State of Illinois
Rod R. Blagojevich, Governor
Department of Public Health
Eric E. Whitaker, M.D., M.P.H., Director

Illinois Lead Safe Housing Advisory Council Recommendations

Report to the Illinois General Assembly

Pursuant to P.A. 93-789

2007

Illinois Department of PUBLIC HEALTH

Illinois Lead Safe Housing Advisory Council Recommendations

A Report to the Illinois General Assembly
Pursuant to P.A. 93-0789

2007

TABLE OF CONTENTS AND RECOMMENDATIONS

EXECUTIVE SUMMARY

Lead poisoning is potentially devastating, but entirely preventable. It is one of the few causes of social and learning problems in children that we know how to solve. Unlike many other public health problems, the primary cause of lead poisoning—high amounts of lead in deteriorating lead paint surfaces in homes, especially windows—can be eradicated.

Illinois holds the dubious distinction of being the state with the highest number of children in the nation identified as lead poisoned. Over 16,000 children, or 6.3 percent of all children tested in Illinois in 2002, were identified with lead poisoning. This number amounts to over 20 percent of all elevated lead levels nationwide. Since not all children are tested, it is likely that the actual number of Illinois children harmed by lead is much higher. Even areas where lead testing is required for all children, fewer than 40 percent of the children are being tested.

There is no "safe" level of lead. Research confirms that children's developing brains and nervous systems are being harmed by lead at levels much lower than previously thought. These children are not yet counted in the reported numbers. But based on this information, the Illinois Department of Public Health estimates that over 81,000 children in Illinois are being harmed by lead paint.

Even though the sale of residential lead paint was banned more than 25 years ago, children, primarily those in poor and minority communities, continue to be exposed to high levels of lead in their homes because they are more likely to live in homes that have not been maintained or renovated, or were poorly renovated. Illinois has especially high rates of childhood lead poisoning due in part to the prevalence of old, low-income housing containing lead-based paint. All children 6 years of age and under living in homes built before 1978, the year lead was banned from household paint, are considered at high risk for lead poisoning because of the extent to which they are exposed to lead paint and lead dust by putting their hands in their mouths after crawling on the floor or playing with toys that contain lead paint.

Current Illinois practice and policy only protects children after they have been harmed by high levels of lead.* Since damage caused by lead is not reversible, prevention is key. The primary goal of the recommendations in this report is to develop a program focused on primary prevention, preventing children from being poisoned in the first place.

The economic benefits to Illinois for eliminating lead poisoning are huge. Since lead poisoning irreversibly damages a child's brain, making it more difficult for a child to learn, lead poisoning substantially increases educational costs. When children who are lead poisoned enter the workforce, their decreased abilities mean they get lower paying jobs, and earn substantially less over their lifetime (and pay substantially less in taxes) than they otherwise would have. Babies born in 2002 are going to earn an estimated $3

* Several of the recommendations developed by the Advisory Council and included in this report were included in H.B. 4853 which was passed by the General Assembly and signed into law by Governor Rod Blagojevich on June 20, 2006. The law, P.A. 94-0879, begins to put some protections into place that will prevent children from becoming lead poisoned. Far more of these recommendations will need to be adopted, however, before Illinois children are adequately protected from being harmed by lead.

billion less over their lifetimes as a result of their lead exposure. Moreover, these children will require an additional $31 million from Illinois taxpayers to cover their educational needs and medical expenses as a result of their lead exposure.

The Advisory Council's recommendations are divided into six key efforts that provide for a comprehensive lead poisoning prevention initiative, which is critical to eliminating childhood lead poisoning: (1) identifying of potential revenue sources and financial incentives to assist property owners in removing lead hazards; (2) establishing lead safe work practices as part of routine remodeling and renovation; (3) targeting of buildings with lead hazards; (4) focusing on populations at greatest risk of becoming lead poisoned; (5) enhancing reporting and surveillance; and (6) providing education. The report concludes with a proposal for a comprehensive lead hazard removal program focused on window replacement and economic development.

These recommendations represent the collective wisdom of a broad range of stakeholders, who come with diverse backgrounds, training, and special interests. Despite substantial consensus for all recommendations included in this report, there was not always total unanimity of thought by the 26 members of the Advisory Council. The clear and urgent need to improve housing conditions for Illinois children and to prevent children from becoming lead poisoned was unanimous; precisely how to fund that goal resulted in differing views sometimes being expressed. The disagreement often stemmed from concerns that property owners would bear the brunt of repair costs or that government funds would be inadequate. Any changes affecting costs or landlord-tenant relationships must be expected to sometimes generate varying and even conflicting views. The end result of this process, however—this Report to the General Assembly and Governor—most assuredly benefited from the input of all members, including members who proposed modifications that were not always adopted in their entirety by the substantial Council majority.

The momentum and commitment to eliminate childhood lead poisoning exists in Illinois. Together, we can provide Illinois children with a safe and healthy environment to learn, live, and grow.

About Childhood Lead Poisoning: The Problem of Childhood Lead Poisoning in Illinois

The damage by lead on a child's development is potentially devastating, but entirely preventable.[1] It is one of the few causes of social and learning problems that we know how to solve. Unlike many other public health problems, the primary cause of lead poisoning—exposures to high amounts of lead, particularly in deteriorating lead paint surfaces in homes built before 1978—can be eradicated.

Why be concerned about preventing lead poisoning?

Lead is a heavy metal that has been widely spread throughout the environment and is highly toxic to the human body. While lead is toxic to many different organs in the body, the most severe damage is to a child's developing brain and nervous system. There is no physiologic need for lead and recent research has reconfirmed that there is no "safe" level of lead. Lead poisoning can cause lowered IQ score, learning disabilities, language processing disorders, shortened attention span, and behavioral problems, including delinquency. The effects of lead poisoning often are permanent and impact not only the child and family, but the community as well.

How many Illinois children are being harmed by lead?

Illinois holds the dubious distinction of being the state with the highest number of children in the nation identified as lead poisoned. Over 16,000 children, or 6.3 percent of all children tested in Illinois in 2002, were identified with lead poisoning.[2] Illinois represents over 20 percent of all elevated lead levels nationwide, and has a far greater number of lead poisoned children than the number reported in the second-ranking state, Ohio.[3] Since not all children are tested, it is likely that the actual number of Illinois children harmed by lead is much higher. Even in areas where lead testing is recommended for all children, fewer than 40 percent of the children are being tested.[4] Among Medicaid-enrolled children in Cook County, between the ages of 11 months and 23 months, almost 78 percent did not receive the required testing.[5]

In addition, research suggests that children are being harmed by lead paint and showing adverse health effects at lower lead levels than earlier thought.[6] These children are not yet counted in the reported numbers. But based on this information, the Illinois Department of Public Health estimates that over 81,000 children in Illinois are being harmed by lead paint.[7]

What causes childhood lead poisoning?

While there are many potential sources of lead exposure, according to the President's Task Force on Environmental Health Risks and Safety Risks to Children, *Eliminating Childhood Lead Poisoning: A Federal Strategy Targeting Lead Paint Hazards*, a large body of evidence indicates that the most important remaining exposure source for

children are lead hazards in their residential environment—deteriorated lead based paint, house dust and lead-contaminated soil.[8]

Most children are lead poisoned in their own homes through exposure to lead dust or paint chips from paint surfaces that have deteriorated or been disturbed during home renovation or repainting. The friction from opening and closing windows treated with lead paint is one of the greatest culprits of lead poisoning due to the lead dust generated. While a child can rapidly become poisoned from eating paint chips, most children more slowly build up their body stores of lead by simply touching the lead-containing dust and then putting their hands in their mouths. Other sources of lead poisoning include imported consumer and household products and certain "traditional medicines and cosmetics," such as greta, azarcon and surma, and imported candies. Lead glazed pottery can also be a source of lead poisoning. These sources are less common than lead paint but they also contribute to lead poisoning among some children.

Who is at highest risk for childhood lead poisoning?

All children 6 years of age and under living in homes built before 1978, the year lead was banned from household paint, are considered at high risk for lead poisoning. While the numbers of lead poisoned children in Illinois is declining, too many children continue to be harmed.

> *Young children (0-36 months).* Children younger than age three are at greatest risk for being lead poisoned because of the extent to which they crawl and put their hands in their mouths, and ingest the lead dust that has settled on the floor or their toys. In addition, their developing bodies absorb lead more quickly.
>
> *Children of color.* Lead poisoning disproportionately affects children of color. In Illinois, African American children are more than three times as likely to have elevated levels of lead, as compared to Caucasian children. Hispanic children face twice the risk of Caucasian children. Most of this increased risk is attributed to the fact that minorities are more likely to live in older housing stock, which is more likely to have lead based paint.[9]
>
> *Poor children.* Low-income children also are much more likely to be exposed to lead hazards.[10] Approximately 70 percent of the lead poisoning cases of children were among Medicaid enrolled children.[11]

What communities are at highest risk?

While children are lead poisoned throughout Illinois, several counties have rates above the statewide average. These counties include: Alexander, Cass, Cook, Fulton, Greene, Kane, Kankakee, Knox, LaSalle, Macon, Mercer, Peoria, Perry, Rock Island, Sangamon, St. Clair, Stephenson, Vermilion, Will, and Winnebago. In some of these counties, over 10 percent of the children tested have been identified as lead poisoned. Appendix A provides a map of Illinois that identifies areas with high numbers of children identified as lead poisoned, and illustrates the highest concentrations of older housing and poverty rates which often result in lead hazards.

What housing stock has the greatest hazards?

Even though the sale of residential lead paint was banned more than 25 years ago, children, primarily those in poor and minority communities, continue to be exposed to high levels of lead in their homes because they are more likely to live in homes that have not been maintained or renovated, or were poorly renovated. Illinois has an especially high prevalence of old, low-income housing containing lead-based paint.

While the exact number of housing units with lead hazards in Illinois is not known, the Illinois Housing Development Authority estimates in its 2005-2009 Consolidated Plan that nearly 240,000 units are at highest risk for childhood lead exposure.[12]

History of the Advisory Council on Lead Safe Housing

In 2003, Governor Rod Blagojevich signed Public Act 93-0789 creating the Illinois Lead Safe Housing Advisory Council. The Council is charged with developing and making recommendations to the Governor and General Assembly regarding lead poisoning prevention. The Council is comprised of officials from key government agencies involved in health and housing efforts: Illinois Department of Public Health (IDPH), Illinois Housing Development Authority, Illinois Environmental Protection Agency, and health departments with a concentration of high-risk, lead-contaminated properties. In addition, representatives from the insurance industry, realtors' groups, lead abatement industry, Illinois paint and coatings industry, and community based organizations, and health professionals, child advocates, and housing advocates are represented. (A list of appointees is included in Appendix B. The Advisory Council is co-chaired by IDPH and the Illinois Lead Safe Housing Task Force).[13]

The Advisory Council began meeting in December 2004 to work on recommendations. This is the first report of the Advisory Council and presents a series of recommendations focused on the prevention of childhood lead poisoning. Currently Illinois practice and policy only protects children after they have been harmed by lead.* Since damage caused by lead is not reversible, prevention is key. The primary goal of the recommendations in this report is to develop a program focused on primary prevention: preventing children from being poisoned in the first place.

* With the passage of PA 93-0789, Illinois has begun to put into place some protections that will prevent children from becoming lead poisoned. Far more of the recommendations in this Report must be passed into law and policy and implemented, however, before Illinois children are adequately protected from lead poisoning.

ADVISORY COUNCIL RECOMMENDATIONS

The Advisory Council's recommendations are divided into six key efforts that would provide for a comprehensive lead poisoning prevention initiative which is critical to efforts to eliminate childhood lead poisoning: (1) identifying potential revenue sources and financial incentives to assist property owners in removing lead hazards; (2) establishing lead safe work practices as part of routine remodeling; (3) targeting of buildings with lead hazards; (4) focusing on populations at greatest risk of becoming lead poisoned; (5) enhancing reporting and surveillance; and (6) providing education. The recommendations in this report are intended to be in addition to existing law and policy, and not as a replacement, unless otherwise noted.

I. Leveraging Dollars to Make Housing Lead Safe

A. Potential Funding Sources

The costs of removing lead paint from surfaces in order to make properties lead safe range from an estimated $2,000-$12,000 per unit.[14] The Advisory Council recommends that an Illinois Childhood Lead Poisoning Prevention Fund (hereafter referred to as Lead Poisoning Prevention Fund) be created. All monies appropriated or generated for purposes of lead poisoning prevention would be placed in this Fund. Monies would be used specifically for efforts to make properties built prior to 1978 lead safe.

Monies from the Lead Poisoning Prevention Fund would be made available through grants, matching grants and/or loans. As a condition for receiving financial assistance of more than $5,000 through the Lead Poisoning Prevention Fund, an owner would have to agree that for those dwelling units receiving the state assistance for purposes of lead hazard reduction activities, low-income affordability restrictions as set forth below would be followed for a period of at least 3 years with no condo conversion for 10 years. Owners benefiting from financial assistance programs would sign an agreement stating their commitment to the low-income affordability restriction. If low-income affordability restrictions were not maintained, the funds would be subject to recapture.

"Low-income affordability restriction" refers to rents that are affordable to low income families. Low-income families are defined as families who earn 50 percent or less than the United States Department of Housing and Urban Development (HUD) median area income; affordable is defined as 30 percent of the family's household income. Additionally, all property owners or their agents who receive financial assistance through the Lead Poisoning Prevention Fund must attend a lead-safe practices training course approved by IDPH or a delegate agency to avoid the creation of new hazards and to promote building maintenance.

The Advisory Council recommends the following potential funding sources be considered. It is the intent of the Council that none of these revenue sources result in tenants bearing a greater burden in their rents or that affordable housing units be lost. The Council also urges the General Assembly and Governor to recognize that any fees or tax incentives would include sunset provisions because the effort to eliminate lead hazards is finite. Once lead is abated and properties are made lead safe, this funding source will not be needed. A summary chart on these recommendations can be found as Appendix C.

Documentary Stamp Fee

Institute a $10 documentary stamp fee to raise revenue for lead abatement with a sunset provision of 10 years.

This would be modeled after the Rental Housing Support Program Fund established in 2004. Legislation passed in 2004 established a $10 stamp surcharge for closing documents (including agreements, deeds, LIS pendens, liens). This surcharge is used by the Illinois Housing Development Authority to administer affordable housing programs around the state. While the Advisory Council acknowledges the difficulty/lack of popularity in recommending an increase in the documentary stamp fee, following on the

footsteps of the surcharge added in 2004, an additional $10 fee per real estate document could generate a possible $30 million annually to address lead hazards. An administrative system is currently in place for collection of this fee so it would not require additional expense to establish.

Paint Fee

Establish fees on sale or manufacture of paint, with a 10 year sunset provision.

This recommendation could be modeled after current law in California, New Jersey, or Maine. (See Appendix D for descriptions of the laws in California, New Jersey, and Maine.)

Concern about the health effects of lead has resulted in a variety of governmental regulations over the last 30 years. Lead in residential paint was phased out and completely banned by the Consumer Product Safety Commission in 1978.[15]

While opposed by the Paint and Coatings Association, revenue generated from the fees on paint could range from almost $3.5 million for an added $ .10 fee per gallon to almost $17 million with an added $.50 fee/gallon.[16]

The Used Tire Program in Illinois sets precedent for this type of fee.[17] The program, developed in the 1990s to address the issue of used tire clean-up, re-use, and new markets, assesses a $2.50 fee on a tire at the time of purchase. The majority of the generated revenue goes to the Tire Management Fund, which allocates the money to the Illinois Environmental Protection Agency for regulatory and clean-up programs and to the Department of Commerce and Economic Opportunity for the purpose of developing markets for used tires.

Utility Fee

Impose utility fees on all units, with an exception for low-income housing, with revenue to be placed in the Lead Poisoning Prevention Fund and used in pre-1978 buildings for lead safe window replacement.

An additional fee of $.08 per month per utility bill would generate $15.2 million annually. A nexus exists between lead abatement and energy efficiency because window replacement—which is the most significant means of abating the lead problem in housing—achieves both goals.[18]

Lead Abatement District

Allow for creation of lead abatement districts that would be funded through property taxes.

The Public Health District Act allows for any town or two or more adjacent towns in a county or under township organization, any road district, or two or more road districts in a county not under township organization, to be organized into a public health district provided that not less than 75,000 people are served by the public health district.[19]

The Mosquito Abatement District, an existing Public Health District, sets precedent for this recommendation. Under the Mosquito Abatement Districts Act, voters by referendum may organize tax supported mosquito abatement districts.[20] Currently, 21 mosquito abatement districts exist throughout the state, and generate $7.7 million annually.[21]

Lead abatement districts could provide a stable and substantial funding stream if the tax rate is high enough to support the lead abatement needs of the community. This special fund could be targeted to areas in the state with high lead poisoning rates. Because this recommendation will cost municipalities, often the poorest ones, it is also recommended that the State consider matching funds raised by the lead abatement districts as incentive to localities to establish these districts.

Tax Increment Financing Districts

Explore including lead abatement in existing or new tax increment financing districts (TIFs). Consider pursuing as pilot project.

A pilot program, TIF-NIP (Neighborhood Investment Program), after which a state-wide program could be modeled, exists in the city of Chicago. The TIF-NIP program creates a pool of upfront funding, through bonds or bank loans, to fund small rehab projects. A study of the Neighborhood Capital Budget Group shows that, in Chicago, about 78 percent of the increment generated in TIF's comes from the typical increase in property tax over time.[22] Thus, using TIF funds for lead abatement could work.

Special Service Areas

Utilize the Special Service Area (SSA) law enacted in November 2005 for lead abatement projects. At the municipal level, promote the usage of SSA ordinances as a financing mechanism for larger scale abatement work.

The new law allows a municipality, with the agreement of the affected property owners, to propose an SSA in order to levy additional taxes for the purpose of providing improvements to any one or more buildings if the improvements are required by municipal ordinance. The legislature's broad intent of the SSA law—to promote "health and safety"—is served if it is used to eliminate lead hazards. [23]

This kind of SSA will enable the building owner to be assessed for lead abatement work through increased taxes that would be pledged to provide the revenue to repay municipal bonds, which would be used to finance the lead abatement and generally come with a lower interest rate than a traditional loan from a lending institution. Larger municipalities have taken advantage of the SSA law for infrastructure needs and are already familiar with its mechanics.

Income Tax Check Off

Provide state income tax form check off to generate dollars for lead poisoning prevention.

Current law allows for income tax check-offs to fund public and social interest programs.[24] Lead poisoning can cause serious harm to children's learning and behavior.

All children residing in pre-1978 dwelling units are at potential risk for lead poisoning. Thus, contributing to efforts to eliminate childhood lead poisoning should be a compelling issue for taxpayers.

While it is not anticipated that an income tax check off will generate a large amount of revenue, it can create a steady revenue source.

Demolition Fee

Create demolition fees on pre-1978 properties, which will be used to fund lead abatement activities, or activities to promote lead safe demolition activities.

A nexus exists between the fee and lead poisoning prevention. Pre-1978 properties are the ones most likely to be demolished and most likely to contain leaded components which can create hazards when being demolished.

Precedent exists for demolition fees. Several municipalities, including Chicago, Schaumberg, and Oak Park, collect demolition and inspection fees. IEPA enforces a fee of $150 for all demolition projects of commercial buildings. The money is deposited into an inspection and permits fund and used for asbestos abatement.

In Chicago, it is estimated that 50,000 units are demolished annually, but only about 20 percent are done with demolition permits. If $5 were added to each demolition permit, $50,000 could be generated annually in Chicago. There would be no costs to the state or local government except when buildings being demolished were owned by state or local government.

B. Financial Incentives

In addition to providing loans and grants to property owners to support the removal of lead hazards, financial incentives will encourage lead hazard removal efforts. Lead hazard reduction treatments with a lead dust clearance have proven to be effective in reducing incidents of poisoning [25] Following is a list of recommended financial incentives. For a chart summarizing these incentives listed in this section and their potential revenue, see Appendix C.

Property Tax Incentive

Lower the tax assessment level to provide a property tax incentive for owners of multi-family properties who make efforts to reduce lead hazards in their properties in counties where there is a high incidence of childhood lead poisoning. Require that any affordable housing units within the multi-family building must maintain the affordability status for the duration of the lower tax assessment.

The Advisory Council recommends that the program be piloted in selected counties. This way it will be possible to see how many property owners would be interested and to determine what the potential loss in revenue for a county would be.

While most single-family homeowners receive property tax breaks (chiefly through homestead exemption, and in Cook County a 16 percent assessment level), owners of multi-family, rental properties receive few if any property tax breaks in Illinois.

There is precedent for this type of property tax incentive: the General Assembly enacted a similar property tax break in 2003 for those owners who rent their units to Section 8 voucher holders.

Property Tax Deferment

Allow for a tax deferment on home improvements in pre-1978 single-family homes until time of sale for property owners who use lead safe work practices.

The Senior Citizen Real Property Deferral program is a tax-relief program that works like a loan. It allows qualified seniors to defer all or part of their taxes and special assessments on their primary homes. The loan from the state is paid when the property is sold, or transferred to an heir. Up to 100 percent of property taxes and up to 80 percent of equity interest in the home may be deferred.

The anticipated increase in the tax assessment resulting from lead abatement activities might be small, therefore it is not clear if many property owners would see this tax deferment as a sufficient incentive.

Property Tax Assessment Freeze

Allow for a property tax assessment freeze renewable every two years for a period not to exceed eight years for people making their single family or multi-family properties lead safe.

The property tax assessment freeze creates financial incentives for moderate-income owners to improve their properties using lead safe work practices; removes disincentive for home improvement. Precedent exists through the Historic Preservation Rehab program: previously no incentive existed for homeowners to buy older homes. The Historic Preservation Rehab Program fought for property tax incentive that the state would administer and the county would collect. If the owner rehabbed to a certain amount, their tax assessment would be frozen. (Communities could object to this, but only one has in 20 years and this was because the entire village was a historic preservation district.)

The State Historic Rehab Program provides precedent for this approach. The program assesses the value of the property and freezes the property tax at that rate for 8 years once rehabilitation has begun.[26] In addition, the Cook County Senior Freeze Exemption allows qualified senior citizens to apply for a freeze of the equalized assessed value (EAV) of their property for the year preceding the year in which the applicant first qualifies and applies for this exemption. Another precedent is the Home Improvement Exemption which allows property owners to increase the value of their home with up to $75,000 worth of improvements without increasing property taxes for at least four years.[27]

Income Tax Credit

Provide an income tax credit for owners making their pre-1978 property lead safe.

Other states offer income tax credits for similar efforts. Massachusetts offers a $1,500/unit tax credit with a seven year carry forward. The state has had approximately 2,000 tax credits per year.[28]

The administrative cost for this program would be low; once the tax credit is incorporated into the state's tax code it becomes another line item on a tax return.

Program Match with State Weatherization and Lead Programs

Enhance the ability of state and local lead and weatherization programs to work together to jointly fund lead and energy work in residential properties.

Currently the weatherization program[29] provides weatherization improvements (mostly mechanical and insulation/weatherization stripping) to 7,000 units per year at an average cost of $4,000 per unit. Weatherization dollars must be used to fund energy efficiency improvements. The work is required to be done using lead safe work practices although no clearance test is required. The weatherization teams have been trained in lead safe work practices.

If weatherization programs provided $1000-$2000 match to the lead programs for energy efficient window replacement, approximately 1,400 households could be affected annually. Window replacement currently costs $5,000 per unit

Precedent exists in Madison County and Chicago where lead funding from HUD is combined with funds from weatherization.

New Market Tax Credits

Expand federal New Market Tax Credit (NMTC) program as a means of encouraging private investment.

The New Markets Tax Credit (NMTC) program was enacted in December 2000 as part of the federal Community Renewal Tax Relief Act. The purpose of the NMTC is to spur private investment, including banks, insurance companies, and other larger corporations, in low-income urban and rural communities. The program is based on the idea that there are viable business opportunities in low-income communities, such as lead safe window replacement, and that a federal tax credit would provide an attractive incentive to increase the flow of investment capital to such areas.

Chicago is piloting a program using NMTC to invest in lead abatement. The project will match $6 million county and Federal grant funds with an additional $6 million in private investments in lead abatement. This pilot, used in multi-family buildings, could be expanded throughout the state if additional government matching grant dollars are identified.

II. Establishing Lead Safe Work Practices

Regular construction activities generate lead dust. This dust is left behind and can poison. "Lead safe work practices" entail small changes to practices that limit the generation of leaded dust and safely contain the lead that is generated. This involves avoiding use of some high-dust generating techniques, like open-flame burning, and modifying other techniques like sanding with water rather than dry sanding. To contain dust, plastic is put down before working. LSWP also requires careful clean-up to remove any dust that may have escaped.

Current state law does not require the use of lead safe work practices when working in pre-1978 structures unless a child has had a positive blood lead test and the public health department has issued a mitigation order or there is intent to remove an identified lead hazard. In these cases, lead abatement by a licensed contractor is then required. In addition, under federal law, specified lead safe work practices must be used when making repairs in any properties that receive federal dollars. In these situations, practices that create high levels of lead dust, including power washing, sandblasting, and the use of heat guns and blow torches are banned. The following recommendations seek to ensure that lead safe work practices are used in all pre-1978 housing unless the area being disturbed is free of lead-based paint.

Lead Safe Work Practices

Three recommendations were made specific to lead safe work practices:

- Require the use of lead safe work practices (LSWP) for any activities that have the potential to disturb more than a minimal amount of a painted surface in any residential or child-occupied facility constructed prior to 1978, unless a licensed lead inspector has determined the surface to be disturbed is free of lead-based paint. Regulations should specify the de minimus amount is two square feet per component.

- Prohibit the use of dangerous methods of paint removal, currently prohibited for use in lead abatement or mitigation activities, in all situations where LSWP are to be used

- Require lDPH to promulgate rules and regulations for defining LSWP and setting specific standards. The rules and regulations should include specific techniques that can be used as LSWP, which limit the generation of dust, contain any dust generated, and clean any remaining dust. Techniques required should be kept as closely as possible in line with U.S. Department of Housing and Urban Development (HUD) guidelines for federally assisted properties.[30]

It has been well documented that activities that disturb leaded paint release substantial quantities of leaded dust. For this reason, control of leaded dust has been recognized as an essential component of efforts to remove identified lead paint hazards for the last two decades, and a highly trained and highly regulated lead abatement industry currently exists to address these situations. Few efforts, however, are made to control hazardous releases of leaded dust that may occur in ordinary renovation and remodeling activities. LSWP are simple, low cost changes to maintenance, renovation, and remodeling activities which will provide an increased level of protection in non-lead abatement situations where lead dust may be generated. The above

recommendations respond to these situations. Situations where lead hazards have been identified and remediation is required, especially when a child has been exposed to lead, should continue to utilize the existing lead abatement industry.

Certified Contractor on Site

For work done for compensation, require that an individual certified in LSWP be on site at all times when paint may be disturbed and grant this individual the responsibility and authority to ensure the proper use of LSWP by all individuals on site.

Placing the onus on a supervisor to ensure compliance of a work crew with practice requirements can be effective. OSHA requirements addressing safety training have effectively demonstrated this. Requiring that supervisors be licensed ensures their competence in the use of LSWP. In addition, licensure provides a relatively simple method for the state to take enforcement action against those who fail to adhere to the requirements, namely, license revocation.

Clearance Examination

For work done for compensation, require an individual certified as a lead inspector or lead risk assessor to conduct a clearance examination upon completion of LSWP activities that involve large-scale paint removal or demolition.

An independent exam is recommended because of the clear conflict of interest inherent in a self-examination system. Clearance testing is the accepted norm both in lead abatement projects and in federally financed LSWP projects.

Training and Certification of Lead Professionals

Fund the Illinois Department of Public Health to provide training throughout the state to increase the supply of certified lead professionals with a focus on training individuals from disadvantaged communities. Additionally, the department should develop a marketing campaign to increase awareness of training opportunities.

IDPH Compliance Inspection

Authorize IDPH and local delegate agencies to inspect worksites during all stages of work to ensure compliance with all LSWP requirements and administer fines and penalties for non compliance.

To the extent that enforcement ensures a level playing field, the well intentioned and compliant contractors are not placed at a competitive disadvantage to those who disregard LSWP.

Incorporation by Local Municipalities of LSWP Requirements

Encourage the incorporation by local municipalities of LSWP requirements. In order for municipalities to receive funding from the Lead Poisoning Prevention Fund, require that they incorporate LSWP requirements to the greatest extent possible in existing construction projects, including but not limited to permitting, building code enforcement, and locally financed renovation or remodeling programs.

State Enforcement of EPA Pre-Renovation Notification Rule

The State should apply for US EPA authorization to administer and enforce the pre-renovation notification rule of the Federal Toxic Substance Control Act.

The Federal Toxic Substance Control Act[31] requires contractors and owners of rental properties to inform occupant about the risks of lead-based paint before non-emergency repair, maintenance, and home renovation begins. Owners and contractors also are required to distribute the pamphlet "Protect Your Family From Lead In Your Home" before commencing any work.

Section 406(b) of this Act is delegable to the states providing that the EPA approves the state's application to administer and enforce the regulations. The State of Illinois should seek such authorization because it will increase the likelihood of enforcement at the local level and permit enforcement against owners of properties with fewer units than the larger management companies the federal agency targets.[32]

III. Targeting Buildings with Lead Hazards

For purposes of the following recommendations the term "lead safe" means the same as is provided in the recommendation below.

A. Lead Safe Requirements

Statutory Definition of Lead Safe

Define a housing unit as "lead safe," when a licensed lead risk assessor certifies that the unit does not have a lead hazard, in that: the living space, in addition to all common areas utilized by the unit, does not have deteriorated lead-based paint or deteriorated paint of unknown lead content in more than a *de minimis* (2 square feet) quantity, does not have bare soil in accessible areas of any common yard in excess of applicable lead standards, and passes dust wipe tests at the clearance levels.

In order for a building to be considered "lead safe," all the living units in the building must meet the above criteria, unless the building has more than six units, in which case only the greater of 10 percent or six units must be tested and found to pass the above criteria.

For a building or unit(s) to continue to be considered "lead safe," the unit(s) or building must be recertified by a licensed lead inspector after two years unless the building or unit has been certified as free of lead hazards by a licensed lead inspector or risk assessor. The identification of a lead hazard in the interim, however, would result in the building or unit(s) no longer being considered "lead-safe." Owners must retain documentation of the status of the units for lead disclosure purposes.

Requirement to Keep Property Lead Safe

Require every owner of residential property built before 1978 to maintain the residential building in such a manner so as to prevent the existence of a lead hazard. The exterior components of buildings and structures which are adjacent to residential properties should be maintained in such a manner so as to prevent the existence of a lead hazard. Adjacent non-residential structures must be maintained in such a way as to avoid contamination of residential properties.

B. Notification of Lead Hazards*

Notification of Lead in Individual Units

Within 7 days of receipt of a report from the Department of Public Health or delegate agency of identification of lead hazards on building components within an apartment, require property owner to notify other building tenants by prominently posting a notice in common areas for 30 days of their increased risk for having a lead hazard in their

* P.A. 94-0879, signed by Governor Blagojevich June 20, 2006, includes some form of these recommendations below related to notification of lead hazards in housing.

apartment. In addition, Department of Public Health or delegate agencies should include in the property owner notification of lead hazards, an advisory that the property owner must distribute to all building units of the building.

Notification of Lead Hazards in Common Areas/Exterior

Within 7 days of receipt of a notice from the Department of Public Health or delegate agencies of identification of lead hazards on building components in common areas or the exterior of buildings, require the property owner to notify by letter or notice other building tenants of their increased risk for lead exposure due to lead hazards in these common areas and post warnings of these lead hazards in building common areas.

If building common areas, exterior, or outbuildings are identified as having a lead hazard, the Department of Public Health or delegate agencies must include with property owner notification of lead hazards a notice to be posted in building common areas.

The existing federal disclosure law requires the disclosure of lead hazards at the time of lease or lease renewal only. The intention of this notification recommendation is that tenants should learn about the information in a timely fashion and not have to wait for the next renewal of their lease.

Notice Requirements Regarding Lead Hazards in Individual Units or Common/exterior Areas

The following recommendations were made regarding the letter/notice:

- The letter/notice must be in English and Spanish and state the following:
  - As applicable, a unit or units in the building and/or common areas, exterior, or specific outbuildings have been found to have lead hazards;
  - Other units in the building may have a lead hazard.
  - Recommendation that children 6 years and younger receive a blood lead test; and
  - Where to seek further information.

- The notice must be displayed until the hazard has been repaired and clearance of the hazard approved by the Department of Public Health.

Fines for Failure to Post Warnings

Establish a penalty/fine for non-compliance to be administered by the Department of Public Health and designated for state or municipal programs to aid reductions of environmental lead hazards. The penalty/fine shall accrue on a daily basis with daily amount for noncompliance the same as for failure to repair a lead hazard within the time allotted under law.

C. Targeted Inspections*

Properties with Lead Poisoned Children Younger Than Age 3

Where one child less than 3 years of age tests with a blood lead level ≥10 μg/dL, require the Department of Public Health or delegate agencies to inspect the one unit and related common areas for lead hazards.

Blood lead levels generally peak around age 2 years and then fall as oral-behaviors, which promote lead ingestion, decrease. Accordingly, the blood lead levels in children less than 2 years of age are on the rise. Prompt remediation of lead hazards for children less than 3 years of age speeds the lowering of their blood lead level. Identification and repair of lead hazards when children's blood lead levels are lower will decrease societal and educational costs and improve child developmental outcomes.

Properties with Pregnant Women

If a pregnant woman who tests with blood lead level of 10μg/dL or higher resides in a home built before 1978, require the Department of Public Health to conduct a lead risk assessment of her residence to ensure a lead-safe environment for the infant. Landlords of such units should be required to repair lead hazards identified in such units and common areas similar to requirements for units identified by exposure to children and with the same penalties for non-compliance.

Lead is transferred from the mother to the fetus with the lead level of the newborn closely approximating that of the mother. Thus, children born to mothers with lead levels of 10 μg/dL or higher are at very high risk for lead levels to climb even further if they become exposed to lead hazards in the home.

Collateral Units

Where two or more children in a building (living in separate units) have blood lead levels ≥10 μg/dL within a five year period or less, and there existed an identified lead hazard upon Department of Public Health inspection of the units where such children live(d), then the Department of Public Health may inspect units, common areas, and outbuildings (using HUD guidelines to determine number of units and which units to inspect and the content of the inspection) or require the landlord to hire a private inspector approved by the Department to inspect the remaining units, common areas, and outbuildings for lead hazards (using HUD guidelines to determine number of units and which units to inspect and the content of the inspection). The full reports of the private inspections should be sent to the Department of Public Health within 14 days following the inspection. The Department of Public Health should follow up to ensure repair of lead hazards. The property owner should comply with all other requirements for lead hazard notification and lead hazard repair as required by law.

---

* P.A. 94-0879, signed by Governor Blagojevich June 20, 2006, includes some of these recommendations below related to targeted inspections.

When one unit of a building is identified with a lead hazard, other units have a high likelihood of also having lead hazards due to common painting and maintenance history. Buildings with multiple units having lead hazards have a high likelihood of having lead hazards in most units of the building. This recommendation efficiently targets limited public health inspection resources to properties and families that are predictably at higher risk and benefits other children who reside in the same property before they might be exposed to lead or by identifying current, but previously unrecognized, lead hazards before they can cause harm to residents.

Inspection Priorities

When developing a list of properties to prioritize for the collateral unit inspection requirement, the Department of Public Health should assign highest priority status to properties with the highest number of units with past identified lead hazards and highest number of children with blood lead levels of 10 μg/dL or higher.

Inspection upon Request

Two recommendations were made with respect to inspections upon request:

- In a pre-1978 building where a lead hazard is found by IDPH in response to an inspection for an elevated blood lead level, upon the request of a resident in another unit in the same building which includes a child age 6 years or younger living or spending at least six hours a week in the unit, IDPH or private inspectors should evaluate the unit and include, at a minimum, visual inspection and lead dust testing in such evaluation. Lead hazard repairs would be required in the unit.

- State or local Health Departments may inspect child-occupied properties built before 1978 or properties adjacent to child-occupied properties for lead hazards when such a request is made to protect the health and safety of children exposed to such properties. This includes locations where children visit and locations where children reside. If a person entitled to withhold consent to inspection refuses to allow inspection, a representative of the health department may apply for a warrant to enforce inspection. Identified lead hazards must be repaired.

Public Information on Lead Status of Homes

Licensed lead inspectors (public and private) conducting lead risk assessments on any pre-1978 residential property should contribute information electronically to a publicly-available electronic data repository.

The following recommendations were made regarding the repository:

- Data should be placed into the repository within 30 days following the inspection.
- Information in the repository should include:
    - Company/agency conducting the inspection
    - Address of building inspected and unit #
    - Estimated or actual year home built and whether date is an estimate or actual

- Findings of lead hazards (including lead dust hazards) on building interior component (yes, no)
- Findings of lead hazards on building exterior components or outbuildings on the property (yes, no)

- The full inspection report shall be maintained by the inspector and be subject to review by the Department of Public Health for a period of five years following the date of inspection.

This information will enhance access to inspection findings and allow parents and property owners (or potential owners) to proactively protect their children and those who live in their properties. The recommendation also requires reporting by private inspectors, information which currently is not publicly available, although under federal law such information should be part of the information provided to new owners and tenants at the time of property transfer or lease.[33] Analysis of this information will increase the ability to track the progress of lead hazard reduction efforts in Illinois.

Information on Rental Properties Cited for Lead Violations

Require IDPH to generate and publicize a list of rental properties that have not corrected cited lead violations within 90 days. Properties found not to have, or that no longer have, lead hazards would be removed or excluded from the list.

D. Tools to Enforce Compliance with State Laws

While financial resources and incentives are important to encourage property owners to eliminate lead hazards, it is also critical that non-compliant property owners, especially repeat offenders, be held accountable when not complying with existing laws. Following are recommendations for strengthening compliance.

Prohibition of State Business[*]

Amend the Illinois Procurement Act[34] to prohibit persons who have committed a willful or knowing violation of the Lead Poisoning Prevention Act[35] in so much as they have failed to comply with a mitigation order as ordered by the IDPH or a delegate agency from doing business with the State of Illinois or any State agency.

It is likely that the potential loss of state contracts will cause people to take a violation notice more seriously than they currently do.

The Comptroller's office sends out periodic bulletins making people aware of amendments to the Procurement Act and other Acts and informs state agencies that they will not accept contracts that are missing required certifications.

[*] P.A. 94-0879, signed by Governor Blagojevich June 20, 2006, includes some form of this recommendation.

Cost Recovery from Non-Compliant Owners

Authorize the State to complete an ordered lead hazard removal in buildings where property owner is non compliant with mitigation order. Expand the remedies currently delineated in the Lead Poisoning Prevention Act[36] to allow a court to direct the state to recover up to three times the cost of abatement including administrative fees and relocation costs.

Monies recovered shall be deposited into the Lead Poisoning Prevention Fund.

Protection from Retaliatory Eviction

Create a rebuttable presumption of retaliation when a landlord evicts a tenant with an elevated blood lead level who is living in a unit with a lead hazard or who has complained to the landlord and a public health official about a possible lead hazard in a unit or common area.

A specific section identifying the penalty for retaliatory eviction is a deterrent for the property owner to evict a family. Tenants often do not complain to the IDPH or a delegate agency about possible lead hazards out of fear of being evicted. This rebuttable presumption may be used as a defense to an eviction action. If the court finds a landlord violated these provisions, the tenant may sue the landlord for two months rent plus court costs and reasonable attorney fees.

Coverage for Temporary Relocation Expenses

Require property owners to cover reasonable expenses for temporary relocation of a family while lead hazard removal is underway in those cases where there has been a violation of a mitigation notice. Require the state public health department to promulgate regulations that specify those situations requiring relocation in order to protect public health.

Temporary relocation prevents occupant exposure to lead dust during remediation. This already is required under the U.S. Department of Housing and Urban Development Guidelines for the Evaluation and Control of Lead-Based Paint Hazards in Housing in certain cases. This recommendation shifts costs of relocation to the property owner.

Disclosure Requirement

Amend Illinois Lead Poisoning Prevention Code[37] to mirror the federal law regarding disclosure requirements.[38]

When disclosure rules are violated, allow a tenant to terminate his/her lease and move within 30 days of the notice terminating the lease. When a lead hazard has been identified, within 15 days of moving, the tenant shall receive relocation costs of one month's rent and return of security deposit minus allowed damages. Allow the tenant to sue the landlord for return of security deposit and relocation costs plus court costs and attorney fees where landlord does not return the deposit or pay the relocation costs.

Landlords should disclose to tenants the existence of lead hazards. The goal of this recommendation is to provide the tenant with an additional remedy, other than criminal penalties, for the property owner's failure to disclose and an additional remedy when disclosure has not been made and a lead hazard is identified.

Administrative Procedures and Fines for Non-compliance with Mitigation Orders

Require that by February 2007 IDPH promulgate rules and hold hearings to establish administrative procedures and fines/penalties for IDPH and delegates to pursue non-compliant property owners and landlords.

Property owners will have incentive for faster compliance with mitigation orders. Children will be in lead safe housing more quickly. Criminal convictions are appropriate for repeat offenders and flagrant violations, but routine matters are more expeditiously handled administratively.[39]

Record Lead Violations

Require state and local delegate health departments to record with the County Recorder of Deeds notices of lead violations that are non-compliant after 90 days.

Buyers would be on notice of the lead problem, which would provide a disincentive for property owners to avoid fixing the problem. In order not to penalize property owners once efforts are made to remediate the identified lead hazards, certificates of compliance must be issued and recorded once violations have been addressed.

Criminal Penalties for Repeat Offenders

Amend Section 12 (a) of the Lead Poisoning Prevention Act to include a Class 4 felony for any third or subsequent conviction for failure to mitigate lead hazards, and an additional $500 penalty to be imposed by the court for each day that a violation continues in these cases. Encourage State's Attorneys and Attorney General to pursue criminal penalties for repeat violators who fail to mitigate lead hazards.

Property owners will have incentive for faster compliance with mitigation orders. Children will be in lead safe housing more quickly. Felony convictions are appropriate for repeat offenders.

Funding Directed to Prosecutions for Lead Violations

Fund Office of Attorney General and Office of the State's Attorney to prosecute violations of the Lead Poisoning Prevention Act (LPPA).

Funding could occur either through an amendment to the LPPA to provide for the appropriation or by memorandum of agreement between IDPH and the Attorney General and State's Attorney Offices.

IV. Focusing on Populations at Greatest Risk

Foster Homes with Young Children

Give homes with foster children less than 7 years of age priority in state-funded lead remediation programs, when such programs are established.

Foster children under the care of the state are potentially being placed in high risk situations. Often children involved in the foster system already are at high risk for developmental problems and lead could exacerbate these problems.

Priority in Housing Choice Vouchers for Elevated Blood Lead Level (EBLL) Children

Give families with a child with an elevated blood lead level who are homeless or currently residing in homes with lead hazards priority in housing choice voucher programs.

Children who have elevated blood lead levels should not be in housing where they risk continued exposure to lead hazards and a worsening of their condition. Siblings of lead poisoned children in families who are eligible for the housing choice voucher program were likely exposed to lead and should be protected from further exposure.

Lead Safe Child Products and Warning Labels[*]

Clarify that the Lead Poisoning Prevention Act covers not only products that are painted with lead based paint, but also products intended for use by children, or would be used by children and that contain lead; ensure standards for lead-bearing substances cover products that contain lead; expand warning labeling requirement to cover products that contain lead; apply fines to manufacturers or merchants who manufacture, transfer, distribute, or sell products that are either painted with lead-based paint or contain lead in violation of the Act.

Current state law is written in such a way that it is not clear that a "lead bearing substance" includes products that contain lead as opposed to products that are painted with lead-based paint. In addition, current law only restricts sales of "toys or furniture that contain a lead bearing substance." Children are lead poisoned by many items in addition to toys and furniture, including jewelry, accessories, lunchboxes, candy, ceramic items, and clothing. While the law contains a warning statement section for products that contain a lead bearing substance but are not otherwise prohibited from being sold under the Act, the warning is written in such a way that it covers lead-based paint only, and does not address products that contain other forms of lead. Accordingly, the current warning section would not apply to items containing lead that are not otherwise prohibited from being sold under the Act, such as jewelry with lead, teapots, certain ceramics, and other items where the lead is not paint-based. Current monetary penalties under the Lead Poisoning Prevention Act apply only where someone has ignored a mitigation order.

---

[*] P.A. 94-0879, signed by Governor Blagojevich June 20, 2006, includes some form of this recommendation.

V. Enhancing Reporting and Surveillance

A. Reporting

Reporting of Blood Lead Levels to State

Require by January 2008 that all laboratories or other approved facilities in Illinois be required to report all blood lead results to the state electronically, in accordance with the following:

1. Reporting should include:
    a. Blood lead test: result, date drawn, type of specimen
    b. Laboratory
    c. Name of clinician ordering the test; site of testing
    d. Individual tested: gender; race; ethnicity (Hispanic/non-Hispanic); date of birth; address; phone number; name of parent or guardian, if applicable; occupation; and pregnancy status if known and applicable.

2. Reporting to IDPH must be within 48 hours of the date of processing if the result is 10 μg/dL or higher. All other results shall be sent to the Department within 30 days of the blood lead level processing date.

3. A penalty for non-reporting of a blood lead level within the designated time shall be established and administered through the Illinois Department of Public Health.
    a. Monetary fine: $250/day delayed/case suggested; designated to cover IDPH costs for administration and maintenance of tracking systems
    b. Loss of licensure

Prompt reporting will enhance quality of care of individual children due to faster transfer into follow-up systems. More information on site of the test and the clinician ordering the test will allow for enhanced coordination of care and allow for feedback on testing results to individual clinicians/sites. Electronic reporting lessens potential entry errors in the state blood lead level tracking system and will decrease time required for data entry.

Reporting of adult levels aids in preventing the transfer of lead from work sites to children and women of child-bearing age in the home and will improve identification of pregnant women/women of child-bearing age with elevated lead in order to provide appropriate interventions. Finally, establishing a penalty for non- reporting through an administrative process will strengthen the reporting requirements and increase the likelihood that the state will obtain reliable and complete date, which will aid record keeping for analysis, research and intervention.

Data Sharing *

Information pertaining to child blood lead levels should be shared electronically between the state blood lead tracking system and other public health tracking systems, including but not limited to immunization registries, Tracking Our Toddlers Shots (TOTS), Women, Infants, and Children (WIC, and Project Cornerstone.

Currently no transfer of information occurs between these registries. Children, particularly those living in poverty who are at highest risk for lead exposures, have multiple contacts at points of service that view data in these other types of registries, specifically offices of their health providers and WIC offices. Knowing a child's blood lead result or lack of testing in various types of health care contacts (including WIC) could improve screening rates and enhance follow up services to children with high levels.

Screening Rates Report Card

Annually, or more frequently, IDPH should provide reports to individual health care providers and health care sites on the blood lead screening rates by provider and health care site of children involved in health programs managed by Department of Healthcare and Family Services (HFS). HFS and state lead databases should be used to generate these reports with provider or health care site assignments determined by providers and site of billing for health supervision visits.

Illinois providers and medical practices have never received reports of their performance on lead testing of children. Medicaid and Medicaid-eligible children are at high risk and annual report cards to providers and health care sites could serve to improve screening for this vulnerable population.

B. Surveillance

Children Enrolled in Medicaid

Three recommendations were made specific to Medicaid coverage:

- Contracts for Medicaid managed care health plans shall specify that blood lead screening must be performed at the ages of 12 and 24 months and shall require that such plans increase their lead testing rates each year by a percentage to be determined by regulation.
- Provide, through the Illinois Lead Program, practices with electronic reporting from the state lead database of children whose test was ordered at their sites over the time period of evaluation, if requested by the practice.

* P.A. 94-0879, signed by Governor Blagojevich June 20, 2006, includes some form of this recommendation.

- Plans that meet their yearly testing goals shall receive a bonus. Failure to reach the goal shall subject the plan to a 5 percent withholding of their entire contract.

Federal Central Management Services (CMS) regulations require all Medicaid-enrolled children be screened at 12 and 24 months. Medicaid managed care contracts do not specify when lead screening must be done. There are no performance goals and incentives in the contracts. Lack of incentives contributes to low testing rates. Incentives built into the contracts will spur health plans to educate medical personnel and public health staff on the need for testing of high risk populations.

Refugee and Other Immigrant Children

Amend Illinois guidelines for screening of refugee and other immigrant children of all ages to include blood lead testing at the time of entry/placement and a second blood lead test 6 months later, or sooner if indicated by elevated blood lead results.

Federal standards require that a medical screening take place within 90 days after a refugee's arrival in the United States. Most states, including Illinois, do not include a blood test for lead in that screening. The U.S. Centers for Disease Control and Prevention recently reported that while some children have elevated blood lead levels when they enter the United States, the majority of children become poisoned by lead after they arrive due to the condition of their housing and poor nutrition.[40] Follow–up screenings can trigger environmental assessments of homes and remedial measures.

Children in Foster Care

Amend Illinois guidelines for screening of children in foster care to include blood lead testing at the time of entry/placement of a child age 6 or younger and a second blood lead test six months later, if residing in a pre-1978 home.

This recommendation aims at early detection and interventions in a high risk group.

Reporting by Child Care Facilities

Require child care facilities to submit annual reports to the IDPH on the number and percentage of lead risk assessments and/or number and percentage of blood lead screenings submitted as required by Section 7.1 of the Lead Poisoning Prevention Act.

Day care facilities currently report compliance with immunizations but do not address compliance with lead screening or assessment recommendations. Blood lead testing needs to be focused on the youngest children, many of whom are in daycare.

VI. Education

Housing Risk Notices at Health Offices

Require offices providing primary care services to children age 6 or younger to post in a public place within the office a notice, map, or poster prepared by the Department of Public Health identifying age of housing in the local areas and outlining risks for exposures to lead. Additional information to be provided should include links to resources for lead education or lead education information and information on remodeling risks.

Items should be developed and available for downloading by physician offices from IDPH's web site. Items should be available in both English and Spanish.

Raising public awareness of the risks of lead damage to children is critical. These locales provide opportunity to reach caretakers of young children.

Information on Lead to Families by Child Care Providers[*]

Require all child care providers receiving state vouchers to notify all families at their site regarding lead poisoning prevention using recommended materials.

Child care sites provide opportunity to reach caretakers of young children regarding the potential hazards of lead and the importance of lead poisoning prevention.

Child Care Providers

Require child care facility operators and providers to receive one hour training in lead poisoning prevention within the first year of operation and every three years thereafter. Notification of completion of training shall be required as part of license renewal for day care operators.

Child care providers are in constant contact with parents of young children, providing many opportunities to share knowledge about the dangers of lead and lead poisoning prevention with parents. In addition, children are at risk in child care facilities built pre-1978; providers must be educated on control of lead hazards.

Child Protection Workers

Require caseworkers with the Department of Children and Family Services and delegate agencies to receive one hour training in lead poisoning prevention at the time of hiring and every three years thereafter. In addition to training through workshops and at various meetings, an educational training should be developed and be available online for those individuals interested in receiving credit for completing this requirement.

---

[*] P.A. 94-0879, signed by Governor Blagojevich June 20, 2006, includes some form of these recommendations.

Children in the child welfare system are a high risk group for damage from lead hazards. Caseworkers in constant contact with these children and with their parents and foster parents can help prevent damage from lead.

Prosecutorial Offices[*]

Require the Attorney General in conjunction with State's Attorneys to establish a continuing legal education program on enforcement of Lead Poisoning Prevention Act and related laws and regulations. The State's Attorneys and Attorney General shall report to the General Assembly on number of lead poisoning cases referred and their disposition.

Enforcement of existing laws and regulations is critical to preventing lead poisoning of children. Currently, enforcement of these requirements is not a priority, nor are legal personnel well trained on the importance of addressing cases where children are being harmed by lead.

*Warning Signs in Stores**

Require posting a warning of the dangers of lead based paint dust, stating the importance of using of lead safe work practices, and providing a phone number to call for more information. Signs to be prominently displayed wherever paint or paint removal equipment is sold or rented in Illinois.

Retailers at stores where consumers purchase paint or paint supplies and paint removal equipment are frequently perceived by do-it-yourselfers and small contractors as valuable sources of how-to information and, thus, are an excellent avenue to reach this population, who are otherwise likely to fall outside traditional regulatory pathways. Consumers presented with information on lead poisoning prevention and simple lead safe work practices can make informed decisions and are more likely to take precautions when working in older structures.

* P.A. 94-0879, signed by Governor Blagojevich June 20, 2006, includes some form of these recommendations.

VII. A Vision/Recommendation for a Comprehensive Lead Hazard Removal Program Focused on Window Replacement and Economic Development

Recommendation for CLEAR-WIN: Comprehensive Lead Elimination and Reduction—Through Window Replacement and Economic Development

The primary cause of lead poisoning—deteriorating lead paint surfaces in homes, especially windows—can be eradicated. Key to the series of recommendations identified above is the development of a window-replacement initiative, which will significantly reduce lead poisoning as a public health problem.[41] The framework for a comprehensive program to replace windows, described below, would eliminate lead hazards and maintain affordable lead-safe housing, while creating opportunities for economic development.

Research shows that replacing windows[42] in properties at high risk for lead hazards would significantly reduce the risks to children by reducing the amount of lead dust found on bare floors, windowsills, and window troughs.[43] Window replacement also results in increased property values, and financial gains for the property owner due to energy savings through reduced heating and cooling. It has been estimated that consumers and businesses will save $115 billion over the next 10 years by replacing old windows with ENERGY STAR qualifying model windows.[44]

Additional benefits of replacing windows include improved indoor air quality resulting in health benefits; increased moisture control, thus reducing building maintenance costs; safer buildings for children and families because new windows often are better equipped to help prevent children from falling out; and increased security to the homeowner.

Program elements

Supporting the efforts of small business and property owners committed to maintaining lead-safe housing prevents children from suffering the damage caused by lead poisoning; maintaining properties helps to maintain affordable housing stock. The CLEAR-WIN program would:

1. Establish a window replacement program for low-income properties (both owner occupied and rental) in order to address lead hazards in 240,000 units older than 10 years (geared at targeting approximately 24,000 units/year).
2. Finance property owners for the lead hazard reduction work/window replacement through loans and grants.
3. Establish time lines for property owners to comply with lead safety requirements through benefits of program incentives (otherwise enforcement mechanisms initiated).
4. Train and prepare individuals for job readiness in lead-safe work practices as well as in carpentry skills in order to be able to replace windows and remediate lead hazards.
5. Create job opportunities for community members as well as skilled union workers to install windows and do accompanying carpentry work.
6. Create market opportunities for Illinois window manufacturers.

7. Create more remodeling and renovation activities, which in turn stimulate local economies.

What is the cost of eliminating lead hazards through window replacement and keeping children safe from lead?

Depending upon the condition, size, and location of the unit, estimated costs range from $3,000-$15,000/unit to address the lead hazards, including window replacement. The average cost is $10,000 per unit.

How much money currently is available to address lead hazards in Illinois?

Over the past 11 years, the State of Illinois has received $41 million in grants from HUD to remediate lead hazards. Additionally, $14.8 million has been made available to Cook County through the Torrens Fund.

What are the economic benefits of implementing this proposal?

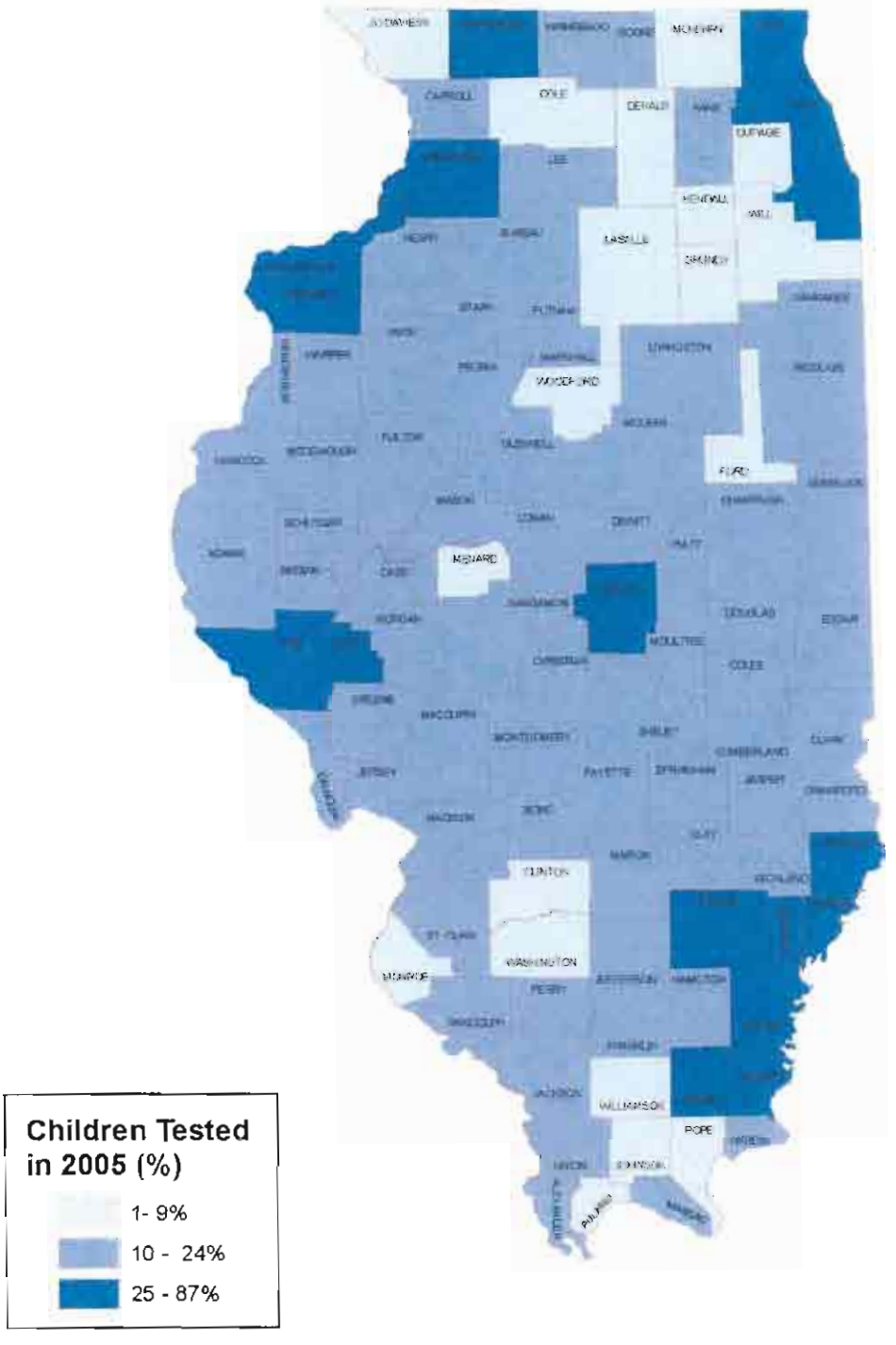
Job creation: It is estimated that this window replacement initiative will increase economic activity in the window manufacturing and installation sector by 20 percent, creating more than 1,400 new jobs in these sectors.[45]

Increase in lifetime earnings: For the population of Illinois children born in 2002 alone there is a loss of over half a million IQ points,[46] which translates to an economic loss in life-time earnings of over $3 billion.[47] The elimination of lead will result in increased earnings over $3 billion for each birth cohort of Illinois residents no longer being harmed by lead.

Dollars saved: Children harmed by lead require additional educational and medical services to help compensate for the damage done. Children born in 2002 alone will require an additional $31 million from Illinois taxpayers for these educational and medical services.[48] This cost will apply to each new birth cohort. Eliminating lead poisoning would free up these dollars for other uses.

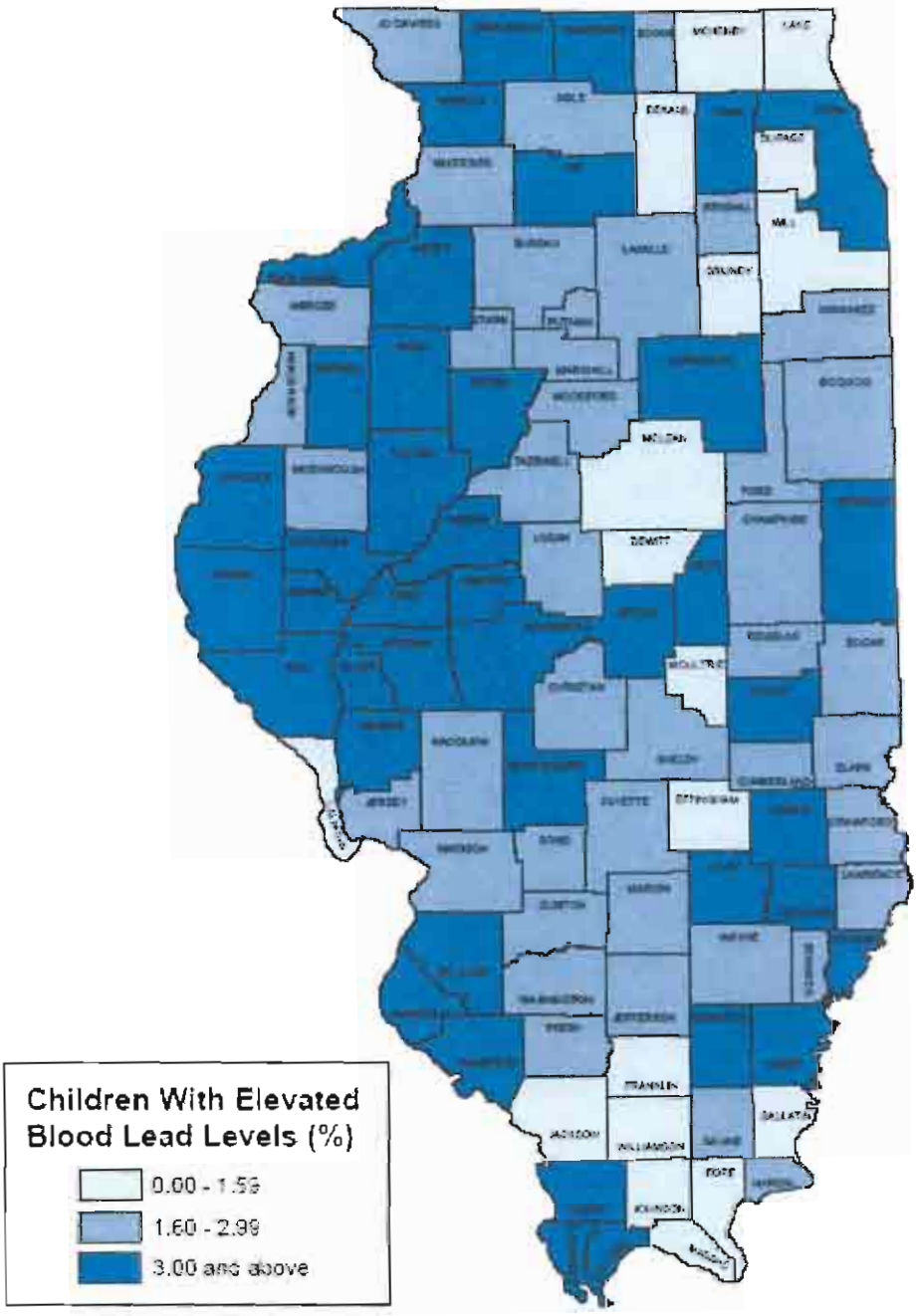
APPENDIX A

Percentage of Illinois Children 6 Years of Age and Below Tested For Blood Lead Poisoning in 2005 By County



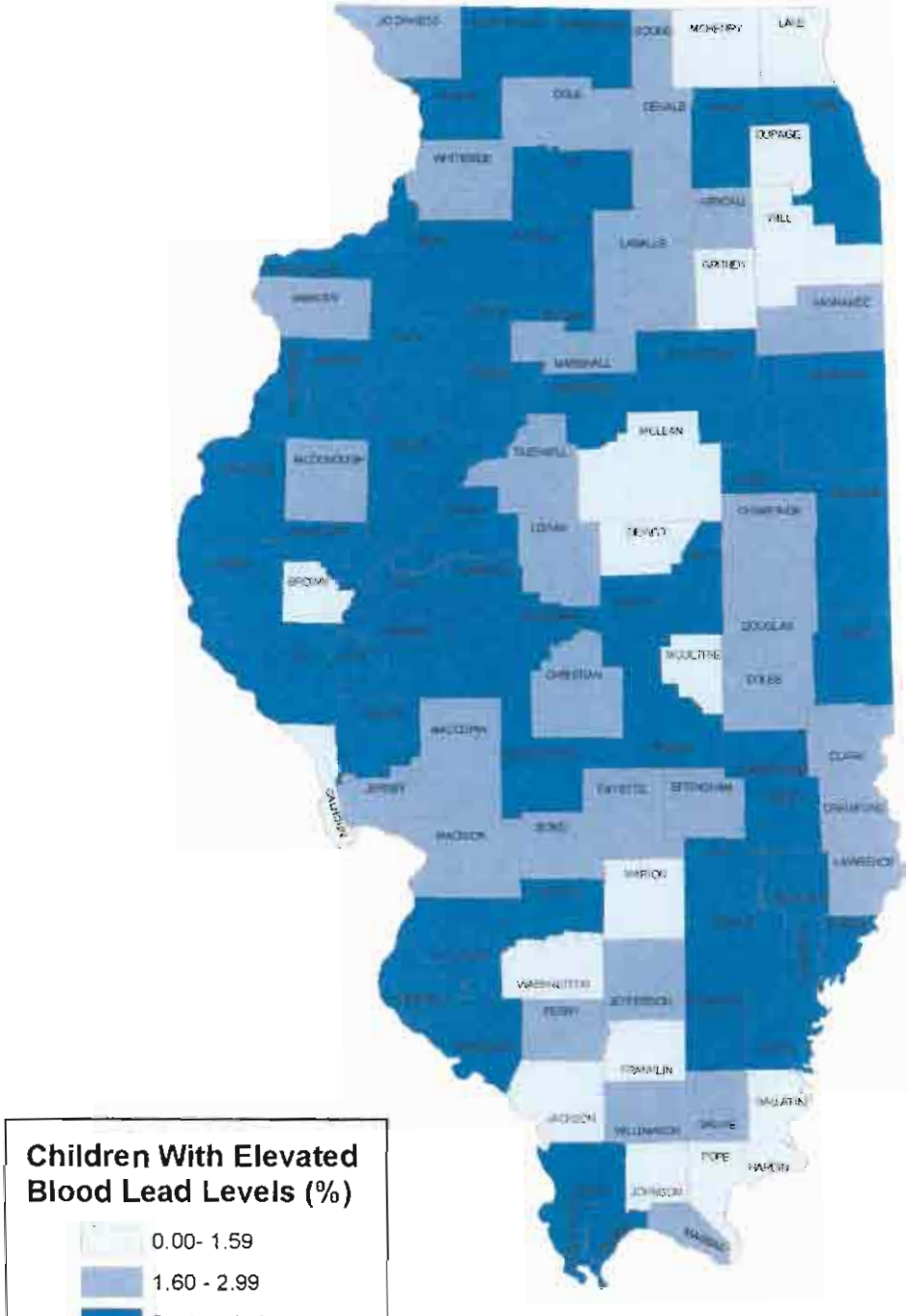
Source: Illinois Lead Program Annual Surveillance Report 2005 and CENSUS 2000

Illinois Children Below 6 Years of Age With Elevated Blood Lead Levels in 2005 By County Based on Number of Children Tested



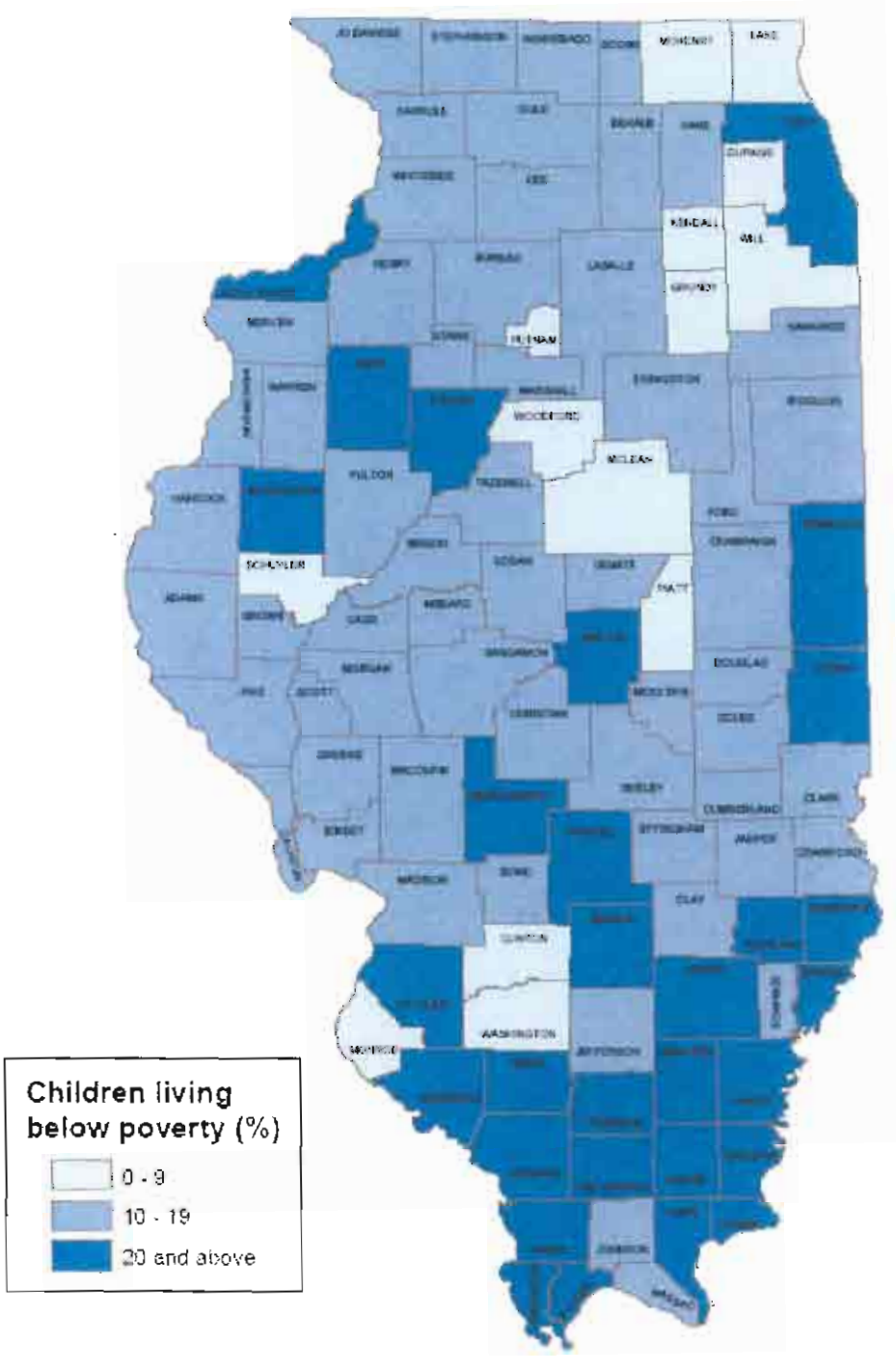
Source: Illinois Lead Program Annual Surveillance Report 2005
Note - The national average number of lead poisoned children is 1.6 percent.
- The Illinois average number of lead poisoned children was 3 percent in 2005.

Illinois Children Below 3 Years of Age With Elevated Blood Lead Levels in 2005 By County Based on Number of Children Tested



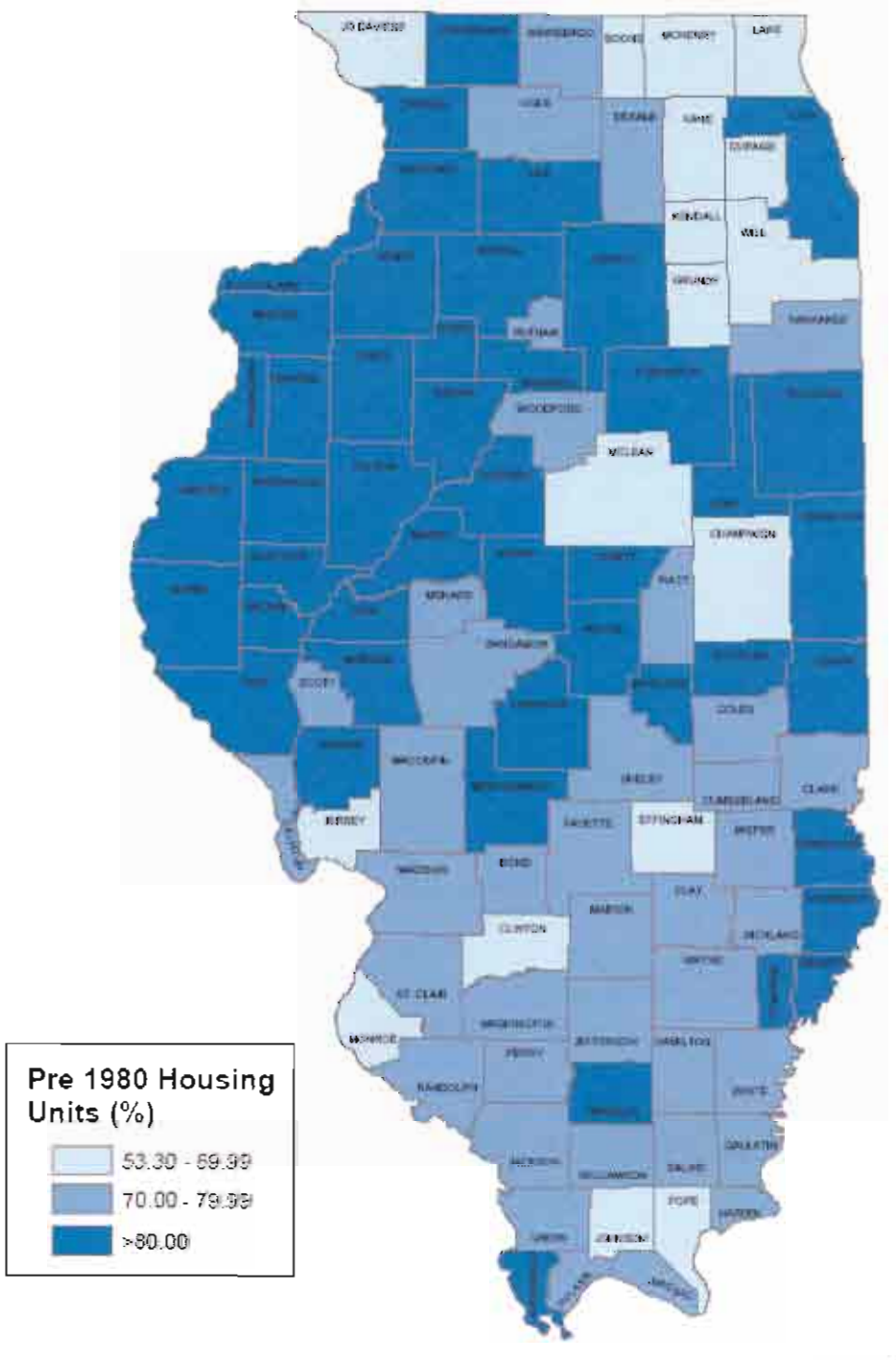
Source: Illinois Lead Program Annual Surveillance Report 2005
Note - The national average number of lead poisoned children is 1.6%.
- The Illinois average number of lead poisoned children was 3% in 2005.

Illinois Children Below 6 Years of Age Living Below Poverty By County



Source: 2000 Census data

Illinois Housing Units Built Before 1980 by County



Source: 2000 Census data

APPENDIX B

LEAD SAFE HOUSING ADVISORY COUNCIL

Listing of Council Members

Gary Flentge, Co-Chair
Illinois Department of Public Health
525 W. Jefferson St.
Springfield, IL 62761
217-785-4451
gflentge@idph.state.il.us

Anita Weinberg, Co-Chair
Loyola University Chicago School of Law
16 E. Pearson
Chicago, IL 60611
312-915-6482
aweinbe@luc.edu

Anne Evens
Chicago Department of Public Health
2133 W. Lexington
Chicago, IL 60612
312-746-7824
evens_anne@cdph.org

Linda Cress
Springfield Health Department
1415 E. Jefferson Street
Springfield, IL 62703
217-789-2182
lcress@cwlp.com

Georgeen Polyak
Oak Park Department of Public Health
1 Village Hall Plaza
Oak Park, IL 60302
708-358-5482
polyak@oak-park.us

Steve Brooks
Macon County Health Department
1221 East Condit Street
Decatur, IL 62521
217-423-6988
sbrooks@maconcountyhealth.org

Fred Carlson
Kane County Health Department
1240 N. Highland Ave.
Aurora, IL 60506
630-208-3803
carlsonfred@co.kane.il.us

Don Cavi
Peoria City/County Health Department
2116 N. Sheridan Road
Peoria, IL 61604
dcavi@co.peoria.il.us

Larry Swacina
Winnebago County Health Department
401 Division Street
Rockford, IL 61104
815-962-4203
lswacina@wchd.org

Stephen Martin, Jr.
Cook County Dept. of Public Health
1010 Lake Street, Suite 300
Oak Park, IL 60301
708-492-2010
samartin@cookcountygov.com

Lynn Shelton
East Side Health District
650 N. 20th Street
East St. Louis, IL 62205
618-271-8722 ext. 239
lshelton@eshd.org

Ray Cooke
Springfield Health Department
1415 E. Jefferson Street
Springfield, IL
217-789-2182
rcooke@cwlp.com

Burton Hughes
Illinois Housing Development Authority
401 N. Michigan Ave., Suite 900
Chicago, IL 60611
312-836-5320
bhughes@ihda.org

Michael Scobey
Illinois Association of Realtors
5250 N. Broadway Box 109
Chicago, IL 60640
773-271-4059
mscobeyiar@aol.com

Jacqueline Reed
Westside Health Authority
5437 W. Division
Chicago, IL 60651
773-378-1878
jreed@healthauthority.org

Nick Peneff
Public Health and Safety, Inc.
112 Lawn Place
Rockford, IL 61103
815-961-9239
phsinc3@prodigy.net

Connie Sullinger
IL Environmental Protection Agency
1021 North Grand Ave. East
Springfield, IL 62702
217-785-4821
connie.sullinger@epa.state.il.us

Charles Burhan
Liberty Mutual Insurance Company
900 N. National Parkway, Suite 300
Schaumburg, IL 60173
847-413-9101, Ext. 211
charles.burhan@libertymutual.com

Holly Seese
2008 St. James
Rolling Meadows, IL 60008
sheeubfan@aol.com

Elaine Mohamed
1201 W. Chase, #2A
Chicago, IL 60626
773-764-6130
mo-slice@ren.com

Claudia Bodley
Cass Environmental Services
1523 Linden Road
Homewood, IL 60430
708-647-8571
cbodley@sbc.net

Helen Binns
Chicago Children's Memorial Hospital
2300 Children's Plaza #157
Chicago, IL 60614
312-573-7782
hbinns@northwestern.edu

Amy Zimmerman
Office of the Illinois Attorney General
100 W. Randolph Street, 11th Floor
Chicago, IL 60601
azimmerman@atg.state.il.us

John Bartlett
Metropolitan Tenants Organization
1180 N. Milwaukee Ave.
Chicago, IL 60622
773-292-4980
johnb@tenants-rights.org

Jerry Stermer
Voices for Illinois Children
208 S. LaSalle Street, Suite 1490
Chicago, IL 60604-1120
312-456-0600 Ext. 550
jstermer@voices4kids.org

Geneva Edwards
Cook County Depart. of Public Health
1010 Lake Street, Suite 300
Oak Park, IL 60301
708-492-2956
gedward@cookcountygov.com

APPENDIX C

	Type	Potential Yield	Collecting Entity	State Legislation Required
Potential Funding Source	Fees on Paint	$8 million	Retail Merchants/State	Yes
Potential Tax Incentives	Partnership with State Weatherization Program	$6 million	Existing (Grants and Utilities)	Enable
	Create New Fee for Document Recording	$34 million	County Recorder/IDOR	Yes
	Establish utility fees	$15.2 million	ICC	Yes
	Create Lead Abatement District	$1 million	County/District	Yes
	Demolition Fees	$650,000	IEPA or local municipality	Possibly
	State Income Tax Form Check Off	$250,000	IDOR/ State Tax Forms	Yes
	Tax Increment Financing	Per TIF	County	Possibly
	New Markets Tax Credit	Doubles grant $	Public/Private	Enable
	Property Tax Incentive (Tax Abatement)	None	County	Yes, County
	Tax Deferment	None	County Assessor	Yes, County
	Tax Freeze-State	None	County	Yes, County
	Tax Freeze-County	None	County Assessor	Yes, County
	Income Tax Credit	None	State Tax Forms	Yes

APPENDIX D - Summary of Three State Laws Regarding Fees on Paint

California Childhood Lead Poisoning Prevention Act of 1991
California Health and Safety Code §§ 105275 et.seq.
Title 17 California Code of Regulations §§ 33001 et. seq.

Summary: In 1991, California passed legislation establishing a lead poisoning prevention fund. The fund is paid through a fee imposed on lead-related industries that have caused children to be lead poisoned due to environmental lead contamination.

Who is assessed the fees? Under the Act, to the maximum extent practicable, the fees are to be assessed on the basis of the following criteria:

- A person's past and present responsibility for environmental lead contamination,
- A person's "market share" responsibility for environmental lead contamination.

Currently, this works as follows:

- 85% of total fees are assessed on oil companies because 85% of the lead that California's children are environmentally exposed to is from leaded gasoline.
- 14%+ of the total fees are assessed on paint companies.
- Less than 1% of fees are assessed to other industries that emit lead.

What is the amount of the fee?

- The fees are assessed based upon distribution of gallons: $.10 per gallon of paint or gasoline.[1]
- Currently the State is authorized to collect about $22m for the year 2005.[2]
- The fee assessment is to be adjusted based on:
    - Increase in annual average California Consumers Price Index, and
    - Increase or decrease in number of children in California who are receiving services pursuant to the Lead Poisoning Prevention Act.

How are the collected fees used?

- Screening and case management of lead poisoned children.
- More than 75% of fund goes to county lead programs; less than 25% remains with State Lead Branch.[3]

What is current status of fee program?

- The oil companies are contesting the regulatory fees they are required to pay under this law. The oil companies contend that leaded fuel is no longer a significant source of childhood lead poisoning and therefore they should no longer pay significant regulatory fees.[4]
- The State Lead Branch has convened a panel to review the bases for determining allocation of fees.[5]
- The California Supreme Court update the statute as a valid fee in 1997.[6] Sinclair contended that the fee amounted to an illegal tax being narrowly imposed on just a few payers. The Court ruled it was not a tax but a valid regulatory fee because "it requires manufacturers and other persons whose products have exposed children to lead contamination to bear a fair share of the cost of mitigation the adverse health effects of their products created in the community."

---

[1] Information from Dan Scannell, California Department of Health Services, April 1999.
[2] Information from Western Center on Law and Poverty, June 2005.
[3] In 1999 Dan Scanell reported that 85-90% of fees were used primarily for outreach, education, and screening in the counties; 10-15% used for state administration of the program. A 2005 memo from Western Law and Poverty Center indicates about 75% of fees assessed go to county lead programs and 25% remains with the State Lead Branch.
[4] Western Poverty Law Center, June 2005.
[5] Western Poverty Law Center, June 2005.
[6] Sinclair Paint v. State Board of Equalization, 15 Cal. 4th 866 (1997).

Maine
An Act to Prevent Lead Poisoning of Children and Adults
PUBLIC Law Chapter 403

SUMMARY OF LAW: Establishes a $.25 fee per gallon on manufacturers or wholesalers of paint sold in Maine to support the Lead Poisoning Prevention Fund.

How did Maine determine the amount of gallons of paint sold?

- No specific data on paint sales in Maine was available so the amount of paint sold was extrapolated from national data based on the *Current Industrial Report (CIR)* series.[7]
- The *CIR* estimated 649 gallons of architectural coatings sold in 2000 in the United States. When divided by the total US population in 2000, which was 281 million,[8] the amount of gallons per capita is 2.3. According to the sponsor of the bill, Representative Lisa Miller, however, Maine used a more conservative estimate and guesstimated that 1.75 gallons/person are sold in Maine each year.

How much revenue does Maine anticipate generating?

- 1.2 million population[9] x 1.75 gallons per person x $.25 tax on paint = $525,000

Upon whom is the fee imposed?

- The bill allows for rules to be adopted that will impose the fee on manufacturers or wholesalers of paint sold in the state.
- The fee is based on the amount of gallons of paint sold by the manufacturer or wholesaler in the state in the previous year.
- Manufacturers and wholesalers of paint that is sold in low quantities are exempt from the tax.

How will the fund be administered?

- The Bureau of Health will administer the fund allocations with the review and advice of an advisory counsel
- Preference will be given to programs that reach high-risk or underserved populations.

What will the generated revenue be used for?

- Contracts for funding community and worker educational outreach programs to enable the public to identify lead hazards and take precautionary actions to prevent exposure to lead.
- An ongoing media campaign
- Measures to prevent children's exposure to lead, including targeted educational mailings to families with children who occupy dwellings built prior to 1978
- Measures to prevent occupational exposures to lead for private and public employees
- Funding an assessment of current uses of lead and the availability and affordability of lead-free alternatives
- Funding for educational programs and information for owners of rental property used for residential purposes

Other provisions?

- Sunset clause July 2011.

---

[7] *The Current Industrial Report for Paint and Allied Products* MA325 (00)-1 indicates 646 million gallons of paint per person produced in the United States http://www.census.gov/industry/1/ma28f00.pdf

[8] www.census.gov; click on "Your Gateway to 2000 Census" and then select United States

[9] www.census.gov; click on "Your Gateway to 2000 Census" and then select Maine

New Jersey Lead Hazard Control Assistance Act[*]
P.L. 2003, c. 311

FACTS IN THE ACT SPECIFIC TO PAINT TAX:

- Effective April 20, 2004
- Specifies that an amount of the current sales taxes on paint shall go toward funding lead hazard control.
- Places in the Lead Hazard Control Assistance Fund the lesser of the sales tax on every retail sale of a container of paint or $0.50 per gallon of paint sold.
- Resulting revenue in the Lead Hazard Control Assistance Fund will be used to provide landlords and homeowners with loans and grants to assist with lead abatement expenses.
- The amount of money that goes into the Fund will be the greater of $7 million or the amount of revenue from the tax.
- Total money set aside for the fund shall not exceed $14,000,000 annually.
- Tax is on the consumer, but not a new tax, instead redirects collected sales tax for paint.
- Passed in 2003, signed on Jan. 20, 2004.

SUMMARY OF LEAD HAZARD CONTROL ASSISTANCE ACT:

1. **Lead Hazard Control Assistance Fund**
    a. Creates the Lead Hazard Control Assistance Fund to provide landlords and homeowners with loans and grants to help with the high cost of lead abatement.
    b. Revenue for the fund is derived from two sources:
        i. an additional $20 fee per unit on the inspection of certain rented housing units under the Hotel and Multiple Dwelling Law;
        ii. a portion of all sales tax generated by paint sales, i.e. the lesser of the sales tax on every retail sale of a container of paint or $0.50 per gallon of paint sold in New Jersey.
    c. Total money set aside for the Fund shall be the greater of $7 million or the amount of revenue from the tax.
    d. Total money set aside for the Fund shall not exceed $14,000,000 annually.
2. **Establishment of Tax on Paint**
    a. Sets aside a portion of the sales tax on paint equal to the lesser of the sales tax on every retail sale of a container of paint or $0.50 per container.
        i. Resulting revenue will be added to the Lead Hazard Control Assistance Fund.
3. **Fee for Unit Inspection**
    a. Adds a $20 fee per unit inspected to the fees that may be charged for inspection of multiple dwellings under the Hotel and Multiple Dwelling Law.
        i. Fees will be allocated to the Lead Hazard Control Assistance Fund.
4. **Creation of Lead Registry**
    a. Creates a registry of lead safe housing in New Jersey
    b. Purposes of registry:
        i. to maintain a list from which lead-safe housing can be easily identified
        ii. to track the state's progress in controlling lead hazards in homes
    c. Registry is maintained by the Department of Community Affairs
    d. Whenever a loan or grant is provided pursuant to this Act, the address and details concerning the project will be entered in the registry information.

---

[*] Information gathered from P.L. 2003, c. 311; http://www.njcitizenaction.org/lead.html; *Network News* a publication of the Housing and Community Development Network.

e. The Department also will enter information for any other housing on which it has information on the lead-safe status of that housing.
f. In the registry, housing will be categorized as:
    i. Lead-free: Includes any housing constructed after 1977 and housing certified to be free of lead paint by a certified inspector;
    ii. Lead-abated: Housing where lead-based paint hazards have been permanently abated;
    iii. Lead-hazard controlled: Housing in which the preventative maintenance practices and interim controls have been implemented;
    iv. Lead-free interior: Housing certified to have a lead-free interior by a certified inspector.

5. **Emergency Lead Poisoning Relocation Fund**
    a. Creates the Emergency Lead Poisoning Relocation Fund.
    b. Places $1,000,000 from the Catastrophic Illness in Children Relief Fund in the Emergency Lead Poisoning Relocation Fund.
6. **Strengthens Lead Safe Housing**
    a. Empowers the Department of Community Affairs to look for lead hazards as part of its five-year cyclical inspections done on all buildings under the Hotel and Multiple Dwelling Law (buildings with three or more units)
    b. Requires those engaged in Lead Safe Maintenance work to take a free six-hour course on lead safe work practices.
    c. Lead Hazard Control Assistance Fund will provide landlords and homeowners with loans and grants of up to $150,000 per *dwelling unit*** to help with the high cost of lead abatement.
        i. Loans and grants to cover the cost of testing and relocation are included in the total
    d. Owners of properties with four or fewer units will be eligible for the grants based on their income; owners of larger buildings will be eligible for the loans.
    e. "Eligible owner" is "an owner who provides proof to the satisfaction of the department of the presence of a lead-based paint hazard on the owner's property."

** The Act defines the term "unit of dwelling space" or the term "dwelling unit" as any room or rooms, or suite or apartment thereof, whether furnished or unfurnished, which is occupied, or intended, arranged or designed to be occupied, for sleeping or dwelling purposes by one or more persons, including but not limited to the owner thereof, or any of his servants, agents or employees, and shall include all privileges, services, furnishings, furniture, equipment, facilities and improvements connected with the use or occupancy thereof. (P.L. 1967, c. 76.)

ENDNOTES

[1] The Illinois Department of Public Health defines lead poisoning in children as blood lead levels at or above 10 µg/dL (micrograms per deciliter). Lead, however, is toxic and no level of lead in the blood is considered safe. Because research is finding that children are poisoned at much lower levels than 10 µg/dL, this document refers to the harm caused by lead, regardless of the level, as "poisoning."

[2] Illinois Department of Public Health, *Get the Lead Out-Childhood Lead Poisoning Surveillance Report 2002.*

[3] http://www.cdc.gov/mmwr/preview/mmwrhtml/ss5210a1.htm

[4] Illinois law requires that children between six months and six years of age who live in high-risk areas have a blood test to screen for lead poisoning. Children residing in low-risk areas are required to be assessed for risk of lead poisoning through a risk assessment questionnaire. Illinois Lead Poisoning Prevention Act, 410 ILCS 45/6.2.

[5] Memisovski v. Maram, No. 92 C 1982 (U.S. District Court, N.D. Ill.)

[6] R.L. Canfield, et. al. *Intellectual Impairment in Children with Blood Lead Concentrations Below 10 ug per Deciliter,* 348 N. ENGL. J. MED. 1517-26 (April 17, 2003).

[7] Illinois Department of Public Health, "Get the Lead Out-Illinois Childhood Lead Poisoning Surveillance Report 2001."

[8] President's Task Force on Environmental Health Risks and Safety Risks to Children, *Eliminating Childhood Lead Poisoning: A Federal Strategy Targeting Lead Paint Hazards*, (February 2000), p. 2

[9] Illinois Department of Public Health, *Get the Lead Out-Illinois Childhood Lead Poisoning Surveillance Report 2002.*

[10] President's Task Force on Environmental Health Risks and Safety Risks to Children, *Eliminating Childhood Lead Poisoning: A Federal Strategy Targeting Lead Paint Hazards*, (February 2000), p. 2

[11] This figure refers to children with blood lead levels of 20 mcg/dL or greater. See Memisovski v Maram, No. 92 C 1982 (U.S. District Court, N.D. Ill.) for discussion regarding Medicaid enrolled children.

[12] The Illinois estimate is based on the estimate of homes with lead based paint by age of housing stock published in the *National Survey of Lead and Allergens in Housing, 2001* conducted by The U.S. Department of Housing and Urban Development (HUD). Using the HUD numbers, the Illinois Housing Development Authority report identified the highest risk housing as the pre-1940 housing, with low-income families. For the purposes of this report, there were nearly 240,000 units considered the highest risk housing for childhood lead exposure. While this number is based on pre-1940 housing, children living in housing units built between 1940 and 1978, when the use of lead in residential paint was banned, also are at high risk.

[13] The Illinois Lead Safe Housing Task Force is housed at Loyola University Chicago School of Law and staffed by faculty and students from the Loyola ChildLaw Center. The Task Force advocates for policy reform, promotes public awareness, and fosters collaborations to achieve its mission to make housing lead safe.

[14] EPA Comprehensive Abatement Performance Study, April 1996.

[15] Small amounts of lead, less than 600PPM are still allowed under Federal rules, although most new paint has less. In addition, the U.s. Environmental Protection Agency (EPA) from 1975 to 1986 phased out leaded gasoline. The EPA also placed strict limits on the amount of lead in drinking water and on the amount emitted from industrial facilities, and it has phased out lead in pesticides. With the assistance of the U>S> Food and Drug Administration (FDA) the use of lead solder in domestically canned food and beverages has been virtually eliminated. In addition, the FDA has established strict standards concerning the amount of lead that can leach from U.S. manufactured ceramic ware into beverages and food. President's Task Force on Environmental Health Risks and Safety Risks to Children, *Eliminating Childhood Lead Poisoning: A Federal Strategy Targeting Lead Paint Hazards* 12 (February 2000). While many sources for lead have poisoned children in the past, dust and chips from lead paint represent the most significant risk to children in Illinois.

[16] Based on an estimated 2.75 gallons of paint/person sold each year in Illinois, a $0.10, $0.15, and $0.25 tax/gallon will generate the following revenue annually:
For a $0.10 tax/gallon: Factor 2.75 gallons/person x 12.4 million people in Illinois 4 x $0.10/gallon = $3,410,000; **For a $0.15 tax/gallon**: Factor 2.75 gallons/person x 12.4 million people in Illinois x $0.15/gallon= $5,115,000; **For a $.25 tax/gallon**: Factor 2.75 gallons/person x 12.4 million people in Illinois x $0.25/gallon= $8,370,000.
The 2.75 gallons of paint/person was obtained using the *Current Industrial Report for Paint and Allied Products (2003)* which indicates that the quantity of gallons of architectural coatings shipped in the United States is 772.8 (see http://www.census.gov/mdustry/1/ma325f03.pdf) and dividing the number of gallons by

the total U.S. population in 2000 which was 281 million (http://www.census.gov). The National Paint and Coating Association also cites the 772.8 million from the CIR as the aggregate amount of sales in the U.S.

[17] Illinois Used Tire Program. http://www.epa.state.il.us/land/tires/index.html

[18] Rick Nevin and David Jacobs. "Windows of Opportunity: Lead Poisoning Prevention, Housing Affordability, and Energy Conservation." National Center for Healthy Homes. http://www.fanniemaefoundation.org/programs/hpd/pdf/hpd_1701_nevin.pdf

[19] Public Health District Act, 70 ILCS 905

[20] Mosquito Abatement District Act, 70 ILCS 1005/et.seq.

[21] *See* Illinois Mosquito and Vector Control Association. http://www.imvca.org. *See also* Illinois Department of Revenue. http://www.revenue.state.il.us/Publications/LocalGovernment/Ptaxstats/2003/table3.pdf

[22] "Who Pays for the Only Game in Town" page 18, The Neighborhood Capital Budget Group at http://www.ncbg.org/tifs/tif_pays.htm.

[23] Public Act 94-0689 amending the Property Tax Code.

[24] Illinois Income Tax Act, 35 ILCS 5/509/et seq.

[25] Alliance for Healthy Homes, www.afhh.org.

[26] Illinois Historic Rehab Program. http://www.illinoishistory.gov/PS/taxfreeze.htm

[27] For more information, see http://www.cookcountyassessor.com/ccao/senior.html#seniorfreeze.

[28] Paul Hunter, Director, Massachusetts Childhood Lead Poisoning Prevention Program, Massachusetts Dept of Public Health, "Get the Lead Out" (see www.mass.gov/dph/clppp).

[29] Illinois Home Weatherization Assistance Program, www.weatherizationillinois.com.

[30] HUD Guidelines. http://www.hud.gov/offices/lead/guidelines/index.cfm

[31] 15 U.S.C.A. Sec. 2601 et seq, Section 406(b))

[32] The U.S. Environmental Protection Agency would still maintain authority to enforce the regulations as well.

[33] The Residential Lead-Based Paint Hazard Reduction Act of 1992, Sec. 1018 (a) (1) (2) (3), 42 U.S.C.A. Sec. 4851 et seq.

[34] Illinois Procurement Code. 30 ILCS 500/1 et seq.

[35] Illinois Lead Poisoning Prevention Act. 410 ILCS 45/1 et seq.

[36] Remedies currently allowed under the Lead Poisoning Prevention Act provide for a civil penalty not exceeding $2,500 for each violation, plus $250 for each day the violation continues.

[37] Title 77: Public Health, Chapter I: Department of Public Health, Subchapter p: Hazardous and Poisonous Substances, Part 845: Lead Poisoning Prevention Code

[38] Disclosure rules require that in pre-1978 housing before the purchaser or lessee is obligated under any contract to purchase or lease the housing the seller or lessor shall (A) provide the purchaser or lessee with an EPA approved lead hazard information pamphlet (B) disclose to the purchaser or lessee the presence of any known lead-based paint, or any known lead-based paint hazards, in such housing and provide to the purchaser or lessee any lead hazard evaluation report available to the seller or lessor; and (C) permit the purchaser a 10 day period to conduct a risk assessment or inspection for the presence of lead-based paint hazards. (D) the purchaser or lessee must state affirmatively that disclosure has occurred and (E) sellers and lessors and their agents must obtain the signature of the purchaser or lessee acknowledging that they have received the disclosure and the required information about lead-based paint and/or lead-based paint hazards. The Residential Lead-Based Paint Hazard Reduction Act of 1992, Sec. 1018 (a) (1) (2) (3), 42 U.S.C.A. Sec. 4851 et seq.

[39] Currently only the Chicago Department of Public Health handles lead violations through administrative hearing process.

[40] *See* CDC Recommendations for Lead Poisoning Prevention in Newly Arrived Refugee Children at www.cdc.gov/nceh/lead/Refugee%20recs.htm

[41] There are other sources of lead in the environment that will need to be addressed before the problem can be completely eliminated.

[42] Window replacement refers to: replacement of inside, outside, and sides of sashes and mullions, and the frames to the outside edge of the frame, including sides, sash guides, and window wells and sills.

[43] *See* The National Center for Healthy Housing and The University of Cincinnati Department of Environmental Health, Evaluation of the HUD Lead-Based Paint Hazard Control Grant Program Final Report ES-7 (May 1, 2004). *See also* Rick Nevin and David Jacobs. "Windows of Opportunity: Lead Poisoning Prevention, Housing Affordability, and Energy Conservation." National Center for Healthy Homes. http://www.fanniemaefoundation.org/programs/hpd/pdf/hpd_1701_nevin.pdf

[44] http://www.energystar.gov/ia/news/downloads/annual_report2004.pdf

[45] This estimate is based on window replacement in an additional 24,000 housing units each year with an average of 15 windows per unit or a total of 360,000 new windows annually. Given that there is an estimated 1,800,000 windows sold annually in Illinois, the new window sales will result in a 20% increase due to this program. According to the US Economic Census, there are 7,373 jobs in these sectors in Illinois (U.S. Census 2002 Table 4: Selected Statistics by Economic Sector, Sub-Sector, Industry Group, Codes 321911 and 332321 and Glass and Glazing Contractors 238150). By adding an additional 20% of economic activity, over 1400 new jobs will be created in these sectors.

[46] This figure is based on the methodology described in Bruce Lanphear et. al., *Low-Level Environmental Lead Exposure and Children's Intellectual Function: An International Pooled Analysis* in 113 Environmental Health Perspectives, Number 7 (July 2005).

[47] This figure is based on the methodology described in Landrigan et. al.. *Environmental Pollutants and Disease in American Children: Estimates of Morbidity, Mortality, and Costs for Lead Poisoning, Asthma, Cancer, and Developmental Disabilities*, 110 Environmental Health Perspectives Number 7 (July 2002).

[48] This figure is based on a formula developed by Kemper et. al. in a 1998 study *Cost Effectiveness Analysis of Lead Poisoning Screening Strategies Following the 1997 Guidelines of the Centers for Disease Control and Prevention*, in 152 Archives of Pediatrics. The formula is updated based on more recent findings that children's learning is impacted by lead at much lower levels than once thought. *See* Richard Canfield et. al., *Intellectual Impairment in Children with Blood Lead Concentrations below 10 μg/dL*, 348 New England Journal of Medicine 1517, 1521 (2003) and Bruce Lanphear et. al., *Low-Level Environmental Lead Exposure and Children's Intellectual Function: An International Pooled Analysis* in 113 Environmental Health Perspectives, Number 7 (July 2005). The formula used: $12733/child/year for 3 years x 797 children (20% of all lead poisoned children born in the year 2002 = $30 million).