

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 9

Session of 1975

INTRODUCED BY MESSRS. FINEMAN, M. E. MILLER, JR., COLE, GALLAGHER, DeMEDIO, LAUDADIO, BENNETT, SCHWEDER, REED, WANSACZ, BERLIN, FEE, LEDERER, WOJDAK, PIEVSKY, RAPPAPORT, OLIVER, ROMANELLI, PRATT, GARZIA, HOPKINS, PERRY, MORRIS, GREENFIELD, MRS. TOLL, MESSRS. GREEN, ABRAHAM, McCALL, MRS. GILLETTE, MESSRS. DiDONATO AND COHEN, JANUARY 20, 1975

AS REPORTED FROM COMMITTEE ON HEALTH AND WELFARE, HOUSE OF REPRESENTATIVES, AS AMENDED, MARCH 22, 1976

AN ACT

1 ~~Amending the act of April 9, 1929 (P.L.177, No.175), entitled~~ <—
2 ~~"An act providing for and reorganizing the conduct of the~~
3 ~~executive and administrative work of the Commonwealth by the~~
4 ~~Executive Department thereof and the administrative~~
5 ~~departments, boards, commissions, and officers thereof,~~
6 ~~including the boards of trustees of State Normal Schools, or~~
7 ~~Teachers Colleges; abolishing, creating, reorganizing or~~
8 ~~authorizing the reorganization of certain administrative~~
9 ~~departments, boards, and commissions; defining the powers and~~
10 ~~duties of the Governor and other executive and administrative~~
11 ~~officers, and of the several administrative departments,~~
12 ~~boards, commissions and officers; fixing the salaries of the~~
13 ~~Governor, Lieutenant Governor, and certain other executive~~
14 ~~and administrative officers; providing for the appointment of~~
15 ~~certain administrative officers, and of all deputies and~~
16 ~~other assistants and employes in certain departments, boards,~~
17 ~~and commissions; and prescribing the manner in which the~~
18 ~~number and compensation of the deputies and all other~~
19 ~~assistants and employes of certain departments, boards and~~
20 ~~commissions shall be determined," imposing powers and duties~~
21 ~~on the Department of Environmental Resources relating to lead~~
22 ~~paint poisoning and providing for civil actions and~~
23 ~~penalties.~~
24 TO PROMOTE THE HEALTH AND WELFARE OF THE PEOPLE OF THE <—
25 COMMONWEALTH BY CONTROLLING AND REGULATING LEAD PAINT
26 POISONING; PRESCRIBING THE POWERS AND DUTIES OF THE
27 DEPARTMENT OF HEALTH AND THE DEPARTMENT OF ENVIRONMENTAL
28 RESOURCES; AUTHORIZING LEAD ANALYSES AT STATE LABORATORIES;
29 CREATING THE INTERAGENCY COORDINATING COMMITTEE AND THE

1 ADVISORY COMMITTEE; IMPOSING RESTRICTIONS; PROVIDING
2 PENALTIES AND MAKING AN APPROPRIATION.

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19 The General Assembly of the Commonwealth of Pennsylvania
20 hereby enacts as follows:

21 ~~Section 1. The act of April 9, 1929 (P.L.177, No.175), known~~ <—
22 ~~as "The Administrative Code of 1929," is amended by adding a~~
23 ~~section to read:~~

24 ~~Section 2103.1. Lead Paint Poisoning Prevention and Control~~
25 ~~Program.~~

26 ~~(a) The Department of Environmental Resources shall have the~~
27 ~~power, and its duty shall be to establish a Statewide program~~
28 ~~for the prevention, screening, diagnosis and treatment of lead~~
29 ~~poisoning, including elimination of the sources of such~~
30 ~~poisoning, through such research, educational, epidemiological~~

1 ~~and clinical activities in cooperation with the Department of~~
2 ~~Health and the Department of Community Affairs where their~~
3 ~~jurisdictions overlap as may be necessary.~~

4 ~~(b) The Secretary of Environmental Resources, hereinafter~~
5 ~~referred to as the secretary, shall designate an officer or~~
6 ~~employee of the department as Lead Poisoning Control Director.~~
7 ~~The director shall be responsible, subject to the authority of~~
8 ~~the secretary, for carrying out the purposes of this section and~~
9 ~~administering all programs created hereunder. As used in this~~
10 ~~section, "director" shall refer to the Lead Poisoning Control~~
11 ~~Director.~~

12 ~~(c) The director may contract with any agencies, individuals~~
13 ~~or groups for the provision of necessary services and shall~~
14 ~~issue, and from time to time amend, such rules and regulations~~
15 ~~as may be necessary to serve the purposes of this section.~~

16 ~~(d) The secretary shall appoint an advisory committee for~~
17 ~~the lead poisoning prevention program, which shall consist of~~
18 ~~nine members, at least four of whom shall be physicians or~~
19 ~~persons active in the field of public health. At least two~~
20 ~~members of said advisory committee shall be parents of children~~
21 ~~under six years of age who reside in lower income urban areas.~~
22 ~~The committee shall advise the director on matters of policy~~
23 ~~relating to the programs set forth in this section; shall be~~
24 ~~consulted by the director prior to the issuance of rules and~~
25 ~~regulations pursuant to this section; and shall perform such~~
26 ~~other duties as the director may request not inconsistent with~~
27 ~~the provisions of this section. The members of the advisory~~
28 ~~committee shall not be paid for their services, but they shall~~
29 ~~be reimbursed for travel and other expenses necessary for the~~
30 ~~performance of their duties. As used in this section, "advisory~~

1 ~~committee" shall refer to said committee.~~

2 ~~(c) Any examining physician, hospital, public health nurse~~
3 ~~or other diagnosing person or agency shall report to the~~
4 ~~director the existence and circumstances of each case of lead~~
5 ~~poisoning known to them and not previously reported. Such~~
6 ~~reports shall be made on forms prescribed by the director, and~~
7 ~~shall be submitted not later than three days after said person~~
8 ~~or agency first diagnoses or is informed of such case. The~~
9 ~~director shall by regulation with the concurrence of the~~
10 ~~advisory committee and in accordance with sound medical practice~~
11 ~~define further the terms "lead poisoning" and "previously~~
12 ~~reported" in order to best serve the purposes of this section.~~

13 ~~(f) When a case of lead paint poisoning is reported to the~~
14 ~~director, he shall inform the Department of Health and such~~
15 ~~local boards of health, public health agencies and other persons~~
16 ~~and organizations as he deems necessary: Provided, however,~~
17 ~~That the name of any individual contracting lead poisoning shall~~
18 ~~not be included unless the director determines that such~~
19 ~~inclusion is necessary to serve the purposes of this section or~~
20 ~~the health and well being of the affected individual.~~

21 ~~(g) The director shall maintain comprehensive records of all~~
22 ~~reports submitted pursuant to this section. Such records shall~~
23 ~~be geographically indexed in order to determine the location of~~
24 ~~areas of relatively high incidence of lead poisoning. Such~~
25 ~~records shall be public records, subject to the provision of~~
26 ~~subsection (f) relating to the names of individuals.~~

27 ~~(h) The director shall institute an educational and~~
28 ~~publicity program, in order to inform the general public, and~~
29 ~~particularly parents of children residing in areas of~~
30 ~~significant exposure to sources of lead poisoning; teachers,~~

~~1 social workers and other human service personnel; owners of
2 residential property, particularly property constructed previous
3 to the year 1945; and health services personnel, and
4 particularly interns, residents and other intake personnel at
5 major hospitals, of the dangers, frequency, sources and methods
6 of preventing lead poisoning.~~

~~7 (i) The director shall establish a program for early
8 diagnosis of cases of lead poisoning. Such program shall
9 systematically examine all children under six years of age
10 residing within this Commonwealth for the presence of lead
11 poisoning. Such examinations shall be made by such means and at
12 such intervals as the director shall by regulation determine may
13 be medically necessary and proper. Such program shall employ, to
14 the maximum extent possible, residents of the areas in which
15 screening and examinations are conducted.~~

~~16 (j) Such program of diagnosis shall, to the extent that all
17 children residing in this Commonwealth are not systematically
18 examined, give priority in examinations to those children
19 residing, or who have recently resided, in areas where
20 significant numbers of lead poisoning cases have recently been
21 reported or where other reliable evidence indicates that
22 significant numbers of lead poisoning cases may be found.~~

~~23 (k) When the director is informed of a case of lead
24 poisoning pursuant to this section, or otherwise, he shall cause
25 to have examined all other children under six years of age, and
26 such other children as he may find advisable to examine,
27 residing or recently residing in the household of the victim.
28 The results of such examinations shall be reported to the
29 director, to the person or agency reporting the original case
30 pursuant to this section, and to such other persons or agencies~~

1 ~~as the director deems advisable.~~

2 ~~(l) The director shall maintain comprehensive records of all~~
3 ~~examinations conducted pursuant to this section. Such records~~
4 ~~shall be geographically indexed in order to determine the~~
5 ~~location of areas of relatively high incidence of lead~~
6 ~~poisoning. Such records shall be public records, subject to the~~
7 ~~proviso of subsection (f) relating to the names of examined~~
8 ~~individuals. A summary of the results of all examinations~~
9 ~~conducted pursuant to this section shall be released quarterly,~~
10 ~~or more frequently if the director so determines, to all~~
11 ~~interested parties.~~

12 ~~(m) All cases of probable cases of lead poisoning, as~~
13 ~~defined by regulation by the director, found in the course of~~
14 ~~examinations conducted pursuant to this section shall be~~
15 ~~reported immediately to the affected individual, to his parent~~
16 ~~or legal guardian if he is a minor, and to the director. The~~
17 ~~director shall inform such persons or agencies as he deems~~
18 ~~advisable of the existence of such case or probable case,~~
19 ~~subject to the proviso of subsection (f) relating to the names~~
20 ~~of individuals.~~

21 ~~(n) The director shall establish a comprehensive program for~~
22 ~~detection of sources of lead poisoning. Such program shall~~
23 ~~attempt to locate all dwellings in which the paint, plaster or~~
24 ~~other accessible substance contains dangerous levels of lead.~~
25 ~~The means of detection, and the level of lead content that~~
26 ~~produces the danger of lead poisoning, shall be determined by~~
27 ~~regulation by the director in accordance with sound medical~~
28 ~~practice and current technical knowledge.~~

29 ~~(o) Such program of detection shall, to the extent that all~~
30 ~~appropriate dwellings are not inspected, give priority in~~

~~1 inspections to those dwellings located in areas where
2 significant numbers of lead poisoning cases have recently been
3 reported, and in which children under six years of age reside.
4 Such program shall employ, to the maximum extent possible,
5 residents of the areas in which inspections are conducted.~~

~~6 (p) Upon the request of any occupant, the director shall
7 cause to have the occupant's premises inspected within a
8 reasonable time, not to exceed ten days, unless systematic
9 inspection of the area in which the person requesting the
10 inspection resides is scheduled within thirty days, in which
11 case said inspection may be deferred up to twenty additional
12 days.~~

~~13 (q) When the director is informed of a case of lead
14 poisoning pursuant to this section, or otherwise, he shall cause
15 to have inspected the dwelling in which the victim resides, or
16 has recently resided. The findings of such inspection shall be
17 reported to the director and to the appropriate enforcement
18 authorities set out in this section.~~

~~19 (r) A dangerous level of lead found in a dwelling inspected
20 pursuant to this section, or otherwise, shall be reported
21 immediately to the owner of the building, all affected tenants,
22 all mortgagees and lienholders of record, the appropriate
23 enforcement authorities hereinafter set out and the director.
24 The director shall inform such other persons or agencies as he
25 deems advisable, and shall cause to have prominently posted on
26 all entrances to said dwelling a notice that the dwelling
27 contains dangerous amounts of lead paint or other materials
28 which children should not be allowed to eat or chew. Such notice
29 may not be removed until all premises have been found to comply
30 with this section.~~

1 ~~(s) When a dangerous level of lead is found in a dwelling~~
2 ~~inspected pursuant to this section, or otherwise, the director~~
3 ~~shall cause to have examined all children under six years of~~
4 ~~age, and such other children as he may find advisable to~~
5 ~~examine, residing or who have recently resided in said dwelling.~~
6 ~~The results of such examinations shall be reported to the~~
7 ~~director, the affected individual and his parent or legal~~
8 ~~guardian. The director shall inform such other persons or~~
9 ~~agencies as he deems advisable, subject to the proviso of~~
10 ~~subsection (f) relating to the names of affected individuals.~~

11 ~~(t) The director shall maintain comprehensive records of all~~
12 ~~inspections conducted pursuant to this section. Such records~~
13 ~~shall be geographically indexed in order to determine the~~
14 ~~location of areas of relatively high incidence of dangerous lead~~
15 ~~levels. Such records shall be public records. A summary of the~~
16 ~~results of all inspections conducted pursuant to this section~~
17 ~~shall be released quarterly, or more frequently if the director~~
18 ~~so determines, to all interested parties.~~

19 ~~(u) Authorized agents of the director assigned to perform~~
20 ~~inspections pursuant to this section may enter all dwellings at~~
21 ~~reasonable hours falling between 9 a.m. and 5 p.m. and with~~
22 ~~reasonable notice to the occupants thereof. Such agents shall~~
23 ~~secure a search warrant to permit entry when the same is~~
24 ~~required by any other provision of law, or any constitutional~~
25 ~~provision.~~

26 ~~(v) The director shall establish a State laboratory for lead~~
27 ~~and lead poisoning detection. Said laboratory shall analyze~~
28 ~~tests administered to children for the presence of lead~~
29 ~~poisoning, and samples of paint and other materials for~~
30 ~~dangerous levels of lead taken pursuant to this section, and~~

1 ~~otherwise.~~

2 ~~(w) Said laboratory shall analyze tests and samples~~
3 ~~submitted by persons and agencies not within the department as~~
4 ~~its facilities permit, and may charge for such services a fee~~
5 ~~not greater than the cost to it of such services.~~

6 ~~(x) No person shall apply or cause to be applied any lead-~~
7 ~~based paint, glaze or other substance to any toy, furniture,~~
8 ~~cooking, drinking, or eating utensil, interior surface or~~
9 ~~fixture of any dwelling, or to any exterior surface or fixture~~
10 ~~of any dwelling that may be reached unaided by children under~~
11 ~~the age of six years; and no person shall sell, expose for sale,~~
12 ~~deliver, give away or possess with intent to sell, deliver or~~
13 ~~give away any toy, furniture, cooking, drinking or eating~~
14 ~~utensil to which any lead based paint, glaze or other substance~~
15 ~~has been applied. For the purposes of this section, any exterior~~
16 ~~surface or fixture less than four feet from the floor or ground~~
17 ~~nearest to it shall be conclusively presumed to be accessible by~~
18 ~~children under the age of six years. For the purposes of this~~
19 ~~section, any paint, glaze or other substance shall be deemed to~~
20 ~~be lead based when it contains six hundredths of one per centum~~
21 ~~or more of metallic lead, by weight.~~

22 ~~(y) Any person who violates the provision of subsection (x)~~
23 ~~shall in a summary proceeding be fined not less than one hundred~~
24 ~~dollars (\$100) and not more than five hundred dollars (\$500) for~~
25 ~~each violation. Each article, surface or fixture to which a~~
26 ~~lead based substance is applied shall constitute a separate~~
27 ~~violation. Any person who repeatedly or willfully violates the~~
28 ~~provisions of subsection (x) shall in a summary proceeding be~~
29 ~~imprisoned for not more than three months for each violation.~~

30 ~~(z) Effective January 1, 1976, no person shall sell, expose~~

~~1 for sale, deliver, give away or possess with intent to sell,
2 deliver or give away any lead based paint, glaze or other
3 surface covering, as defined in subsection (x). Any person who
4 violates the provisions of this subsection shall in a summary
5 proceeding be fined not less than two hundred dollars (\$200) and
6 not more than five hundred dollars (\$500) for each violation.
7 Each can, bottle or other container of any prohibited substance
8 shall constitute a separate violation. Any person who repeatedly
9 or willfully violates the provisions of this subsection shall in
10 a summary proceeding be imprisoned for not more than six months
11 for each violation. Prosecutions under this subsection and under
12 subsection (y) may be commenced by the local board of health or
13 the Department of Environmental Resources. Any aggrieved party
14 may bring a bill in equity in the Commonwealth Court against any
15 person having powers and duties of enforcement under this act
16 for failure to adequately perform such duties if the court finds
17 that such duties have not been adequately performed, it shall
18 order them so performed, either by the named defendant or any
19 other person having the legal duty to enforce this act.~~

~~20 (aa) The owner of any residential premises in which any
21 paint, plaster or other accessible materials contain dangerous
22 levels of lead, as defined in this section shall remove or cover
23 said paint, plaster or other material so as to make it
24 inaccessible to children under six years of age. Repainting with
25 non lead based paint, without removal of the offending paint,
26 plaster or other material shall not be treated as compliance
27 with this subsection. Such removal or covering shall be
28 performed as follows:~~

~~29 (1) All peeling paint, plaster or other material, on both
30 interior and exterior surfaces and fixtures, shall be removed or~~

1 ~~adequately covered.~~

2 ~~(2) Paint, plaster or other material that is not peeling~~
3 ~~must be removed or covered on window sills; door frames below~~
4 ~~the four foot level; windows, including mullions, below the~~
5 ~~four foot level; stair rail spindles; stair treads from the lip~~
6 ~~to the riser on bottom and four inches back from the lip on the~~
7 ~~top of the tread; doors below the four foot level and four~~
8 ~~inches from all edges; stair rails; porch railings; and all~~
9 ~~other accessible exterior and interior surfaces.~~

10 ~~This duty shall apply to every owner of residential premises~~
11 ~~whether or not his premises have been inspected pursuant to this~~
12 ~~section, or otherwise. No owner shall raise the rent for any~~
13 ~~residential premises, evict the tenant or terminate a lease with~~
14 ~~a tenant or make, alter, amend or modify any term or condition~~
15 ~~of any existing lease or arrangement of tenancy of the tenant as~~
16 ~~a consequence of any violation having been found against the~~
17 ~~premises, the filing of a complaint alleging the violation, a~~
18 ~~tenant seeking a lead paint inspection of the premises or of~~
19 ~~performing repairs mandated by this section. In any civil~~
20 ~~proceeding in which notice of termination of the lease or~~
21 ~~arrangement of tenancy or alteration of a term or condition of~~
22 ~~the lease was within one year after a lead paint violation was~~
23 ~~found, it shall be the burden of the owner, landlord, agent or~~
24 ~~other persons operating or managing such premises to prove that~~
25 ~~the notice or alteration was not given as a consequence of the~~
26 ~~exercise or enjoyment of the tenant of his legal rights under~~
27 ~~this section. The director may by regulation further define the~~
28 ~~terms and conditions of repair or removal pursuant to this~~
29 ~~section. This section shall be strictly construed and enforced~~
30 ~~so as to best protect the safety of residents of such dwellings.~~

1 ~~(bb) The owner of any residential property shall be strictly~~
2 ~~and absolutely liable for all damages caused by his failure to~~
3 ~~perform the duties required of him pursuant to this section.~~
4 ~~Such failure shall constitute negligence per se. For the~~
5 ~~purposes of this subsection, the actions of a child under six~~
6 ~~years of age in chewing on painted surfaces or plaster or~~
7 ~~ingesting chips of paint or plaster shall be deemed to be~~
8 ~~reasonably foreseeable to any adult. In any action or proceeding~~
9 ~~under this section the court, in its discretion, may allow the~~
10 ~~plaintiff reasonable attorney's fees as part of the costs.~~

11 ~~(cc) The owner of any residential property who is notified~~
12 ~~of a dangerous level of lead pursuant to this section, or~~
13 ~~otherwise, in paint, plaster or other material present upon his~~
14 ~~premises and who does not satisfactorily correct or remove said~~
15 ~~dangerous condition shall in addition to the provisions of~~
16 ~~subsection (bb) be subject to punitive damages, which shall be~~
17 ~~treble the actual damages found.~~

18 ~~(dd) The director shall maintain a special State lead paint~~
19 ~~poisoning abatement order to remove lead paint in cases where~~
20 ~~owners of premises fail to perform their duties under this act~~
21 ~~by refusing or delaying the removal of lead paint. The costs of~~
22 ~~such State abatement work will be assessed against the owner of~~
23 ~~the premises by establishing a lien on the property. Such~~
24 ~~program of abatement by the State shall employ to the maximum~~
25 ~~extent possible community residents of the areas in which~~
26 ~~abatement takes place.~~

27 ~~Section 2. This act shall take effect in 60 days.~~

28 ~~SECTION 1. SHORT TITLE.--THIS ACT SHALL BE KNOWN AND MAY BE~~ <—
29 ~~CITED AS THE "LEAD PAINT POISONING PREVENTION ACT."~~

30 ~~SECTION 2. LEGISLATIVE FINDINGS AND DECLARATION OF POLICY.--~~

1 (A) THE LEGISLATURE FINDS AND DECLARES THAT A SERIOUS PUBLIC
2 EMERGENCY EXISTS WITH RESPECT TO THE HEALTH AND WELL-BEING OF A
3 SUBSTANTIAL NUMBER OF CITIZENS OF THE COMMONWEALTH, WHICH
4 EMERGENCY HAS CAUSED BY THE EXPOSURE TO VARIOUS CAUSES OF LEAD
5 PAINT POISONING PRESENT IN THEIR IMMEDIATE ENVIRONMENTS, AND
6 PARTICULARLY THE PRESENCE OF HAZARDOUS PAINTS IN THE DWELLINGS
7 IN WHICH THEY RESIDE; THAT AS A RESULT OF SUCH EXPOSURE,
8 SIGNIFICANT NUMBERS OF CITIZENS HAVE CONTRACTED LEAD PAINT
9 POISONING, RESULTING IN SOME CASES IN PERMANENT AND IRREVERSIBLE
10 MENTAL AND PHYSICAL DAMAGE; THAT LEAD PAINT POISONING IS A
11 CHRONIC, CUMULATIVE DISEASE CAUSING SERIOUS MENTAL AND PHYSICAL
12 DISABILITY AND SOMETIMES DEATH; THAT THE CAUSES OF AND CURES OF
13 LEAD PAINT POISONING ARE WELL-ESTABLISHED AND WELL-KNOWN, SUCH
14 THAT THE SERIOUS PUBLIC EMERGENCY CREATED BY NUMEROUS CASES OF
15 LEAD PAINT POISONING MAY READILY BE REMEDIED WITH PROPER AND
16 TIMELY PROGRAMS OF PREVENTION, DIAGNOSIS AND TREATMENT; THAT
17 UNLESS SUCH PROGRAMS ARE INSTITUTED FORTHWITH, THE CONTINUED
18 OCCURRENCE OF LEAD PAINT POISONING WILL PRODUCE SERIOUS THREATS
19 TO THE PUBLIC HEALTH AND SAFETY AND THE GENERAL WELFARE OF THE
20 CITIZENS OF THE COMMONWEALTH, AND THAT SUCH EMERGENCY SHOULD BE
21 MET BY THE COMMONWEALTH IMMEDIATELY.

22 (B) IT IS HEREBY DECLARED TO BE THE POLICY OF THE
23 COMMONWEALTH OF PENNSYLVANIA THROUGH THIS ACT:

24 (1) TO PROTECT THE PUBLIC HEALTH, SAFETY AND WELFARE OF ITS
25 CITIZENS THROUGH THE DEVELOPMENT AND IMPLEMENTATION OF PROGRAMS
26 FOR THE PREVENTION AND TREATMENT OF LEAD PAINT POISONING.

27 (2) TO PROVIDE COORDINATED AND COMPREHENSIVE DIRECTION FOR
28 SUCH PROGRAMS TO AVOID DUPLICATION OF SERVICES.

29 (3) TO INSURE THE MOST EFFECTIVE USE OF AVAILABLE FUNDING
30 RESOURCES.

1 SECTION 3. DEPARTMENT OF HEALTH; POWERS AND DUTIES.--(A) THE
2 SECRETARY OF HEALTH SHALL HAVE THE POWER, AND HIS DUTY SHALL BE
3 TO ESTABLISH A STATEWIDE PROGRAM FOR THE SCREENING, DIAGNOSIS,
4 AND TREATMENT OF LEAD PAINT POISONING IN ACCORDANCE WITH MONEY
5 APPROPRIATED ANNUALLY FOR SAID PURPOSES. WHEREVER AND WHENEVER
6 POSSIBLE, THE SECRETARY OF HEALTH SHALL DELEGATE RESPONSIBILITY
7 FOR THE PROVISIONS OF THIS SECTION TO A COUNTY OR JOINT COUNTY
8 DEPARTMENT OF HEALTH, OR LOCAL HEALTH UNITS QUALIFYING FOR STATE
9 PER CAPITA HEALTH SUBSIDY.

10 (B) LEAD PAINT POISONING OR POSSIBLE LEAD PAINT POISONING
11 SHALL BE A REPORTABLE NONCOMMUNICABLE DISEASE AND AS SUCH MUST
12 BE REPORTED IN ACCORDANCE WITH THE RULES AND REGULATIONS OF THE
13 DEPARTMENT OF HEALTH. SUCH REPORTS SHALL BE MADE ON FORMS
14 PRESCRIBED BY THE SECRETARY OF HEALTH, AND SHALL BE SUBMITTED
15 WITHIN A REASONABLE TIME AS PRESCRIBED BY THE SECRETARY OF
16 HEALTH, AFTER SAID PERSON OR AGENCY FIRST DIAGNOSES A CASE OR
17 POSSIBLE CASE OF LEAD PAINT POISONING OR IS INFORMED OF SUCH A
18 CASE.

19 (C) WHEN A CASE OF LEAD PAINT POISONING OR POSSIBLE LEAD
20 PAINT POISONING IS REPORTED TO THE SECRETARY OF HEALTH, HE SHALL
21 INFORM SUCH LOCAL BOARDS OF HEALTH, PUBLIC HEALTH AGENCIES, AND
22 OTHER PERSONS AND ORGANIZATIONS AS HE DEEMS NECESSARY: PROVIDED,
23 HOWEVER, THAT THE IDENTITY OF ANY INDIVIDUAL CONTRACTING LEAD
24 PAINT POISONING SHALL NOT BE INCLUDED UNLESS THE SECRETARY OF
25 HEALTH DETERMINES THAT SUCH INCLUSION IS NECESSARY TO SERVE THE
26 PURPOSES OF THIS ACT OR THE HEALTH AND WELL-BEING OF THE
27 AFFECTED INDIVIDUAL. IN NO EVENT SHALL THE IDENTITY OF THE
28 INDIVIDUAL BE DISCLOSED TO THE PUBLIC.

29 (D) THE SECRETARY OF HEALTH SHALL DEVELOP AND MAINTAIN, AS
30 NECESSARY TO CARRY OUT THE INTENT OF THIS ACT AND WITH THE

1 ADVICE OF THE COORDINATING COMMITTEE, A PROGRAM FOR THE
2 DETECTION OF LEAD PAINT POISONING OR POSSIBLE LEAD PAINT
3 POISONING IN ACCORDANCE WITH ESTABLISHED PROCEDURES.

4 (1) SUCH SCREENING AND DIAGNOSIS SHALL BE MADE BY SUCH MEANS
5 AND AT SUCH INTERVALS AS THE SECRETARY OF HEALTH SHALL, BY
6 REGULATION, DETERMINE TO BE NECESSARY, GIVING PRIORITY TO AREAS
7 SHOWING A HIGH INCIDENCE OF LEAD PAINT POISONING OR POSSIBLE
8 LEAD PAINT PAINT POISONING.

9 (2) ALL CASES OR POSSIBLE CASES OF LEAD PAINT POISONING, AS
10 DEFINED BY REGULATION BY THE SECRETARY OF HEALTH, FOUND IN THE
11 COURSE OF SCREENING AND DIAGNOSIS CONDUCTED PURSUANT TO THIS
12 SECTION, SHALL BE REPORTED IMMEDIATELY TO THE SECRETARY OF
13 HEALTH, AND TO THE VICTIM OR TO THE VICTIM'S PARENT OR LEGAL
14 GUARDIAN IF THE VICTIM IS A MINOR.

15 (3) THE SECRETARY OF HEALTH SHALL INFORM THE SECRETARY OF
16 ENVIRONMENTAL RESOURCES OF THE EXISTENCE OF SUCH CASES OR
17 POSSIBLE CASES.

18 (4) WHEN THE SECRETARY OF HEALTH IS INFORMED OF A CONFIRMED
19 CASE OF LEAD PAINT POISONING PURSUANT TO THIS SECTION, OR
20 OTHERWISE, HE SHALL CAUSE TO HAVE EXAMINED ALL SUCH CONFIRMED
21 CASES OF LEAD PAINT POISONING AND TO TEST ALL OTHER PERSONS AS
22 HE MAY FIND ADVISABLE TO TEST, RESIDING OR RECENTLY RESIDING IN
23 THE HOUSEHOLD OF THE VICTIM. THE RESULTS OF SUCH TESTING SHALL
24 BE REPORTED IN ACCORDANCE WITH THE PROVISIONS OF SUBSECTION (B).

25 (5) THE SECRETARY OF HEALTH SHALL DEVELOP PROGRAMS FOR
26 FOLLOW-UP AND TREATMENT OF INDIVIDUALS AFFECTED, AS MAY BE
27 NECESSARY, IN ACCORDANCE WITH ACCEPTED MEDICAL PRACTICE.

28 (E) THE SECRETARY OF HEALTH SHALL MAINTAIN COMPREHENSIVE
29 RECORDS OF ALL REPORTS SUBMITTED PURSUANT TO THIS SECTION. SUCH
30 RECORDS SHALL BE GEOGRAPHICALLY INDEXED IN ORDER TO DETERMINE

1 THE LOCATION OF AREAS OF RELATIVELY HIGH INCIDENCE OF LEAD PAINT
2 POISONING OR POSSIBLE LEAD PAINT POISONING. SUCH RECORDS SHALL
3 BE MADE AVAILABLE TO THE COORDINATING COMMITTEE AND THE ADVISORY
4 COMMITTEE, UPON REQUEST. IN ADDITION, A SUMMARY REPORT WILL BE
5 SUBMITTED BY THE SECRETARY OF HEALTH TO THE COORDINATING
6 COMMITTEE AND ADVISORY COMMITTEE SEMI-ANNUALLY. SUCH RECORDS
7 SHALL BE PUBLIC RECORDS, EXCEPT THAT AT NO TIME SHALL THE
8 IDENTITY OF INDIVIDUALS REPORTING OR CONTRACTING LEAD PAINT
9 POISONING BE DISCLOSED TO THE PUBLIC.

10 SECTION 4. DEPARTMENT OF ENVIRONMENTAL RESOURCES; POWERS AND
11 DUTIES.--(A) THE SECRETARY OF ENVIRONMENTAL RESOURCES SHALL HAVE
12 THE POWER, AND HIS DUTY SHALL BE TO ESTABLISH A COMPREHENSIVE
13 STATEWIDE PROGRAM FOR THE PREVENTION OF LEAD PAINT POISONING IN
14 ACCORDANCE WITH MONEY APPROPRIATED ANNUALLY FOR SAID PURPOSES.
15 WHEREVER AND WHENEVER POSSIBLE, THE SECRETARY OF ENVIRONMENTAL
16 RESOURCES SHALL DELEGATE RESPONSIBILITY FOR THE PROVISIONS OF
17 THIS SECTION TO A COUNTY OR JOINT COUNTY DEPARTMENT OF HEALTH,
18 OR LOCAL HEALTH UNITS QUALIFYING FOR STATE PER CAPITA HEALTH
19 SUBSIDY.

20 (1) SUCH A PROGRAM SHALL ATTEMPT TO LOCATE ALL PREMISES IN
21 WHICH THE PAINT CONTAINS DANGEROUS LEVELS OF LEAD OR OTHER TOXIC
22 HEAVY METALS. THE MEANS OF DETECTION SHALL BE DETERMINED BY
23 RULES AND REGULATIONS PROMULGATED BY THE SECRETARY OF
24 ENVIRONMENTAL RESOURCES, GIVING PRIORITY IN INSPECTIONS TO THOSE
25 PREMISES LOCATED IN AREAS CONTAINING SIGNIFICANT NUMBERS OF
26 OLDER RESIDENTIAL PREMISES, WHERE SIGNIFICANT NUMBERS OF LEAD
27 PAINT POISONING CASES OR POSSIBLE CASES OF LEAD PAINT POISONING,
28 HAVE RECENTLY BEEN REPORTED.

29 (2) UPON THE REQUEST OF ANY OCCUPANT, THE SECRETARY OF
30 ENVIRONMENTAL RESOURCES SHALL CAUSE TO HAVE THE OCCUPANT'S

1 PREMISES INSPECTED WITHIN A REASONABLE TIME.

2 (3) WHEN THE SECRETARY OF ENVIRONMENTAL RESOURCES IS
3 INFORMED OF A CASE OF LEAD PAINT POISONING OR POSSIBLE LEAD
4 PAINT POISONING, HE SHALL CAUSE TO HAVE INSPECTED THE PREMISES
5 IN WHICH THE VICTIM RESIDES, OR HAS RECENTLY RESIDED. THE
6 FINDINGS OF SUCH INSPECTIONS SHALL BE REPORTED TO THE SECRETARY
7 OF HEALTH AND TO THE APPROPRIATE ENFORCEMENT AUTHORITIES SET OUT
8 IN THIS ACT.

9 (4) A DANGEROUS LEVEL OF LEAD FOUND IN PREMISES INSPECTED
10 PURSUANT TO THIS SECTION, OR OTHERWISE, SHALL BE REPORTED
11 IMMEDIATELY IN WRITING TO THE OWNER OR AGENT OF THE PREMISES AND
12 ALL AFFECTED TENANTS, AND THE SECRETARY OF ENVIRONMENTAL
13 RESOURCES SHALL CAUSE TO HAVE PROMINENTLY POSTED ON ALL
14 ENTRANCES TO SAID DWELLING A NOTICE THAT THE PREMISES CONTAINS
15 HAZARDOUS PAINT WHICH SHOULD NOT BE EATEN OR CHEWED. SUCH
16 NOTICES MAY NOT BE REMOVED UNTIL THE PREMISES HAVE BEEN FOUND TO
17 COMPLY WITH THIS ACT.

18 (5) AUTHORIZED AGENTS OF THE DEPARTMENT OF ENVIRONMENTAL
19 RESOURCES ASSIGNED TO PERFORM INSPECTIONS PURSUANT TO THIS
20 SECTION MAY ENTER ALL PREMISES AT REASONABLE HOURS AND WITH
21 REASONABLE NOTICE TO THE OCCUPANTS THEREOF.

22 (B) WHEN A DANGEROUS LEVEL OF LEAD OR OTHER TOXIC HEAVY
23 METALS IS FOUND IN PREMISES INSPECTED PURSUANT TO SUBSECTION
24 (A), OR OTHERWISE, THE SECRETARY OF ENVIRONMENTAL RESOURCES
25 SHALL NOTIFY THE SECRETARY OF HEALTH FOR SCREENING, DIAGNOSIS,
26 TREATMENT, AND FOLLOW-UP ACTIVITIES PROVIDED IN THIS ACT.

27 (C) THE SECRETARY OF ENVIRONMENTAL RESOURCES SHALL MAINTAIN
28 COMPREHENSIVE RECORDS OF ALL REPORTS SUBMITTED PURSUANT TO THIS
29 SECTION. SUCH RECORDS SHALL BE GEOGRAPHICALLY INDEXED IN ORDER
30 TO DETERMINE THE LOCATION OF AREAS OF RELATIVELY HIGH INCIDENCE

1 OF DANGEROUS LEAD OR OTHER TOXIC HEAVY METAL LEVELS. SUCH
2 RECORDS SHALL BE AVAILABLE TO THE COORDINATING COMMITTEE AND
3 ADVISORY COMMITTEE, UPON REQUEST. SUCH RECORDS SHALL BE PUBLIC
4 RECORDS. IN ADDITION, A SUMMARY REPORT WILL BE SUBMITTED BY THE
5 SECRETARY OF ENVIRONMENTAL RESOURCES TO THE COORDINATING
6 COMMITTEE AND ADVISORY COMMITTEE SEMI-ANNUALLY.

7 SECTION 5. LABORATORIES.--LABORATORIES OF THE DEPARTMENT OF
8 HEALTH AND THE DEPARTMENT OF ENVIRONMENTAL RESOURCES SHALL BE
9 MAINTAINED FOR THE ANALYSIS OF BIOLOGICAL AND NONBIOLOGICAL
10 SPECIMENS, TO CARRY OUT THE PURPOSES OF THIS ACT. THE DEPARTMENT
11 OF HEALTH SHALL CERTIFY LABORATORIES CONDUCTING TESTS ON
12 BIOLOGICAL SPECIMENS UNDER THE CLINICAL LABORATORY ACT PUB.L.
13 1539. THE DEPARTMENT OF ENVIRONMENTAL RESOURCES SHALL HAVE THE
14 POWER TO CERTIFY LABORATORIES CONDUCTING TESTS ON NONBIOLOGICAL
15 SPECIMENS. THE STATE LABORATORIES MAY CHARGE A FEE FOR SUCH
16 SERVICES NOT GREATER THAN THE COST OF PROVIDING SUCH SERVICES.

17 SECTION 6. INTERAGENCY COORDINATING COMMITTEE.--(A) THE
18 GOVERNOR SHALL APPOINT AN INTERAGENCY COORDINATING COMMITTEE ON
19 LEAD PAINT POISONING PREVENTION WHICH SHALL BE COMPOSED OF
20 REPRESENTATIVES OF THE FOLLOWING STATE AGENCIES:

21 (1) DEPARTMENT OF ENVIRONMENTAL RESOURCES (2).

22 (2) DEPARTMENT OF HEALTH (2).

23 (3) DEPARTMENT OF PUBLIC WELFARE (2).

24 (4) DEPARTMENT OF COMMUNITY AFFAIRS (1).

25 (5) DEPARTMENT OF EDUCATION (1).

26 (6) COMMONWEALTH CHILD DEVELOPMENT COMMITTEE (1).

27 (7) CITIZENS' ADVISORY COUNCIL TO THE DEPARTMENT OF
28 ENVIRONMENTAL RESOURCES (1).

29 (8) CHAIRMAN OF THE ADVISORY COMMITTEE (1).

30 (9) SENATE, TO BE APPOINTED BY THE PRESIDENT PRO TEMPORE

1 (1).

2 (10) HOUSE OF REPRESENTATIVES, TO BE APPOINTED BY THE
3 SPEAKER (1).

4 THE COMMITTEE, WITH THE APPROVAL OF THE GOVERNOR, MAY ALSO
5 INCLUDE IN ITS MEMBERSHIP REPRESENTATIVES OF FEDERAL AND LOCAL
6 GOVERNMENTAL AGENCIES AND PRIVATE AGENCIES WHEN SUCH MEMBERSHIPS
7 WOULD FURTHER THE PURPOSES OF THE COMMITTEE. THE COMMITTEE
8 COORDINATOR SHALL BE SELECTED BY THE MEMBERSHIP OF THE
9 COMMITTEE. AS USED IN THIS ACT, "COORDINATING COMMITTEE" SHALL
10 REFER TO THE INTERAGENCY COORDINATING COMMITTEE.

11 (B) THE COORDINATING COMMITTEE SHALL BE RESPONSIBLE FOR
12 COORDINATING ALL COMMONWEALTH PROGRAMS ON LEAD PAINT POISONING.

13 (C) THE COORDINATING COMMITTEE SHALL MEET AT LEAST
14 QUARTERLY.

15 (D) THE COORDINATING COMMITTEE SHALL ADVISE THE DEPARTMENT
16 OF HEALTH AND ENVIRONMENTAL RESOURCES, THE GOVERNOR'S OFFICE AND
17 THE LEGISLATURE ON THE DIRECTION, SCOPE, CONTENT, AND
18 EFFECTIVENESS OF PROGRAMS AND POLICIES TO PREVENT, ABATE AND
19 TREAT LEAD PAINT POISONING.

20 (E) THE COORDINATING COMMITTEE, WITH THE ADVICE OF THE
21 ADVISORY COMMITTEE, SHALL DEVELOP, AND THE DEPARTMENT OF HEALTH
22 SHALL INSTITUTE, AN EDUCATIONAL AND PUBLICITY PROGRAM IN ORDER
23 TO INFORM THE GENERAL PUBLIC, AND PARTICULARLY PARENTS OF
24 CHILDREN RESIDING IN AREAS OF SIGNIFICANT EXPOSURE TO SOURCES OF
25 LEAD PAINT POISONING; TEACHERS, SOCIAL WORKERS, AND OTHER HUMAN
26 SERVICE PERSONNEL; OWNERS OF RESIDENTIAL PROPERTY; AND HEALTH
27 SERVICES PERSONNEL, PARTICULARLY INTERNS, RESIDENTS, AND OTHER
28 INTAKE PERSONNEL AT MAJOR HOSPITALS, OF THE DANGERS, FREQUENCY,
29 SOURCES, AND METHODS OF PREVENTING LEAD PAINT POISONING.

30 (F) THE INTERAGENCY COORDINATING COMMITTEE SHALL CEASE TO

1 EXIST FIVE YEARS FROM THE EFFECTIVE DATE OF THIS ACT.

2 SECTION 7. ADVISORY COMMITTEE ON LEAD PAINT POISONING
3 PREVENTION.--(A) THE GOVERNOR SHALL APPOINT AN ADVISORY
4 COMMITTEE ON LEAD PAINT POISONING PREVENTION WHICH SHALL CONSIST
5 OF 16 MEMBERS. AS USED IN THIS ACT, "ADVISORY COMMITTEE" SHALL
6 REFER TO THE ADVISORY COMMITTEE ON LEAD PAINT POISONING
7 PREVENTION. AT LEAST TWO-THIRDS OF THE ADVISORY COMMITTEE MUST
8 LIVE IN NEIGHBORHOODS AFFECTED BY LEAD PAINT POISONING OR
9 POSSIBLE LEAD PAINT POISONING, AND A MAJORITY OF THE ADVISORY
10 COMMITTEE MEMBERS SHALL HAVE ONE CHILD UNDER AGE SIX AT THE TIME
11 OF THEIR APPOINTMENT. IN ADDITION, THE ADVISORY COMMITTEE SHALL
12 HAVE COMPETENCY IN THE FIELDS OF MEDICINE, LAW, PUBLIC HEALTH,
13 SOCIAL SERVICES, HOUSING, CONSTRUCTION, PAINT INDUSTRY AND
14 ENVIRONMENTAL HEALTH.

15 (B) THE ADVISORY COMMITTEE SHALL BE DIRECTLY RESPONSIBLE TO
16 THE COORDINATING COMMITTEE.

17 (C) THE ADVISORY COMMITTEE SHALL HAVE ADVISORY
18 RESPONSIBILITIES IN PLANNING, IMPLEMENTING, AND EVALUATING
19 PROGRAM ACTIVITIES; IN STIMULATING PUBLIC EDUCATION AND PUBLIC
20 ACTION; AND IN SEEKING FUNDING FOR PROJECT ACTIVITIES.

21 (D) THE MEMBERS OF THE ADVISORY COMMITTEE SHALL NOT BE PAID
22 FOR THEIR SERVICES, BUT THEY SHALL BE REIMBURSED BY THE
23 DEPARTMENT OF ENVIRONMENTAL RESOURCES FOR TRAVEL AND OTHER
24 EXPENSES NECESSARY FOR THE PERFORMANCE OF THEIR DUTIES.

25 (E) MEMBERS SHALL BE APPOINTED INITIALLY SERVING ONLY ONE
26 YEAR. AFTER THE FIRST YEAR, EIGHT MEMBERS OF THE ADVISORY
27 COMMITTEE WILL BE APPOINTED FOR A TWO-YEAR TERM AND SEVEN
28 MEMBERS FOR A ONE-YEAR TERM.

29 (F) THE ADVISORY COMMITTEE SHALL CEASE TO EXIST FIVE YEARS
30 FROM THE EFFECTIVE DATE OF THIS ACT.

1 SECTION 8. RESTRICTIONS.--(A) NO PERSON SHALL MANUFACTURE,
2 STORE, SELL, OR TRANSFER FOR RETAIL HOUSEHOLD OR RESIDENTIAL
3 PURPOSES HAZARDOUS PAINT.

4 (B) EFFECTIVE JULY 1, 1976, NO PERSON SHALL APPLY OR CAUSE
5 TO BE APPLIED ANY HAZARDOUS PAINT TO ANY TOY, FURNITURE,
6 COOKING, DRINKING, OR EATING UTENSIL, INTERIOR SURFACE OR
7 FIXTURE OF ANY PREMISES INTENDED FOR RESIDENTIAL HABITATION, OR
8 TO ANY EXTERIOR SURFACE OR FIXTURE OF ANY PREMISES INTENDED FOR
9 RESIDENTIAL INHABITATION; NO PERSON SHALL SELL, EXPOSE FOR SALE,
10 DELIVER, GIVE AWAY, OR POSSESS WITH INTENT TO SELL ANY TOY,
11 FURNITURE, COOKING, DRINKING, OR EATING UTENSIL TO WHICH ANY
12 HAZARDOUS PAINT HAS BEEN APPLIED. FOR THE PURPOSES OF THIS
13 SECTION ANY PAINT SHALL BE DEEMED TO BE HAZARDOUS WHEN IT
14 CONTAINS LEAD OR ANY OTHER TOXIC HEAVY METAL IN EXCESS OF LIMITS
15 ESTABLISHED IN APPLICABLE FEDERAL LAWS, RULES OR REGULATIONS.

16 SECTION 9. PENALTIES.--(A) ANY PERSON WHO VIOLATES ANY
17 PROVISION OF THIS ACT OR ANY RULE OR REGULATION OR ORDER OF THE
18 DEPARTMENT OF HEALTH OR THE DEPARTMENT OF ENVIRONMENTAL
19 RESOURCES PROMULGATED OR ISSUED PURSUANT TO THIS ACT SHALL BE
20 GUILTY OF A SUMMARY OFFENSE, AND, UPON CONVICTION, SHALL PAY A
21 FINE OF NOT LESS THAN \$100 NOR MORE THAN \$300 FOR EACH SEPARATE
22 OFFENSE, AND, IN DEFAULT OF THE PAYMENT OF SUCH FINE, THE
23 PERSON, OR IF SUCH PERSON BE A PARTNERSHIP, THEN THE OFFENDING
24 MEMBERS THEREOF, OR IF SUCH PERSON BE A CORPORATION OR
25 ASSOCIATION, THEN THE OFFENDING OFFICERS, MEMBERS, AGENTS,
26 SERVANTS, OR EMPLOYEES THEREOF, SHALL BE IMPRISONED IN THE
27 COUNTY JAIL FOR A PERIOD OF 60 DAYS.

28 (B) ANY PERSON WHO WITHIN TWO YEARS AFTER A SUMMARY
29 CONVICTION PROVIDED IN SUBSECTION (A) VIOLATES ANY PROVISION OF
30 THIS ACT OR ANY RULE OR REGULATION OR ORDER OF THE DEPARTMENT OF

1 HEALTH OR THE DEPARTMENT OF ENVIRONMENTAL RESOURCES PROMULGATED
2 OR ISSUED PURSUANT TO THIS ACT IS GUILTY OF A MISDEMEANOR OF THE
3 THIRD DEGREE AND, UPON CONVICTION, SHALL BE SUBJECT TO A FINE OF
4 NOT LESS THAN \$500 NOR MORE THAN \$2,500 FOR EACH SEPARATE
5 OFFENSE OR TO IMPRISONMENT IN THE COUNTY JAIL FOR A PERIOD OF
6 NOT MORE THAN ONE YEAR, OR BOTH. IN THE CASE OF A PARTNERSHIP,
7 THE OFFENDING MEMBERS THEREOF, AND IN THE CASE OF A CORPORATION,
8 OR AN ASSOCIATION THE OFFENDING OFFICERS, MEMBERS, AGENTS,
9 SERVANTS, OR EMPLOYEES, MAY BE SUBJECT TO ANY SUCH SENTENCE OF
10 IMPRISONMENT.

11 (C) EACH DAY OF CONTINUED VIOLATION OF ANY PROVISION OF THIS
12 ACT OR ANY RULE OR REGULATION OR ORDER OF THE DEPARTMENT OF
13 HEALTH OR THE DEPARTMENT OF ENVIRONMENTAL RESOURCES PROMULGATED
14 OR ISSUED PURSUANT TO THIS ACT SHALL CONSTITUTE A SEPARATE
15 OFFENSE UNDER SUBSECTIONS (A) AND (B).

16 (D) IN ADDITION TO PROCEEDING UNDER ANY OTHER REMEDY
17 AVAILABLE AT LAW OR IN EQUITY FOR A VIOLATION OF THE PROVISIONS
18 OF THIS ACT OR A RULE OR ORDER OF THE DEPARTMENT OF
19 ENVIRONMENTAL RESOURCES PROMULGATED OR ISSUED PURSUANT TO THIS
20 ACT, THE ENVIRONMENTAL HEARING BOARD, AFTER HEARING, MAY ASSESS
21 A CIVIL PENALTY UPON A PERSON FOR SUCH VIOLATION. SUCH A PENALTY
22 MAY BE ASSESSED WHETHER OR NOT THE VIOLATION WAS WILFUL. THE
23 CIVIL PENALTY SO ASSESSED SHALL NOT EXCEED \$5,000 PLUS \$500 FOR
24 EACH DAY OF CONTINUED VIOLATION. IN DETERMINING THE AMOUNT OF
25 THE CIVIL PENALTY THE ENVIRONMENTAL HEARING BOARD SHALL CONSIDER
26 THE WILFULNESS OF THE VIOLATION, DAMAGE OR INJURY TO PROPERTY OR
27 PERSONS, COST OF RESTORATION OR TREATMENT, AND OTHER RELEVANT
28 FACTORS. IT SHALL BE PAYABLE TO THE COMMONWEALTH OF PENNSYLVANIA
29 AND SHALL BE COLLECTIBLE IN ANY MANNER PROVIDED BY LAW FOR THE
30 COLLECTION OF DEBTS. IF ANY PERSON LIABLE TO PAY ANY SUCH

1 PENALTY, NEGLECTS OR REFUSES TO PAY THE SAME AFTER DEMAND, THE
2 AMOUNT, TOGETHER WITH INTEREST AND ANY COSTS THAT MAY ACCRUE,
3 SHALL BE A LIEN IN FAVOR OF THE COMMONWEALTH UPON THE PROPERTY,
4 BOTH REAL AND PERSONAL, OF SUCH PERSON, BUT ONLY AFTER SAME HAS
5 BEEN ENTERED AND DOCKETED OF RECORD BY THE PROTHONOTARY OF THE
6 COUNTY WHERE SUCH IS SITUATED. THE ENVIRONMENTAL HEARING BOARD
7 MAY, AT ANY TIME, TRANSMIT TO THE PROTHONOTARIES OF THE
8 RESPECTIVE COUNTIES CERTIFIED COPIES OF ALL SUCH LIENS, AND IT
9 SHALL BE THE DUTY OF EACH PROTHONOTARY TO ENTER AND DOCKET THE
10 SAME OF RECORD IN HIS OFFICE, AND TO INDEX THE SAME AS JUDGMENTS
11 ARE INDEXED, WITHOUT REQUIRING THE PAYMENT OF COSTS AS A
12 CONDITION PRECEDENT TO THE ENTRY THEREOF. ALL FINES AND CIVIL
13 PENALTIES COLLECTED UNDER THIS ACT SHALL BE PAID INTO THE
14 TREASURY OF THE COMMONWEALTH IN A SPECIAL FUND KNOWN AS "THE
15 LEAD PAINT POISONING PREVENTION FUND," WHICH SHALL BE
16 ADMINISTERED BY THE DEPARTMENT OF ENVIRONMENTAL RESOURCES FOR
17 USE IN THE PREVENTION OF LEAD PAINT POISONING.

18 (E) ALL SUMMARY PROCEEDINGS UNDER THE PROVISIONS OF THIS ACT
19 MAY BE BROUGHT BEFORE ANY DISTRICT JUSTICE, JUSTICE OF THE
20 PEACE, ALDERMAN OR MAGISTRATE IN THE COUNTY WHERE THE OFFENSE
21 WAS COMMITTED, AND TO THAT END JURISDICTION IS HEREBY CONFERRED
22 UPON SAID DISTRICT JUSTICES, JUSTICES OF THE PEACE, ALDERMEN, OR
23 MAGISTRATES, SUBJECT TO APPEAL BY EITHER PARTY IN THE MANNER
24 PROVIDED BY LAW.

25 (F) THE OWNER OF ANY PREMISES IN WHICH THERE IS ANY PAINT
26 WHICH CONTAIN DANGEROUS LEVELS OF LEAD, OR OTHER TOXIC HEAVY
27 METAL, AS DEFINED IN THIS ACT, SHALL CAUSE SAID MATERIALS TO BE
28 REMOVED OR COVERED ACCORDING TO THE PHILADELPHIA DEPARTMENT OF
29 PUBLIC HEALTH SPECIFICATIONS FOR THE REMOVAL OF LEAD PAINT AND
30 SAFETY STANDARDS FOR REMOVAL OF LEAD PAINT. THE PRESENCE IN

1 PREMISES OF ANY PAINT WHICH CONTAIN DANGEROUS LEVELS OF LEAD OR
2 ANY OTHER TOXIC HEAVY METAL ACCESSIBLE TO CHILDREN UNDER SIX
3 YEARS OF AGE IS HEREBY DECLARED TO BE A NUISANCE.

4 (F.1) IN CASES WHERE THE OWNER OF ANY PREMISES IS REQUIRED
5 TO REMOVE OR COVER MATERIALS IN ACCORDANCE WITH THIS ACT, AND
6 THE COST OF REMOVAL OR COVERING SUCH MATERIAL ACCORDING TO THE
7 SPECIFICATIONS REFERRED TO IN THIS ACT WOULD CAUSE A FINANCIAL
8 HARDSHIP ON THE OWNER, THE LOCAL TAXING AUTHORITY SHALL CAUSE TO
9 BE ISSUED A REAL ESTATE TAX CREDIT IN THE AMOUNT OF THE ACTUAL
10 EXPENDITURES MADE BY THE OWNER, HOWEVER, SUCH CREDIT SHALL NOT
11 EXCEED THE ACTUAL AMOUNT OF THE TAX.

12 (G) NO OWNER SHALL RAISE THE RENT FOR ANY RESIDENTIAL
13 PREMISES, EVICT THE TENANT OR TERMINATE A LEASE WITH A TENANT OR
14 MAKE, ALTER, AMEND OR MODIFY ANY TERM OR CONDITION OF ANY
15 EXISTING LEASE OR ARRANGEMENT OF TENANCY OF THE TENANT AS A
16 CONSEQUENCE OF ANY VIOLATION HAVING BEEN FOUND AGAINST THE
17 PREMISES, THE FILING OF A COMPLAINT ALLEGING THE VIOLATION, A
18 TENANT SEEKING A LEAD PAINT INSPECTION OF THE PREMISES OR OF
19 PERFORMING REPAIRS MANDATED BY THIS SECTION. IN ANY CIVIL
20 PROCEEDING IN WHICH NOTICE OF TERMINATION OF THE LEASE OR
21 ARRANGEMENT OF TENANCY OR ALTERATION OF A TERM OR CONDITION OF
22 THE LEASE WAS WITHIN ONE YEAR AFTER A LEAD PAINT VIOLATION WAS
23 FOUND, IT SHALL BE THE BURDEN OF THE OWNER, LANDLORD, AGENT OR
24 OTHER PERSONS OPERATING OR MANAGING SUCH PREMISES TO PROVE THAT
25 THE NOTICE OR ALTERATION WAS NOT GIVEN AS A CONSEQUENCE OF THE
26 EXERCISE OR ENJOYMENT OF THE TENANT OF HIS LEGAL RIGHTS UNDER
27 THIS SECTION. THE TERMS AND CONDITIONS OF REPAIR OR REMOVAL
28 PURSUANT TO THIS SECTION SHALL BE THE PHILADELPHIA DEPARTMENT OF
29 PUBLIC HEALTH SPECIFICATIONS FOR THE REMOVAL OF LEAD PAINT AND
30 SAFETY STANDARDS FOR REMOVAL OF LEAD PAINT. THIS SECTION SHALL

1 BE STRICTLY CONSTRUED AND ENFORCED SO AS TO BEST PROTECT THE
2 SAFETY OF RESIDENTS OF SUCH DWELLINGS.

3 (H) THE DEPARTMENT OF ENVIRONMENTAL RESOURCES MAY ISSUE SUCH
4 ORDERS AS ARE NECESSARY TO AID IN THE ENFORCEMENT OF THE
5 PROVISIONS OF THIS ACT. FAILURE TO COMPLY WITH ANY SUCH ORDER IS
6 HEREBY DECLARED TO BE A NUISANCE.

7 (I) ANY ACTIVITY OR CONDITION DECLARED BY THIS ACT AS BEING
8 A NUISANCE SHALL BE ABATEABLE IN THE MANNER PROVIDED BY LAW OR
9 EQUITY FOR THE ABATEMENT OF PUBLIC NUISANCES. THE SECRETARY OF
10 THE DEPARTMENT OF ENVIRONMENTAL RESOURCES SHALL MAINTAIN A
11 SPECIAL STATE LEAD PAINT POISONING ABATEMENT ORDER TO REMOVE
12 LEAD PAINT IN CASES WHERE OWNERS OF PREMISES FAIL TO PERFORM
13 THEIR DUTIES UNDER THIS ACT BY REFUSING OR DELAYING THE REMOVAL
14 OF LEAD PAINT. THE COSTS OF SUCH STATE ABATEMENT WORK WILL BE
15 ASSESSED AGAINST THE OWNER OF THE PREMISES BY ESTABLISHING A
16 LIEN ON THE PROPERTY. SUCH PROGRAM OF ABATEMENT BY THE STATE
17 SHALL EMPLOY TO THE MAXIMUM EXTENT POSSIBLE COMMUNITY RESIDENTS
18 OF THE AREAS IN WHICH ABATEMENT TAKES PLACE. IN ADDITION, SUITS
19 TO ABATE SUCH NUISANCES OR SUITS TO RESTRAIN OR PREVENT ANY
20 VIOLATION OF THIS ACT MAY BE INSTITUTED IN EQUITY OR AT LAW IN
21 THE NAME OF THE COMMONWEALTH UPON RELATION OF THE ATTORNEY
22 GENERAL, OR UPON RELATION OF ANY DISTRICT ATTORNEY OF ANY
23 COUNTY, OR UPON RELATION OF THE SOLICITOR OF ANY MUNICIPALITY
24 AFFECTED, AFTER NOTICE HAS FIRST BEEN SERVED UPON THE ATTORNEY
25 GENERAL OF THE INTENTION OF THE DISTRICT ATTORNEY OR SOLICITOR
26 TO SO PROCEED. SUCH PROCEEDINGS MAY BE PROSECUTED IN THE
27 COMMONWEALTH COURT, OR IN THE COURT OF COMMON PLEAS OF THE
28 COUNTY IN WHICH THE ACTIVITY HAS TAKEN PLACE, THE CONDITION
29 EXISTS, OR THE PUBLIC AFFECTED, AND TO THAT END JURISDICTION IS
30 HEREBY CONFERRED IN LAW AND EQUITY UPON SUCH COURTS: PROVIDED,

1 HOWEVER, THAT EXCEPT IN CASES OF EMERGENCY WHERE, IN THE OPINION
2 OF THE COURT, THE EXIGENCIES OF THE CASES REQUIRE IMMEDIATE
3 ABATEMENT OF SAID NUISANCES, THE COURT MAY, IN ITS DECREE FIX A
4 REASONABLE TIME DURING WHICH THE PERSON RESPONSIBLE FOR THE
5 NUISANCES MAY MAKE PROVISION FOR THE ABATEMENT OF THE SAME. IN
6 CASES WHERE THE CIRCUMSTANCES REQUIRE IT OR THE PUBLIC HEALTH IS
7 ENDANGERED, A MANDATORY PRELIMINARY INJUNCTION OR SPECIAL
8 INJUNCTION MAY BE ISSUED UPON THE TERMS PRESCRIBED BY THE COURT,
9 NOTICE OF THE APPLICATION HAVING BEEN GIVEN TO THE DEFENDANT IN
10 ACCORDANCE WITH THE RULES OF EQUITY PRACTICE. IN ANY CASE
11 BROUGHT UNDER THIS SUBSECTION THE ATTORNEY GENERAL, THE DISTRICT
12 ATTORNEY, OR THE SOLICITOR OF ANY MUNICIPALITY SHALL NOT BE
13 REQUIRED TO GIVE BOND.

14 (J) ANY AGGRIEVED PARTY MAY BRING A BILL IN EQUITY IN THE
15 COMMONWEALTH COURT AGAINST ANY PERSON HAVING DUTIES OF
16 ENFORCEMENT UNDER THIS ACT FOR FAILURE TO ADEQUATELY PERFORM
17 SUCH DUTIES. IF THE COURT FINDS THAT SUCH DUTIES HAVE NOT BEEN
18 ADEQUATELY PERFORMED, IT SHALL ORDER THEM SO PERFORMED, EITHER
19 BY THE NAMED DEFENDANT OR ANY OTHER PERSON HAVING A LEGAL DUTY
20 TO ENFORCE THIS ACT.

21 (K) THE COLLECTION OF ANY PENALTIES UNDER THE PROVISIONS OF
22 THIS ACT SHALL NOT BE CONSTRUED AS ESTOPPING THE COMMONWEALTH OR
23 ANY DISTRICT ATTORNEY OR SOLICITOR OF A MUNICIPALITY, FROM
24 PROCEEDING IN COURTS OF LAW TO ABATE NUISANCES FORBIDDEN UNDER
25 THIS ACT OR ABATE NUISANCES UNDER EXISTING LAW. IT IS HEREBY
26 DECLARED TO BE THE PURPOSE OF THIS ACT TO PROVIDE ADDITIONAL AND
27 CUMULATIVE REMEDIES TO ABATE PUBLIC HEALTH HAZARDS ENDANGERING
28 THE LIVES OF CITIZENS OF THIS COMMONWEALTH, AND NOTHING IN THIS
29 ACT CONTAINED SHALL IN ANY WAY ABRIDGE OR ALTER RIGHTS OF ACTION
30 OR REMEDIES NOW OR HEREAFTER EXISTING IN EQUITY, OR UNDER THE

1 COMMON LAW OR STATUTORY LAW, CIVIL OR CRIMINAL, NOR SHALL ANY
2 PROVISION IN THIS ACT, OR ANY ACT DONE BY VIRTUE OF THIS ACT, BE
3 CONSTRUED AS ESTOPPING THE COMMONWEALTH, PERSONS OR
4 MUNICIPALITIES, IN THE EXERCISE OF THEIR RIGHTS UNDER THE COMMON
5 LAW OR DECISIONAL LAW OR IN EQUITY, FROM PROCEEDING IN COURTS OF
6 LAW OR EQUITY TO SUPPRESS NUISANCES, OR TO ABATE ANY POLLUTION
7 NOW OR HEREAFTER EXISTING, OR ENFORCE COMMON LAW OR STATUTORY
8 RIGHTS.

9 SECTION 10. APPROPRIATION.--THE SUMS OF \$250,000 AND
10 \$175,000 ARE HEREBY APPROPRIATED TO THE DEPARTMENT OF
11 ENVIRONMENTAL RESOURCES AND THE DEPARTMENT OF HEALTH,
12 RESPECTIVELY, FOR THE FISCAL YEAR 1975-1976 TO CARRY OUT THE
13 PURPOSES OF THIS ACT.

14 SECTION 11. SEVERABILITY.--THE PROVISIONS OF THIS ACT SHALL
15 BE SEVERABLE. IF ANY PROVISION OF THIS ACT IS FOUND BY A COURT
16 OF RECORD TO BE UNCONSTITUTIONAL AND VOID, THE REMAINING
17 PROVISIONS OF THE ACT SHALL, NEVERTHELESS, REMAIN VALID UNLESS
18 THE COURT FINDS THE VALID PROVISIONS OF THE ACT ARE SO
19 ESSENTIALLY AND INSEPARABLY CONNECTED WITH, AND SO DEPEND UPON,
20 THE VOID PROVISION, THAT IT CANNOT BE PRESUMED THE GENERAL
21 ASSEMBLY WOULD HAVE ENACTED THE REMAINING VALID PROVISIONS
22 WITHOUT THE VOID ONES; OR UNLESS THE COURT FINDS THE REMAINING
23 VALID PROVISIONS STANDING ALONE, ARE INCOMPLETE AND ARE
24 INCAPABLE OF BEING EXECUTED IN ACCORDANCE WITH THE LEGISLATIVE
25 INTENT.

26 SECTION 12. REPEALS.--ALL ACTS AND PARTS OF ACTS ARE
27 REPEALED IN SO FAR AS THEY ARE INCONSISTENT HEREWITH.

28 SECTION 13. EFFECTIVE DATE.--THIS ACT SHALL TAKE EFFECT
29 IMMEDIATELY.