under
19 this Act for public dissemination shall be designed for
20 individuals with a grade 5 reading level and shall be made
21 available in both English and Spanish.

1 (410 ILCS 45/8) (from Ch. 111 1/2, par. 1308)

2 Sec. 8. Inspection of dwelling units occupied or previously
3 occupied by a person with an elevated blood lead level. A
4 representative of the Department, or delegate agency, shall,
5 after notification that an occupant of a regulated facility is
6 found to have an elevated blood lead level as set forth in
7 Section 7, upon presentation of the appropriate credentials to
8 the owner, occupant, or his representative, inspect the
9 affected dwelling units, at reasonable times, for the purposes
10 of ascertaining that all surfaces accessible to children are
11 intact and in good repair, and for purposes of ascertaining the
12 existence of lead-bearing substances. Such representative of
13 the Department, or delegate agency, may remove samples or
14 objects necessary for laboratory analysis, in the
15 determination of the presence of lead-bearing substances in the
16 regulated facilities. As soon as is practicable after the
17 Department receives notification that a regulated facility is
18 occupied by a child of less than 3 years of age with an
19 elevated blood lead level, the Department shall provide the
20 parent or guardian of the child with a resident questionnaire
21 for investigation of children with elevated blood lead levels
22 form that is developed by the United States Department of
23 Housing and Urban Development; the Department shall consider
24 the information, if any, provided by the parent or guardian on
25 the questionnaire form when conducting an inspection of the
26 regulated facility under this Section.

1 If a regulated facility is occupied by a child of less than
2 3 years of age with an elevated blood lead level, the
3 Department, in addition to all other requirements of this
4 Section, must inspect the dwelling unit and common place area
5 of the child with an elevated blood lead level.

6 Following the inspection, the Department or its delegate
7 agency shall:

8 (1) Prepare an inspection report which shall:

9 (A) State the address of the dwelling unit.

10 (B) Describe the scope of the inspection, the
11 inspection procedures used, and the method of
12 ascertaining the existence of a lead-bearing substance
13 in the dwelling unit.

14 (C) State whether any lead-bearing substances were
15 found in the dwelling unit.

16 (D) Describe the nature, extent, and location of
17 any lead-bearing substance that is found.

18 (E) State either that a lead hazard does exist or
19 that a lead hazard does not exist. If a lead hazard
20 does exist, the report shall describe the source,
21 nature and location of the lead hazard. The existence
22 of intact lead paint does not alone constitute a lead
23 hazard for the purposes of this Section.

24 (F) Give the name of the person who conducted the
25 inspection and the person to contact for further
26 information regarding the inspection and the

1 requirements of this Act.

2 (2) Mail or otherwise provide a copy of the inspection
3 report to the property owner and to the occupants of the
4 dwelling unit no later than 30 days after the inspection.

5 If a lead-bearing substance is found, at the time of
6 providing a copy of the inspection report, the Department
7 or its delegate agency shall attach an informational
8 brochure.

9 (Source: P.A. 98-690, eff. 1-1-15.)

10 (410 ILCS 45/9) (from Ch. 111 1/2, par. 1309)

11 Sec. 9. Procedures upon determination of lead hazard.

12 (1) If the inspection report identifies a lead hazard, the
13 Department or delegate agency shall serve a mitigation notice
14 on the property owner that the owner is required to mitigate
15 the lead hazard, and shall indicate the time period specified
16 in this Section in which the owner must complete the
17 mitigation. The notice shall include information describing
18 mitigation activities which meet the requirements of this Act.

19 (2) If the inspection report identifies a lead hazard, the
20 owner shall mitigate the lead hazard in a manner prescribed by
21 the Department and within the time limit prescribed by this
22 Section. The Department shall adopt rules regarding acceptable
23 methods of mitigating a lead hazard. If the source of the lead
24 hazard identified in the inspection report is lead paint or any
25 other lead-bearing surface coating, the lead hazard shall be

1 deemed to have been mitigated if:

2 (A) the surface identified as the source of the lead
3 hazard is no longer in a condition that produces a
4 hazardous level of lead chips, flakes, dust or any other
5 form of lead-bearing substance, that can be ingested or
6 inhaled by humans;

7 (B) the surface identified as the source of the lead
8 hazard is no longer accessible to children and could not
9 reasonably be chewed on by children; or

10 (C) the surface coating identified as the source of the
11 lead hazard is either removed or covered, or child access
12 to the lead-bearing surface is otherwise prevented as
13 prescribed by the Department.

14 (3) Mitigation activities which involve the destruction or
15 disturbance of any lead-bearing surface shall be conducted by a
16 licensed lead abatement contractor using licensed lead
17 abatement supervisors or lead abatement workers. The
18 Department may prescribe by rule mitigation activities that may
19 be performed without a licensed lead abatement contractor, lead
20 abatement supervisor, or lead abatement worker. The Department
21 may, on a case by case basis, grant a waiver of the requirement
22 to use licensed lead abatement contractors, lead abatement
23 supervisors, and lead abatement workers, provided the waiver
24 does not endanger the health or safety of humans.

25 (4) The Department shall establish procedures whereby an
26 owner, after receiving a mitigation notice under this Section,

1 may submit a mitigation plan to the Department or delegate
2 agency for review and approval. The Department must make a good
3 faith effort to respond to a mitigation plan submitted by an
4 owner within 8 business hours. The Department shall establish
5 an appeals process for a property owner served with a
6 mitigation notice under this Section.

7 (5) When a mitigation notice is issued for a dwelling unit
8 inspected as a result of an elevated blood lead level in a
9 pregnant person or a child, or if the dwelling unit is occupied
10 by a child 6 years of age or younger or a pregnant person, the
11 owner shall mitigate the hazard within 30 days of receiving the
12 notice; when no such child or pregnant person occupies the
13 dwelling unit, the owner shall complete the mitigation within
14 90 days.

15 (6) An owner may apply to the Department or its delegate
16 agency for an extension of the deadline for mitigation. If the
17 Department or its delegate agency determines that the owner is
18 making substantial progress toward mitigation, or that the
19 failure to meet the deadline is the result of a shortage of
20 licensed lead abatement contractors, lead abatement
21 supervisors, or lead abatement workers, or that the failure to
22 meet the deadline is because the owner is awaiting the review
23 and approval of a mitigation plan, the Department or delegate
24 agency may grant an extension of the deadline.

25 (7) The Department or its delegate agency may, after the
26 deadline set for completion of mitigation, conduct a follow-up

1 inspection of any dwelling unit for which a mitigation notice
2 was issued for the purpose of determining whether the
3 mitigation actions required have been completed and whether the
4 activities have sufficiently mitigated the lead hazard as
5 provided under this Section. The Department or its delegate
6 agency may conduct a follow-up inspection upon the request of
7 an owner or resident. If, upon completing the follow-up
8 inspection, the Department or its delegate agency finds that
9 the lead hazard for which the mitigation notice was issued is
10 not mitigated, the Department or its delegate agency shall
11 serve the owner with notice of the deficiency and a mitigation
12 order. The order shall indicate the specific actions the owner
13 must take to comply with the mitigation requirements of this
14 Act, which may include lead abatement if lead abatement is the
15 sole means by which the lead hazard can be mitigated. The order
16 shall also include the date by which the mitigation shall be
17 completed. If, upon completing the follow-up inspection, the
18 Department or delegate agency finds that the mitigation
19 requirements of this Act have been satisfied, the Department or
20 delegate agency shall provide the owner with a certificate of
21 compliance stating that the required mitigation has been
22 accomplished.

23 (Source: P.A. 98-690, eff. 1-1-15.)

24 (410 ILCS 45/10) (from Ch. 111 1/2, par. 1310)

25 Sec. 10. The Department, or representative of a unit of

1 local government or health department approved by the
2 Department for this purpose, shall report any violation of this
3 Act to the State's Attorney of the county in which the
4 regulated facility is located. The State's Attorney has the
5 authority to charge the owner with a Class A misdemeanor, and
6 shall take additional measures to ensure that rent is withheld
7 from the owner by the occupants of the dwelling units affected,
8 until the mitigation requirements under Section 9 of this Act
9 are complied with.

10 If the State's Attorney brings an action against an
11 individual for a violation of this Act and the individual is
12 unable to afford adequate legal representation, then the
13 Department shall ensure that the individual is provided with
14 adequate legal representation for purposes of that action.
15 Notwithstanding any other provision of law, evidence of a lead
16 test performed by an individual in an action brought by a
17 State's Attorney for a violation of this Act shall be
18 admissible in evidence in an action for a violation of this Act
19 brought by the State's Attorney.

20 No tenant shall be evicted because rent is withheld under
21 the provisions of this Act, or because of any action required
22 of the owner of the regulated facility as a result of
23 enforcement of this Act.

24 (Source: P.A. 98-690, eff. 1-1-15; 99-78, eff. 7-20-15.)

1 Sec. 12.3. Office of Ombudsman for Lead Poisoning
2 Prevention. The Department shall establish the Office of
3 Ombudsman for Lead Poisoning Prevention. The Office of
4 Ombudsman for Lead Poisoning Prevention shall advocate on
5 behalf of individuals on matters related to the adverse effects
6 of lead on the health, safety, welfare, or rights of such
7 individuals; investigate claims or complaints brought against
8 the Department that concern matters covered by this Act; work
9 to ensure transparency of the Department's activities under
10 this Act; and otherwise provide oversight on matters covered by
11 this Act, including, but not limited to, oversight of the
12 licensing procedures under this Act. The Department shall adopt
13 any rules necessary to implement this Section, including, but
14 not limited to, rules creating a complaint process for matters
15 covered by this Act.

1 INDEX

2 Statutes amended in order of appearance

3 410 ILCS 45/6.02 new

4 410 ILCS 45/6.03 new

5 410 ILCS 45/8 from Ch. 111 1/2, par. 1308

6 410 ILCS 45/9 from Ch. 111 1/2, par. 1309

7 410 ILCS 45/10 from Ch. 111 1/2, par. 1310

8 410 ILCS 45/12.3 new