

As Introduced

124th General Assembly
Regular Session
2001-2002

H. B. No. 246

**REPRESENTATIVES Schaffer, Kearns, Barrett, Otterman, R. Miller, Lendrum,
Rhine, G. Smith, Jones, D. Miller, Allen, Hollister, Ford, Roman**

A BILL

To amend sections 3314.03, 3318.031, 3742.01 to 1
3742.08, 3742.10 to 3742.19, and 3742.99; to amend, 2
for the purpose of adopting new section numbers as 3
indicated in parentheses, sections 3742.11 4
(3742.31), 3742.12 (3742.35), and 3742.13 5
(3742.34); to enact sections 3701.61, 3742.071, 6
3742.161, 3742.32, and 3742.36 to 3742.52 of the 7
Revised Code with respect to the prevention of 8
childhood lead poisoning; and to repeal section 9
3742.32 of the Revised Code to cause the advisory 10
council created under section 3742.32 to expire 11
December 31, 2004. 12

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That sections 3314.03, 3318.031, 3742.01, 3742.02, 13
3742.03, 3742.04, 3742.05, 3742.06, 3742.07, 3742.08, 3742.10, 14
3742.11, 3742.12, 3742.13, 3742.14, 3742.15, 3742.16, 3742.17, 15
3742.18, 3742.19, and 3742.99 be amended; sections 3742.11 16
(3742.31), 3742.12 (3742.35), and 3742.13 (3742.34) be amended for 17
the purpose of adopting new section numbers as indicated in 18
parentheses; and sections 3701.61, 3742.071, 3742.161, 3742.32, 19
3742.36, 3742.37, 3742.38, 3742.39, 3742.40, 3742.41, 3742.42, 20

3742.43, 3742.44, 3742.45, 3742.46, 3742.47, 3742.48, 3742.49, 21
3742.50, 3742.51, and 3742.52 of the Revised Code be enacted to 22
read as follows: 23

Sec. 3314.03. (A) Each contract entered into under section 24
3314.02 of the Revised Code between a sponsor and the governing 25
authority of a community school shall specify the following: 26

(1) That the school shall be established as a nonprofit 27
corporation established under Chapter 1702. of the Revised Code; 28

(2) The education program of the school, including the 29
school's mission, the characteristics of the students the school 30
is expected to attract, the ages and grades of students, and the 31
focus of the curriculum; 32

(3) The academic goals to be achieved and the method of 33
measurement that will be used to determine progress toward those 34
goals, which shall include the statewide proficiency tests; 35

(4) Performance standards by which the success of the school 36
will be evaluated by the sponsor; 37

(5) The admission standards of section 3314.06 of the Revised 38
Code; 39

(6) Dismissal procedures; 40

(7) The ways by which the school will achieve racial and 41
ethnic balance reflective of the community it serves; 42

(8) Requirements and procedures for financial audits by the 43
auditor of state. The contract shall require financial records of 44
the school to be maintained in the same manner as are financial 45
records of school districts, pursuant to rules of the auditor of 46
state, and the audits shall be conducted in accordance with 47
section 117.10 of the Revised Code. 48

(9) The facilities to be used and their locations; 49

(10) Qualifications of teachers, including a requirement that the school's classroom teachers be licensed in accordance with sections 3319.22 to 3319.31 of the Revised Code, except that a community school may engage noncertificated persons to teach up to twelve hours per week pursuant to section 3319.301 of the Revised Code;

(11) That the school will comply with the following requirements:

(a) The school will provide learning opportunities to a minimum of twenty-five students for a minimum of nine hundred twenty hours per school year;

(b) The governing authority will purchase liability insurance, or otherwise provide for the potential liability of the school;

(c) The school will be nonsectarian in its programs, admission policies, employment practices, and all other operations, and will not be operated by a sectarian school or religious institution;

(d) The school will comply with sections 9.90, 9.91, 109.65, 121.22, 149.43, 2151.358, 2151.421, 2313.18, 3301.0710, 3301.0711, 3301.0714, 3313.50, 3313.643, 3313.66, 3313.661, 3313.662, 3313.67, 3313.672, 3313.673, 3313.69, 3313.71, 3313.716, 3313.80, 3313.96, 3319.321, 3319.39, 3321.01, 3327.10, 4111.17, and 4113.52 and Chapters 117., 1347., 2744., 3365., 3742., 4112., 4123., 4141., and 4167. of the Revised Code as if it were a school district;

(e) The school shall comply with Chapter 102. of the Revised Code except that nothing in that chapter shall prohibit a member of the school's governing board from also being an employee of the school and nothing in that chapter or section 2921.42 of the Revised Code shall prohibit a member of the school's governing

board from having an interest in a contract into which the 81
governing board enters; 82

(f) The school will comply with sections 3313.61 and 3313.611 83
of the Revised Code, except that the requirement in those sections 84
that a person must successfully complete the curriculum in any 85
high school prior to receiving a high school diploma may be met by 86
completing the curriculum adopted by the governing authority of 87
the community school rather than the curriculum specified in Title 88
XXXIII of the Revised Code or any rules of the state board of 89
education; 90

(g) The school governing authority will submit an annual 91
report of its activities and progress in meeting the goals and 92
standards of divisions (A)(3) and (4) of this section and its 93
financial status to the sponsor, the parents of all students 94
enrolled in the school, and the legislative office of education 95
oversight. The school will collect and provide any data that the 96
legislative office of education oversight requests in furtherance 97
of any study or research that the general assembly requires the 98
office to conduct, including the studies required under Section 99
50.39 of Am. Sub. H.B. 215 of the 122nd general assembly and 100
Section 50.52.2 of Am. Sub. H.B. 215 of the 122nd general 101
assembly, as amended. 102

(12) Arrangements for providing health and other benefits to 103
employees; 104

(13) The length of the contract, which shall begin at the 105
beginning of an academic year and shall not exceed five years; 106

(14) The governing authority of the school, which shall be 107
responsible for carrying out the provisions of the contract; 108

(15) A financial plan detailing an estimated school budget 109
for each year of the period of the contract and specifying the 110
total estimated per pupil expenditure amount for each such year. 111

The plan shall specify for each year the base formula amount that
will be used for purposes of funding calculations under section
3314.08 of the Revised Code. This base formula amount for any year
shall not exceed the formula amount defined under section 3317.02
of the Revised Code. The plan may also specify for any year a
percentage figure to be used for reducing the per pupil amount of
disadvantaged pupil impact aid calculated pursuant to section
3317.029 of the Revised Code the school is to receive that year
under section 3314.08 of the Revised Code.

(16) Requirements and procedures regarding the disposition of
employees of the school in the event the contract is terminated or
not renewed pursuant to section 3314.07 of the Revised Code;

(17) Whether the school is to be created by converting all or
part of an existing public school or is to be a new start-up
school, and if it is a converted public school, specification of
any duties or responsibilities of an employer that the board of
education that operated the school before conversion is delegating
to the governing board of the community school with respect to all
or any specified group of employees provided the delegation is not
prohibited by a collective bargaining agreement applicable to such
employees;

(18) Provisions establishing procedures for resolving
disputes or differences of opinion between the sponsor and the
governing authority of the community school;

(19) A provision requiring the governing authority to adopt a
policy regarding the admission of students who reside outside the
district in which the school is located. That policy shall comply
with the admissions procedures specified in section 3314.06 of the
Revised Code and, at the sole discretion of the authority, shall
do one of the following:

(a) Prohibit the enrollment of students who reside outside

the district in which the school is located;	143
(b) Permit the enrollment of students who reside in districts adjacent to the district in which the school is located;	144 145
(c) Permit the enrollment of students who reside in any other district in the state.	146 147
(B) The community school shall also submit to the sponsor a comprehensive plan for the school. The plan shall specify the following:	148 149 150
(1) The process by which the governing authority of the school will be selected in the future;	151 152
(2) The management and administration of the school;	153
(3) If the community school is a currently existing public school, alternative arrangements for current public school students who choose not to attend the school and teachers who choose not to teach in the school after conversion;	154 155 156 157
(4) The instructional program and educational philosophy of the school;	158 159
(5) Internal financial controls.	160
(C) A contract entered into under section 3314.02 of the Revised Code between a sponsor and the governing authority of a community school may provide for the community school governing authority to make payments to the sponsor, which is hereby authorized to receive such payments as set forth in the contract between the governing authority and the sponsor.	161 162 163 164 165 166
Sec. 3318.031. The Ohio school facilities commission shall consider student and staff safety <u>and health</u> when reviewing design plans for classroom facility construction projects proposed under this chapter. After consulting with appropriate education, <u>health</u> , and law enforcement personnel, the commission may require as a	167 168 169 170 171

condition of project approval under section 3318.03 of the Revised Code such changes in the design plans as the commission believes will advance or improve student and staff safety and health in the proposed classroom facility.

To carry out its duties under this section, the commission shall review and, if necessary, amend any construction and design standards used in its project approval process, including standards for location and number of exits, standards for lead safety in classroom facilities constructed before 1978 in which services are provided to children under six years of age, and location of restrooms, with a focus on advancing student and staff safety and health.

Sec. 3701.61. As used in this section, "lead poisoning" has the same meaning as in section 3742.01 of the Revised Code.

Each child at risk of lead poisoning shall undergo a blood lead screening test to determine whether the child has lead poisoning. The at-risk children shall undergo the test at times determined by rules the public health council shall adopt in accordance with Chapter 119. of the Revised Code. The rules shall specify which children are at risk of lead poisoning.

Neither this section nor the rules adopted under it affect the coverage of lead blood screening tests by any publicly funded health program, including the medicaid program established by Chapter 5111. of the Revised Code.

Sec. 3742.01. As used in this chapter:

(A) "Board of health" means the board of health of a city or general health district or the authority having the duties of a board of health in a city as authorized by section 3709.05 of the Revised Code.

(B) "Child day-care facility" means each area of any of the

following in which child day-care, as defined in section 5104.01
of the Revised Code, is provided to children less than six years
of age:

(1) A child day-care center, type A family day-care home, or
type B family day-care home as defined in section 5104.01 of the
Revised Code;

(2) A type C family day-care home authorized to provide child
day-care by Sub. H.B. 62 of the 121st general assembly, as amended
by Am. Sub. S.B. 160 of the 121st general assembly and Sub. H.B.
407 of the 123rd general assembly;

(3) A preschool program or school child program as defined in
section 3301.52 of the Revised Code.

(C) "Clearance examination" means an examination conducted
following a lead abatement or lead-safe renovation to determine
whether the lead hazards in a residential unit, child day-care
facility, or school have been sufficiently controlled according to
standards established in rules adopted under section 3742.49 of
the Revised Code. A clearance examination includes a visual
assessment, collection, and analysis of environmental samples.

(D) "Clearance technician" means a person, other than a
licensed lead inspector or licensed lead risk assessor, who
performs a clearance examination.

(E) "Clinical laboratory" means a facility for the
biological, microbiological, ~~seriological~~ serological, chemical,
~~immunochemical~~ immunohematological, hematological,
biophysical, cytological, pathological, or other examination of
substances derived from the human body for the purpose of
providing information for the diagnosis, prevention, or treatment
of any disease, or in the assessment or impairment of the health
of human beings. "Clinical laboratory" does not include a facility
that only collects or prepares specimens, or serves as a mailing

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service, and does not perform testing. 233

~~(B)~~(F) "Encapsulation" means a method of lead abatement or 234
lead-safe renovation that involves the coating and sealing of 235
surfaces with durable surface coating specifically formulated to 236
be elastic, able to withstand sharp and blunt impacts, 237
long-lasting, and resilient, while also resistant to cracking, 238
peeling, algae, fungus, and ultraviolet light, so as to prevent 239
any part of lead-containing paint from becoming part of house dust 240
or otherwise accessible to children. 241

~~(C)~~(G) "Enclosure" means the resurfacing or covering of 242
surfaces with durable materials such as wallboard or paneling, and 243
the sealing or caulking of edges and joints so as to prevent or 244
control chalking, flaking, peeling, scaling, or loose 245
lead-containing substances from becoming part of house dust or 246
accessible to children. 247

~~(D)~~(H) "Environmental lead analytical laboratory" means a 248
facility that analyzes air, dust, soil, water, paint, film, or 249
other substances, other than substances derived from the human 250
body, for the presence and concentration of lead. 251

~~(E)~~(I) "HEPA" means the designation given to a product, 252
device, or system that has been equipped with a high-efficiency 253
particulate air filter, which is a filter capable of removing 254
particles of 0.3 microns or larger from air at 99.97 per cent or 255
greater efficiency. 256

(J) "Interim controls" means a set of measures designed to 257
reduce temporarily human exposure or likely human exposure to lead 258
hazards. Interim controls include specialized cleaning, repairs, 259
painting, temporary containment, clearance, ongoing lead hazard 260
maintenance activities, and the establishment and operation of 261
management and resident education programs. 262

(K)(1) "Lead abatement" means a measure or set of measures, 263

~~including the following, designed and intended to eliminate for~~ 264
~~the single purpose of permanently eliminating lead hazards. "Lead~~ 265
~~abatement" includes all of the following:~~ 266

~~(1)(a) Removal, encapsulation, or enclosure of lead hazards~~ 267
~~lead-based paint and lead-contaminated dust;~~ 268

~~(2)(b) Permanent enclosure or encapsulation of lead-based~~ 269
~~paint;~~ 270

~~(c) Replacement of lead-contaminated surfaces or fixtures~~ 271
~~painted with lead-based paint;~~ 272

~~(3)(d) Removal or permanent covering of lead-contaminated~~ 273
~~soil;~~ 274

~~(4)(e) Preparation, cleanup, and disposal, and postabatement~~ 275
~~activities associated with the lead abatement.~~ 276

(2) "Lead abatement" does not include any of the following: 277

(a) Essential maintenance practices and preventive treatments 278
performed pursuant to section 3742.46 of the Revised Code; 279

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(b) Activities performed by a property owner or the property 281
owner's agent on a residential unit to which both of the following 282
apply: 283

(i) It is a freestanding single-family home used as the 284
property owner's private residence. 285

(ii) No child under six years of age who has lead poisoning 286
resides in the unit. 287

(c) Lead-safe renovations performed and supervised by a 288
lead-safe renovator; 289

(d) Implementation of interim controls. 290

~~(F)(L)~~ "Lead abatement contractor" means any individual who 291
engages in or intends to engage in lead abatement and employs or 292

supervises one or more lead abatement workers, including on-site 293
supervision of lead abatement projects, or prepares 294
specifications, plans, or documents for a lead abatement project. 295

~~(G)~~(M) "Lead abatement project" means one or more lead 296
abatement activities that are conducted by a lead abatement 297
contractor and are reasonably related to each other. 298

~~(H)~~(N) "Lead abatement project designer" means a person who 299
is responsible for designing lead abatement projects and preparing 300
a pre-abatement plan for all designed projects. 301

~~(I)~~(O) "Lead abatement worker" means an individual who is 302
responsible in a nonsupervisory capacity for the performance of 303
lead abatement. 304

~~(J)~~(P) "Lead-based paint" means any paint or other similar 305
surface-coating substance containing lead at or in excess of the 306
level that is hazardous to human health as established by rule of 307
the public health council in accordance with section ~~3742.03~~ 308
3742.49 of the Revised Code. 309

~~(K)~~(Q) "Lead-contaminated dust" means dust ~~in or on~~ 310
~~structures~~ that ~~contain~~ contains an area or mass concentration of 311
lead at or in excess of the level that is hazardous to human 312
health as established by rule of the public health council under 313
section ~~3742.03~~ 3742.49 of the Revised Code. 314

~~(L)~~(R) "Lead-contaminated soil" means soil that contains lead 315
at or in excess of the level that is hazardous to human health as 316
established by rule of the public health council under section 317
~~3742.03~~ 3742.49 of the Revised Code. 318

~~(M)~~(S) "Lead hazard" means material that ~~may~~ is likely to 319
cause lead exposure and ~~may~~ endanger an individual's health as 320
determined by the public health council in rules adopted under 321
section ~~3742.03~~ 3742.49 of the Revised Code. "Lead hazard" 322
includes lead-based paint, lead-contaminated dust, 323

lead-contaminated soil, and lead-contaminated water pipes. 324

~~(N)(T)~~ "Lead inspection" means a surface-by-surface 325
investigation to determine the presence of ~~lead-based paint~~ and 326
~~the provision of a report explaining the results~~ lead hazards. The 327
inspection shall use a sampling or testing technique approved by 328
the public health council in rules adopted by the council under 329
section 3742.03 of the Revised Code. A licensed lead inspector or 330
laboratory approved under section 3742.09 of the Revised Code 331
shall certify in writing the precise results of the inspection. 332

~~(O)(U)~~ "Lead inspector" means any individual who conducts a 333
lead inspection, provides professional advice regarding a lead 334
inspection, or prepares a report explaining the results of a lead 335
inspection. 336

~~(P)(V)~~ "Lead poisoning" means the level of lead in human 337
blood that is hazardous to human health, as specified in rules 338
adopted under section ~~3742.03~~ 3742.49 of the Revised Code. 339

~~(Q)(W)~~ "Lead risk assessment" means an on-site investigation 340
to determine and report the existence, nature, severity, and 341
location of ~~lead-based paint~~ lead hazards in ~~structures~~ a 342
residential unit, child day-care facility, or school, including 343
information gathering from the unit, facility, or school's current 344
owner's knowledge regarding the age and painting history of the 345
~~structure~~ unit, facility, or school and occupancy by children 346
under ~~age~~ six years of age, visual inspection, limited wipe 347
sampling or other environmental sampling techniques, and other 348
activity as may be appropriate, ~~and provision of a report~~ 349
~~explaining the results of the investigation.~~ 350

~~(R)(X)~~ "Lead risk assessor" means a person who is responsible 351
for developing a written inspection, risk assessment, and analysis 352
plan; conducting inspections for ~~lead-based paint~~ lead hazards in 353
a ~~structure~~ residential unit, child day-care facility, or school; 354
~~taking post-abatement soil and dust clearance samples and~~ 355

~~evaluating the results;~~ interpreting results of inspections and 356
risk assessments; identifying hazard control strategies to reduce 357
or eliminate lead exposures; and completing a risk assessment 358
report. 359

~~(S)(Y) "Lead-safe renovation" means a general improvement of 360
all or part of an existing residential unit, child day-care 361
facility, or school in which the permanent elimination of a lead 362
hazard is incidental rather than the single purpose of the 363
improvement. Lead-safe renovation includes the removal or 364
modification of surfaces or components painted with lead-based 365
paint, the removal of large structures, and window replacement. 366~~

~~(Z) "Lead-safe renovator" means a person who performs or 367
supervises a lead-safe renovation in a residential unit, child 368
day-care facility, or school. 369~~

~~(AA) "Manager" means a person, who may be the same person as 370
the owner, responsible for the daily operation of a ~~structure~~ 371
residential unit, child day-care facility, or school. 372~~

~~(T)(BB) "Permanent" means an expected design life of at least 373
twenty years. 374~~

~~(CC) "Replacement" means a lead abatement activity that 375
entails removing components such as windows, doors, and trim that 376
have ~~lead-based paint~~ lead hazards on their surfaces and 377
installing ~~new or de-lead~~ components free of ~~lead-based paint~~ 378
lead hazards. 379~~

~~(U) "Structure" means any house, apartment, or building, used 380
as an individual's private residence or commonly used as a place 381
of education or child day-care center for children under six years 382
of age, including all of the following: 383~~

~~(1) The interior and exterior surfaces and all common areas 384
of the structure; 385~~

~~(2) Every attached or unattached structure located within the 386~~

same lot line, including garages, play equipment, and fences; 387

~~(3) The lot or land occupied by the structure (DD)~~ 388

"Residential unit" means a dwelling or any part of a building 389
being used as an individual's private residence. 390

(EE) "School" means a public or non-public school in which 391
children less than six years of age receive education. 392

Sec. 3742.02. (A) No person shall do any of the following: 393

(1) Violate any provision of this chapter or the rules 394
adopted pursuant to it; 395

(2) Apply or cause to be applied any lead-based paint on or 396
inside ~~any structure~~ a residential unit, child day-care facility, 397
or school, unless the public health council has determined by rule 398
under section ~~3742.03~~ 3742.49 of the Revised Code that no suitable 399
substitute exists; 400

(3) Interfere with an ~~inspection~~ investigation conducted by 401
the director of health or a board of health in accordance with 402
section ~~3742.11 or 3742.12~~ 3742.35 of the Revised Code. 403

(B) No person shall knowingly authorize or employ ~~any an~~ 404
individual to perform lead abatement on a ~~structure~~ residential 405
unit, child day-care facility, or school unless ~~that the~~ 406
individual who will perform the lead abatement holds a valid 407
license issued under section 3742.05 of the Revised Code. 408

(C) ~~Without an appropriate valid license issued under section~~ 409
~~3742.05 of the Revised Code, no~~ No person shall do any of the 410
following when a residential unit, child day-care facility, or 411
school is involved: 412

(1) Perform a lead inspection ~~or hold himself out as a lead~~ 413
~~inspector~~ without a valid lead inspector license issued under 414
section 3742.05 Of the Revised Code; 415

(2) Perform a lead risk assessment, ~~or provide professional~~ 416
advice regarding lead abatement, ~~or hold himself out as a lead~~ 417
~~risk assessor~~ without a valid lead risk assessor license issued 418
under section 3742.05 Of the Revised Code; 419

(3) Act as a lead abatement contractor ~~or hold himself out as~~ 420
~~a lead abatement contractor~~ without a valid lead abatement 421
contractor's license issued under section 3742.05 of the Revised 422
Code; 423

(4) Act as a lead abatement project designer ~~or hold himself~~ 424
~~out as a lead abatement project designer~~ without a valid lead 425
abatement project designer license issued under section 3742.05 of 426
the Revised Code; 427

(5) Perform ~~or hold himself out as providing~~ lead abatement 428
without a valid lead abatement worker license issued under section 429
3742.05 of the Revised Code; 430

(6) Effective one year after the effective date of this 431
amendment, perform a clearance examination without a valid 432
clearance technician license issued under section 3742.05 of the 433
Revised Code, unless the person holds a valid lead inspector 434
license or valid lead risk assessor license issued under that 435
section; 436

(7) Effective one year after the effective date of this 437
amendment, perform or supervise a lead-safe renovation without a 438
valid lead-safe renovator license issued under section 3742.05 of 439
the Revised Code; 440

(8) Perform lead training for the purposes of this chapter 441
without a valid approval from the director of health under section 442
3742.08 of the Revised Code. 443

~~(D) This section does not apply to any individual performing~~ 444
~~lead abatement on a structure, or on the portion of the structure,~~ 445
~~that is used as his private residence.~~ 446

Sec. 3742.03. The public health council shall adopt rules in 447
accordance with Chapter 119. of the Revised Code for the 448
administration and enforcement of ~~this chapter~~ sections 3742.01 to 449
3742.19 and 3742.99 of the Revised Code. The rules shall specify 450
all of the following: 451

(A) Procedures to be followed by ~~any individual~~ a lead 452
abatement contractor, lead abatement project designer, lead 453
abatement worker, lead inspector, or lead risk assessor licensed 454
under section 3742.05 of the Revised Code for undertaking lead 455
abatement activities; a lead-safe renovator in performing or 456
supervising a lead-safe renovation; or clearance technician, lead 457
inspector, or lead risk assessor in performing a clearance 458
examination; 459

(B)(1) Requirements for training and licensure, in addition 460
to those established under section 3742.08 of the Revised Code, to 461
include levels of training and periodic refresher training for 462
each class of worker, and to be used for licensure under section 463
3742.05 of the Revised Code. These requirements shall include at 464
least twenty-four classroom hours of training based on the 465
Occupational Safety and Health Act training program for lead set 466
forth in 29 C.F.R. 1926.62. In establishing the training and 467
licensure requirements, the public health council shall consider 468
the core of information that is needed by all licensed persons, 469
and establish the training requirements so that persons who would 470
seek licenses in more than one area would not have to take 471
duplicative course work. 472

(2) Persons certified by the American board of industrial 473
hygiene as a certified industrial hygienist or as an industrial 474
hygienist-in-training, and persons registered as a sanitarian or 475
sanitarian-in-training under Chapter 4736. of the Revised Code, 476
shall be exempt from any training requirements for initial 477

licensure established under this chapter, but shall be required to
take any examinations for licensure required under section 3742.05
of the Revised Code.

(C) Fees for licenses issued under section 3742.05 of the
Revised Code and for their renewal;

(D) Procedures to be followed by lead inspectors, lead
abatement contractors, environmental lead analytical laboratories,
lead risk assessors, lead abatement project designers, ~~and~~ lead
abatement workers, lead-safe renovators, and clearance technicians
to prevent public exposure to lead hazards and ensure worker
protection during lead abatement projects or lead-safe
renovations;

(E)(1) Record-keeping and reporting requirements for clinical
laboratories, environmental lead analytical laboratories, lead
inspectors, lead abatement contractors, lead risk assessors, lead
abatement project designers, ~~and~~ lead abatement workers, lead-safe
renovators, and clearance technicians for lead abatement projects,
lead-safe renovations, or clearance examinations;

(2) Record-keeping and reporting requirements regarding lead
poisoning for physicians, in addition to the requirements of
section 3701.25 of the Revised Code;

(3) Information that is required to be reported under rules
based on divisions (E)(1) and (2) of this section and that is a
medical record is not a public record under section 149.43 of the
Revised Code and shall not be released, except in aggregate
statistical form.

~~(F) Procedures for inspections conducted by the director of
health or a board of health under section 3742.12 or 3742.13 of
the Revised Code;~~

~~(G) The level of lead in lead-based paint, lead-contaminated
dust, and lead-contaminated soil that is hazardous to human~~

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health; 509

~~(H) The level of lead in human blood that is hazardous to human health according to information obtained from the centers for disease control and prevention in the public health service of the United States department of health and human services;~~ 510
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~~(I) Environmental sampling techniques for use in collecting samples of air, water, dust, paint, and other materials;~~ 514
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~~(J)(G) Requirements for a respiratory protection plan prepared in accordance with section 3742.07 of the Revised Code;~~ 516
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~~(K)(H) Requirements under which a manufacturer of a lead abatement system or product encapsulants must demonstrate evidence of the safety and durability of its system or product encapsulants by providing results of testing from an independent laboratory indicating that the system or product meets encapsulants meet the standards developed for the particular system or product by the ~~E06.23 subcommittee~~ "E06.23.30 task group on encapsulants," which is the task group of the lead-paint abatement subcommittee of the performance of buildings committee of the American society for testing and materials;~~ 518
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~~(L) Procedures to be followed by the public health council in revising its rules to ensure that lead-hazard activities meeting the provisions of this chapter continue to be eligible for federal funding and meet the requirements promulgated by regulation by the United States environmental protection agency, the United States department of housing and urban development, and other federal agencies that may have jurisdiction over lead hazards;~~ 528
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~~(M)(I) Any other requirements the council considers appropriate for the administration or enforcement of this chapter sections 3742.01 to 3742.19 and 3742.99 of the Revised Code.~~ 536
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Sec. 3742.04. (A) The director of health shall do all of the 539
following: 540

(1) Administer and enforce the requirements of ~~this chapter~~ 541
sections 3742.01 to 3742.19 and 3742.99 of the Revised Code and 542
the rules adopted pursuant to ~~it~~ those sections; 543

~~(2)(a) Conduct research and disseminate information on the~~ 544
~~number, extent, and general geographic location of~~ 545
~~lead-contaminated structures, which may include a statewide survey~~ 546
~~and may include the establishment of a unit for the collection and~~ 547
~~analysis of data on lead-hazard detection and lead-hazard~~ 548
~~reduction activities, including the licensing, certification,~~ 549
~~accreditation, approval, and enforcement activities under this~~ 550
~~chapter;~~ 551

~~(b) Update information and data collected or disseminated~~ 552
~~under division (A)(2)(a) of this section to include the results of~~ 553
~~an inspection or assessment conducted pursuant to section 3742.14~~ 554
~~of the Revised Code, when a report based on that inspection is~~ 555
~~provided to the director pursuant to rules adopted by the public~~ 556
~~health council under section 3742.03 of the Revised Code.~~ 557

~~(3)~~ Examine records and reports submitted by lead inspectors, 558
lead abatement contractors, lead risk assessors, lead abatement 559
project designers, ~~and lead abatement workers,~~ lead-safe 560
renovators, and clearance technicians in accordance with section 561
3742.05 of the Revised Code to determine whether the requirements 562
of this chapter are being met; 563

~~(4)~~(3) Examine records and reports submitted by physicians, 564
clinical laboratories, and environmental lead analytical 565
laboratories under section 3701.25 or 3742.09 of the Revised Code; 566

~~(5)~~(4) Issue approval to manufacturers of ~~lead abatement~~ 567
~~systems or products~~ encapsulants that have done all of the 568

following:	569
(a) Submitted an application for approval to the director on a form prescribed by the director;	570 571
(b) Paid the application fee established by the director;	572
(c) Submitted results from an independent laboratory indicating that the manufacturer's system or product satisfies <u>encapsulants satisfy</u> the requirements established in rules adopted under division (K) (H) of section 3742.03 of the Revised Code;	573 574 575 576
(d) Complied with rules adopted by the public health council regarding durability and safety to workers and residents.	577 578
(6) (5) Establish liaisons and cooperate with the directors or agencies in states having lead abatement, licensing, accreditation, certification, and approval programs to promote consistency between the requirements of this chapter and those of other states in order to facilitate reciprocity of the programs among states;	579 580 581 582 583 584
(6) <u>Establish a program to monitor and audit the quality of work of lead inspectors, lead risk assessors, lead abatement project designers, lead abatement contractors, lead abatement workers, lead-safe renovators, and clearance technicians. The director may refer improper work discovered through the program to the attorney general for appropriate action.</u>	585 586 587 588 589 590
(B) In addition to any other authority granted by this chapter, the director of health may do any of the following:	591 592
(1) Employ persons who have received training from a program the director has determined provides the necessary background. The appropriate training may be obtained in a state that has an ongoing lead abatement program under which it conducts educational programs.	593 594 595 596 597
(2) Conduct or cooperate with other state agencies to conduct	598

~~programs of public education on the nature and consequences of~~ 599
~~lead hazards and on the need for lead-hazard reduction activities~~ 600
~~to be conducted under careful supervision by licensed and~~ 601
~~accredited personnel;~~ 602

~~(3)~~ Cooperate with the United States environmental protection 603
agency in any joint oversight procedures the agency may propose 604
for laboratories that offer lead analysis services and are 605
accredited under the agency's laboratory accreditation program; 606

~~(4)~~(3) Advise, consult, cooperate with, or enter into 607
contracts or cooperative agreements with any person, government 608
entity, interstate agency, or the federal government as the 609
director considers necessary to fulfill the requirements of this 610
chapter and the rules adopted under it. 611

Sec. 3742.05. (A)(1) The director of health shall issue lead 612
inspector, lead abatement contractor, lead risk assessor, lead 613
abatement project designer, ~~and lead abatement worker,~~ lead-safe 614
renovator, and clearance technician licenses. The director shall 615
issue a license to an applicant who meets all of the following 616
requirements: 617

(a) Submits an application to the director on a form 618
prescribed by the director; 619

(b) Meets the licensing and training requirements established 620
by the public health council under section 3742.03 of the Revised 621
Code; 622

(c) Successfully completes the licensing examination for the 623
applicant's area of expertise administered under section 3742.08 624
of the Revised Code and any training required by the director 625
under that section; 626

(d) Pays the license fee established by the public health 627
council under section 3742.03 of the Revised Code; 628

(e) Provides the applicant's social security number and any 629
information the director may require to demonstrate the 630
applicant's compliance with this chapter and the rules adopted 631
under it. 632

(2) An individual may hold more than one license issued under 633
this division, but a separate application is required for each 634
license. 635

(B) A license issued under this section expires two years 636
after the date of issuance. The director shall renew a license in 637
accordance with the standard renewal procedure set forth in 638
Chapter 4745. of the Revised Code, if the licensee does all of the 639
following: 640

(1) Continues to meet the requirements of division (A) of 641
this section; 642

(2) Demonstrates compliance with procedures to prevent public 643
exposure to lead hazards and for worker protection during lead 644
abatement projects, lead-safe renovations, or clearance 645
examinations established by rule adopted by the public health 646
council under section 3742.03 of the Revised Code; 647

(3) Meets the record-keeping and reporting requirements for 648
lead abatement projects, lead-safe renovations, or clearance 649
examinations established by rule adopted by the public health 650
council under section 3742.03 of the Revised Code; 651

(4) Pays the license renewal fee established by rule adopted 652
by the public health council under section 3742.03 of the Revised 653
Code. 654

(C) An individual licensed, certified, or otherwise approved 655
under the law of another state to perform functions substantially 656
similar to those of a lead inspector, lead abatement contractor, 657
lead risk assessor, lead abatement project designer, ~~or~~ lead 658
abatement worker, lead-safe renovator, or clearance technician may 659

apply to the director of health for licensure in accordance with 660
the procedures set forth in division (A) of this section. The 661
director shall license an individual under this division on a 662
determination that the standards for licensure, certification, or 663
approval in that state are at least substantially equivalent to 664
those established by this chapter and the rules adopted under it. 665
The director may require an examination for licensure under this 666
division. 667

Sec. 3742.06. ~~(A)~~ All of the following apply to a residential 668
unit, child day-care facility, or school: 669

(A) No lead abatement contractor shall provide lead testing 670
services or professional advice regarding lead abatement, and no 671
lead-safe renovator shall provide lead testing services or 672
professional advice regarding lead-safe renovation, unless that 673
service or advice is provided by a lead inspector or lead risk 674
assessor who is licensed under section 3742.05 of the Revised Code 675
and is employed by the lead abatement contractor or lead-safe 676
renovator. 677

(B) No person shall provide advice on the need for lead 678
abatement ~~in a structure~~ or lead-safe renovation and then 679
participate in ~~the a~~ a lead abatement project on that structure or 680
lead-safe renovation resulting from that advice unless either of 681
the following applies: 682

(1) The person is employed as a member of the staff of the 683
owner or manager of the structure property on which the lead 684
abatement or lead-safe renovation is to be performed; 685

(2) A written contract for lead abatement or lead-safe 686
renovation is entered into that states both of the following: 687

(a) The person was involved in the lead testing ~~of the 688
structure,~~ or in the provision of professional advice, that led to 689
the lead abatement or lead-safe renovation contract; 690

(b) The party contracting for lead abatement or lead-safe renovation services should obtain a second opinion to verify any lead test results and assure that the proposed lead abatement or lead-safe renovation project design is appropriate.

(C) No lead inspector, lead abatement contractor, lead risk assessor, ~~or~~ lead abatement project designer, lead-safe renovator, or clearance technician shall use the services of an environmental lead analytical laboratory that has not been approved by the director of health under section 3742.09 of the Revised Code.

(D) No lead abatement worker shall perform lead abatement without the on-site supervision of a licensed lead abatement contractor.

(E) No person shall perform or supervise a lead-safe renovation in lieu of a lead abatement on a property at which a lead-poisoned child under six years of age has been identified.

Sec. 3742.07. (A) Prior to engaging in any lead abatement project on a residential unit, child day-care facility, or school, the lead abatement contractor primarily responsible for the project shall do all of the following:

~~(A)~~(1) Prepare a written respiratory protection plan that meets requirements established by rule adopted under section 3742.03 of the Revised Code and make the plan available to the department of health and all lead abatement workers at the project site;

~~(B)~~(2) Ensure that each lead abatement worker who is or will be involved in a lead abatement project has been examined by a licensed physician within the preceding calendar year and has been declared by ~~him~~ the physician to be physically capable of working while wearing a respirator;

~~(C)~~(3) Ensure that each employee or agent who will come in

contact with lead hazards or will be responsible for a lead 721
abatement project receives a license and appropriate training as 722
required by this chapter before engaging in a lead abatement 723
project; 724

~~(D)~~(4) At least ten days prior to the commencement of a 725
project, notify the department of health, on a form prescribed by 726
the director of health, of the date a lead abatement project will 727
commence. 728

(B) During each lead abatement project or lead-safe 729
renovation, the lead abatement contractor or lead-safe renovator 730
primarily responsible for the project or renovation shall ensure 731
that all persons involved in the project or renovation follow the 732
worker protection standards established under 29 C.F.R. 1926.62 by 733
the United States occupational safety and health administration. 734

Sec. 3742.071. A lead risk assessor licensed under section 735
3742.05 of the Revised Code or an environmental lead analytical 736
laboratory or clinical laboratory approved under section 3742.09 737
of the Revised Code shall certify in writing the precise results 738
of a lead risk assessment and options for reducing identified lead 739
hazards. 740

Sec. 3742.08. (A)(1) The director of health shall conduct, 741
specify requirements by rule, or approve training programs for 742
licensure of lead inspectors, lead abatement contractors, lead 743
risk assessors, lead abatement project designers, and lead 744
abatement workers, lead-safe renovators, and clearance 745
technicians. In accordance with Chapter 119. of the Revised Code, 746
the director shall adopt rules establishing all of the following: 747

(a) A system for accreditation of training programs and the 748
requirements for accreditation, including curriculum requirements, 749
hour requirements, hands-on training requirements, trainee 750

competency and proficiency requirements, and requirements for
quality control; 751
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(b) Fees for application for approval of a training program 753
and for participating in any program conducted by the director; 754

(c) Any other requirements pertinent to the operation of a 755
training program. 756

(2) Each applicant for approval of a training program shall 757
submit a completed application to the director on a form the 758
director shall prescribe and provide. The director shall issue 759
evidence of approval to each applicant who meets the requirements 760
of division (A)(1) of this section and the criteria for approval 761
established by rule adopted under this section and pays the fee. 762

(B) The director shall administer examinations for licensure 763
under this chapter by conducting examinations, contracting 764
pursuant to section 3701.044 of the Revised Code for another 765
entity to conduct the examinations, or approving examinations. In 766
accordance with Chapter 119. of the Revised Code, the director 767
shall adopt rules specifying requirements for the administration 768
of licensing examinations. The rules shall include requirements 769
regarding the qualifications of examination administrators, fees 770
to cover the cost of conducting the examinations, and any other 771
requirements pertinent to the examinations. 772

If the director implements a system of approving 773
examinations, the rules shall include procedures and criteria for 774
approval and fees for the approval. Each applicant for approval 775
shall submit a completed application to the director on a form the 776
director shall prescribe and provide. The director shall issue 777
evidence of approval to each applicant who meets the criteria for 778
approval established in rules adopted under this division. 779

Sec. 3742.10. (A) The director of health shall maintain a 780

list of both of the following: 781

(1) Lead inspectors, lead abatement contractors, lead risk assessors, lead abatement project designers, ~~and~~ lead abatement workers, lead-safe renovators, and clearance technicians licensed under this chapter; 782
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(2) Training programs approved under section 3742.08 of the Revised Code. 786
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(B) Information contained in any list maintained under this section is a public record for the purposes of section 149.43 of the Revised Code and is subject to inspection and copying under section 1347.08 of the Revised Code. 788
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Sec. 3742.14. Any property owner or manager ~~may~~, at any time, ~~may~~ employ a lead inspector ~~or lead risk assessor~~ to conduct ~~an a~~ lead inspection or an; a lead risk assessor to conduct a lead risk assessment; or a clearance technician, lead inspector, or lead risk assessor to conduct a clearance examination of a structure the property, and may provide a copy of the report based on that inspection ~~or, assessment, or examination~~ to the director of health ~~pursuant to rules adopted by the public health council under section 3742.03 of the Revised Code.~~ The director shall include the information in the record of the property ~~pursuant to division (A)(2)(b) of section 3742.04 of the Revised Code.~~ 792
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Sec. 3742.15. Any person may file a complaint with the director of health concerning a lead inspector, a lead abatement contractor, a lead risk assessor, a lead abatement project designer, a lead abatement worker, a lead-safe renovator, a clearance technician, a clinical laboratory, an environmental lead analytical laboratory, or a training course. The complainant's name shall be confidential and shall not be released without ~~his~~ the complainant's written consent. The director may investigate 803
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the complaint and take action under this chapter as ~~he~~ the
director considers appropriate. 811
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Sec. 3742.16. In accordance with Chapter 119. of the Revised 813
Code, the director of health may refuse to issue or renew, or may 814
suspend or revoke, a license, an accreditation or certification, 815
or an approval of any person, program, or laboratory for one or 816
more of the following reasons: 817

(A) Violation of any provision of this chapter or the rules 818
adopted under it; 819

(B) Failure to pay the fee for the issuance or renewal of a 820
license, an accreditation or certification, or an approval; 821

(C) Any material misrepresentation in an application for a 822
license, an accreditation or certification, or an approval; 823

(D) Interference with an ~~inspection~~ investigation made 824
pursuant to section ~~3742.12 or 3742.13~~ 3742.35 of the Revised 825
Code; 826

(E) Failure to meet the licensing requirements established by 827
rule adopted under section 3742.03 of the Revised Code; 828

(F) Employment or use of lead abatement personnel that are 829
not licensed under this chapter. 830

Sec. 3742.161. The director of health may issue an immediate 831
cease work order to a person holding a license issued under 832
section 3742.05 of the Revised Code if the director determines 833
that the license holder is violating the terms or conditions of 834
the license in a manner that endangers or materially impairs the 835
health or well-being of an occupant of a residential unit, child 836
day-care facility, or school or a person employed to perform a 837
lead abatement or lead-safe renovation. 838

Sec. 3742.17. (A) Where any person is licensed by the 839
department of health to engage in lead abatement, lead inspection, 840
lead risk assessment, lead-safe renovation, clearance examination, 841
or any other activity under this chapter, the liability of that 842
person, when performing the activity in accordance with procedures 843
established pursuant to state or federal law, for an injury to any 844
individual or property caused or related to the activity shall be 845
limited to acts or omissions of the person during the course of 846
performing the activity that can be shown, based on a 847
preponderance of the evidence, to have been negligent. For the 848
purposes of this section, the demonstration that acts or omissions 849
of a person performing lead abatement, lead inspection, lead risk 850
assessment, lead-safe renovation, clearance examination, or other 851
activities under this chapter were in accordance with generally 852
accepted practice and with procedures established by state or 853
federal law at the time the abatement, inspection, assessment, 854
renovation, examination, or other activity was performed creates a 855
rebuttable presumption that the acts or omissions were not 856
negligent. 857

(B) Where any person contracts with a person licensed as a 858
lead inspector, lead abatement contractor, lead risk assessor, 859
lead abatement project designer, ~~or~~ lead abatement worker, 860
lead-safe renovator, or clearance technician the liability of that 861
person for lead-related injuries caused by ~~his~~ the person's 862
contractee in the performance of lead abatement, lead inspection, 863
lead risk assessment, lead-safe renovation, clearance examination, 864
or other activities under this chapter shall be limited to those 865
lead-related injuries arising from acts or omissions that the 866
person knew, or could reasonably have been expected to know, were 867
not in accordance with generally accepted practices or with 868
procedures established by state or federal law at the time the 869
activity took place. 870

(C) Notwithstanding any other provisions of the Revised Code 871
or rules of a court to the contrary, this section governs all 872
claims for lead-related injuries to individuals or property 873
arising from lead abatement, lead inspection, lead risk 874
assessment, lead-safe renovation, clearance examination, or other 875
activities under this chapter. 876

Sec. 3742.18. ~~(A)~~ At the request of the director of health, 877
the attorney general may commence a civil action for civil 878
penalties and injunctive and other equitable relief against any 879
person who violates ~~this chapter~~ section 3742.02, 3742.06, or 880
3742.07 Of the Revised Code. The action shall be commenced in the 881
court of common pleas of the county in which the violation 882
occurred or is about to occur. Any person affected by a lead 883
hazard created in a residential unit, child day-care facility, or 884
school as a result of the violation may intervene in the action as 885
a matter of right. 886

~~(B)~~ The court shall grant injunctive and other equitable 887
relief on a showing that ~~a~~ the person has violated or is about to 888
violate ~~this chapter~~ section 3742.02, 3742.06, or 3742.07 of the 889
Revised Code. On 890

~~(C)~~ ~~On~~ a finding of a violation, the court shall assess a 891
civil penalty of not more than one thousand dollars. Each day a 892
violation continues is a separate violation. With the exception of 893
the civil penalties that the court awards to a person who 894
intervenes in the action, all civil penalties collected by the 895
court under this section shall be deposited into the state 896
treasury to the credit of the lead abatement personnel licensing 897
fund created under section 3742.19 of the Revised Code. 898

Sec. 3742.19. Except for any licensing examination fee 899
collected and retained by an entity under contract pursuant to 900

division (B) of section 3742.08 of the Revised Code, all fees 901
collected under ~~this chapter and sections 3742.01 to 3742.18 of~~ 902
the Revised Code; any grant, contribution, or other moneys 903
received for the purposes of ~~this chapter those sections~~; and 904
fines collected under section 3742.99 of the Revised Code shall be 905
deposited into the state treasury to the credit of the lead 906
~~program abatement personnel licensing~~ fund, which is hereby 907
created. The moneys in the fund shall be used solely for the 908
administration and enforcement of ~~this chapter sections 3742.01 to~~ 909
3742.18 of the Revised Code and the rules adopted under ~~it those~~ 910
sections. 911

Sec. ~~3742.11~~ 3742.31. (A) ~~The director of health shall~~ 912
~~establish, promote, and maintain a child~~ There is hereby created 913
within the department of health the childhood lead poisoning 914
prevention program. ~~In accordance with rules adopted by the public~~ 915
~~health council under section 3742.03 of the Revised Code, the~~ The 916
program shall ~~provide statewide coordination of~~ do all of the 917
following as part of statewide-coordinated efforts to identify and 918
prevent lead poisoning in children, especially children under six 919
years of age: 920

(1) Oversee blood lead screenings; 921

(2) Distribute money in the lead poisoning prevention fund 922
created under section 3742.52 of the Revised Code; 923

(3) Operate a comprehensive educational and community 924
outreach program that is directed at parents, property owners, 925
tenants, contractors, health care professionals, and child 926
day-care providers and focused on areas the program determines to 927
have a high risk for childhood lead poisoning; 928

(4) Provide information regarding lead hazards, methods of 929
reducing risks of childhood lead poisoning by controlling lead 930
hazards, and procedures to obtain screening, diagnosis, and 931

treatment services for children under age six. The director shall 932
collect years of age; 933

(5) Develop a case management system to coordinate services 934
available for children with lead poisoning and the children's 935
families. The social security number of a child screened, 936
diagnosed, or treated shall be collected as part of the case 937
management system. 938

(6) Collect and disseminate information relating to child 939
childhood lead poisoning and controlling lead abatement hazards; 940

(7) In accordance with a methodology the director of health 941
selects, conduct research pertaining to childhood lead poisoning 942
that does all of the following: 943

(a) Identifies the extent to which lead hazards are present 944
in this state and the areas within the state where the risk of 945
childhood lead poisoning is the greatest; 946

(b) Determines the most effective methods of identifying 947
children with lead poisoning and preventing lead poisoning among 948
the children at greatest risk; 949

(c) Evaluates the state's capacity to deliver services to 950
children with lead poisoning and the children's families; 951

(d) Sets priorities in efforts to prevent childhood lead 952
poisoning so that the resources available for education, 953
screening, case management, investigations, and lead hazard 954
control may be concentrated in areas with the greatest need and on 955
activities that may have the greatest impact; 956

(e) Examines any other issue the director and advisory 957
council appointed under section 3742.32 of the Revised Code 958
consider relevant. 959

(B) On or before the first day of March of each year, the 960
director of health shall submit a report of the activities of the 961

~~child lead poisoning prevention program to the governor and to the~~ 962
~~members of the general assembly~~ 963
~~The director of health shall~~ 964
~~operate the childhood lead poisoning prevention program in~~ 964
~~accordance with rules adopted under section 3742.49 of the Revised~~ 965
~~Code. The director may enter into an interagency agreement with~~ 966
~~one or more other state agencies to perform one or more of the~~ 967
~~program's duties. The director shall supervise and direct an~~ 968
~~agency's performance of such a duty.~~ 969

Sec. 3742.32. The director of health shall appoint an 970
advisory council to assist in the development and implementation 971
of the childhood lead poisoning prevention program created under 972
section 3742.31 of the Revised Code. The advisory council's 973
membership shall include individuals with expertise or personal 974
interest in preventing childhood lead poisoning. The director may 975
reimburse the advisory council's members for actual and necessary 976
expenses incurred in attending the advisory council's meetings. 977

The advisory council shall do both of the following: 978

(A) Provide the director with advice regarding the policies 979
the childhood lead poisoning prevention program should emphasize, 980
preferred methods of financing the program, and any other matter 981
relevant to the program's operation; 982

(B) Submit a report of the program's activities to the 983
governor, president of the senate, and speaker of the house of 984
representatives on or before the first day of each March. 985

Sec. 3742.13 ~~**3742.34.**~~ ~~(A) As used in this section, "board of~~ 986
~~health" means the board of health of a city or general health~~ 987
~~district, or the authority having the duties of a board of health~~ 988
~~in any city as authorized by section 3709.05 of the Revised Code.~~ 989

~~(B) If the director of health determines that a board of~~ 990
~~health can satisfactorily enforce section 3742.12~~ sections 3742.35 991

~~to 3742.40 of the Revised Code, he the director may delegate his~~ 992
~~the authority to enforce that section those sections to the board.~~ 993
The director may revoke ~~his~~ the delegation of authority at any 994
time by written notice delivered to the board of health by 995
certified mail. 996

Sec. 3742.12 3742.35. ~~(A) The~~ When the director of health or 997
~~his authorized representative may at any reasonable time request~~ 998
~~that an occupant, or, if the structure is not occupied, the owner~~ 999
~~or manager, permit him to enter a structure where the director~~ 1000
~~suspects lead poisoning has occurred due to the report of an~~ 1001
~~elevated blood lead level of a child, and perform a lead~~ 1002
~~inspection in accordance with procedures established by rule~~ 1003
~~adopted under section 3742.03 of the Revised Code.~~ 1004

~~(B) If any~~ a board of health authorized to enforce sections 1005
3742.35 to 3742.40 of the Revised Code becomes aware that an 1006
individual under six years of age has lead poisoning, the director 1007
or board shall conduct an investigation to determine the source of 1008
the lead poisoning. The director or board may conduct such an 1009
investigation when the director or board becomes aware that an 1010
individual six years of age or older has lead poisoning. The 1011
director or board shall conduct the investigation in accordance 1012
with rules adopted under section 3742.49 of the Revised Code. 1013

In conducting the investigation, the director or board may 1014
request permission to enter the residential unit, child day-care 1015
facility, or school that the director or board reasonably suspects 1016
to be the source of the lead poisoning. If the property is 1017
occupied, the director or board shall ask the occupant for 1018
permission. If the property is not occupied, the director or board 1019
shall ask the property owner or manager for permission. If the 1020
occupant, owner, or manager of a structure fails or refuses to 1021
permit entry to the structure, the director or his authorized 1022
representative board may petition and obtain an order to inspect 1023

the ~~structure property~~ from the ~~common pleas~~ a court of competent 1024
jurisdiction in the county in which the ~~structure property~~ is 1025
located. 1026

~~(C) As part of an inspection under this section the~~ 1027
investigation, the director or ~~his authorized representative board~~ 1028
may review the records and reports, if any, maintained ~~under~~ 1029
~~section 3742.03 of the Revised Code~~ by a lead inspector, lead 1030
abatement contractor, lead risk assessor, lead abatement project 1031
designer, ~~or lead abatement worker, lead-safe renovator, or~~ 1032
clearance technician. 1033

Sec. 3742.36. When the director of health or an authorized 1034
board of health determines pursuant to an investigation conducted 1035
under section 3742.35 of the Revised Code that a residential unit, 1036
child day-care facility, or school is a possible source of a 1037
child's lead poisoning, the director or board shall conduct a risk 1038
assessment of that property in accordance with rules adopted under 1039
section 3742.49 of the Revised Code. 1040

Sec. 3742.37. (A) If the results of a risk assessment 1041
conducted under section 3742.36 of the Revised Code indicate that 1042
one or more lead hazards identified in a residential unit, child 1043
day-care facility, or school are contributing to a child's lead 1044
poisoning, the director of health or authorized board of health 1045
immediately shall issue an order to have each lead hazard in the 1046
property controlled. The areas of the unit, facility, or school 1047
that may be subject to the lead hazard control order include the 1048
following: 1049

(1) The interior and exterior surfaces and all common areas 1050
of the unit, facility, or school; 1051

(2) Every attached or unattached structure located within the 1052
same lot line as the unit, facility, or school, including garages, 1053

play equipment, and fences; 1054

(3) The lot or land that the unit, facility, or school occupies. 1055
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(B) A lead hazard control order issued under this section shall be in writing and in the form the director shall prescribe. The director or board shall specify in the order each lead hazard to be controlled and the date by which the unit, facility, or school must pass a clearance examination demonstrating that each lead hazard has been sufficiently controlled. When specifying the date by which the unit, facility, or school must pass the clearance examination, the director or board shall take into consideration whether the child whose lead poisoning initiated the investigation of the unit, facility, or school is the victim of an environmental hazard or immediate medical emergency as determined in accordance with rules adopted under section 3742.49 of the Revised Code. The director or board may include in the order a requirement that occupants of the unit, facility, or school whose health may be threatened vacate the unit, facility, or school until the unit, facility, or school passes the clearance examination. 1057
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The director or board shall have the order delivered to the owner and manager of the unit, facility, or school. If the order applies to a building with more than one residential unit, the director or board shall have a copy of the order delivered to each unit or require that the owner or manager of the building deliver a copy of the order to each unit. If the order applies to a child day-care facility or school, the director or board shall have a copy of the order delivered to the parent, guardian, or custodian of each child under six years of age who receives child day-care or education at the facility or school or require the owner or manager of the facility or school to have a copy of the order so delivered. 1074
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Sec. 3742.38. The owner and manager of a residential unit, child day-care facility, or school that is subject to a lead hazard control order issued under section 3742.37 of the Revised Code shall cooperate with the director of health or board of health that issued the order in controlling each lead hazard specified in the order. The owner or manager shall choose a method of controlling each lead hazard that enables the residential unit, child day-care facility, or school to pass a clearance examination. The method chosen may be the owner or manager's personal preference, a proposal made by a person under contract with the owner or manager, or a recommendation that the director or board may provide. The owner or manager shall inform the director or board of the method that the owner or manager chooses to control each lead hazard.

Sec. 3742.39. A residential unit, child day-care facility, or school remains subject to a lead hazard control order issued under section 3742.37 of the Revised Code until the unit, facility, or school passes a clearance examination. After the unit, facility, or school passes the clearance examination, the director of health or board of health that issued the order shall provide the owner and manager of the unit, facility, or school with information on methods of maintaining control of each lead hazard specified in the order. In the case of a residential unit in which an individual who is not the owner or manager resides, the director or board also shall provide the information to the individual residing in the unit.

Sec. 3742.40. If the owner and manager of a residential unit, child day-care facility, or school fails or refuses for any reason to comply with a lead hazard control order issued under section 3742.37 of the Revised Code, the director of health or board of

health that issued the order shall issue an order prohibiting the 1116
owner and manager from permitting the unit, facility, or school to 1117
be used as a residential unit, child day-care facility, or school 1118
until the unit, facility, or school passes a clearance 1119
examination. On receipt of the order, the owner or manager shall 1120
take appropriate measures to notify each occupant, in the case of 1121
a residential unit, and the parent, guardian, or custodian of each 1122
child attending the facility or school, in the case of a child 1123
day-care facility or school, to vacate the unit, facility, or 1124
school until the unit, facility, or school passes a clearance 1125
examination. The director or board shall post a sign at the unit, 1126
facility, or school that warns the public that the unit, facility, 1127
or school has a lead hazard. The sign shall include a declaration 1128
that the unit, facility, or school is unsafe for human occupation, 1129
especially for children under six years of age and pregnant women. 1130
The director or board shall ensure that the sign remains posted at 1131
the unit, facility, or school and that the unit, facility, or 1132
school is not used as a residential unit, child day-care facility, 1133
or school until the unit, facility, or school passes a clearance 1134
examination. 1135

Sec. 3742.41. (A) Except as provided in division (B) of this 1136
section, effective two years after the effective date of this 1137
section, no owner of a property constructed before January 1, 1138
1950, that is used as a residential unit, child day-care facility, 1139
or school shall fail to implement, or have the manager of the 1140
unit, facility, or school implement, all of the following 1141
essential maintenance practices for the control of lead hazards: 1142

(1) Use only safe work practices, which includes compliance 1143
with section 3742.44 of the Revised Code, to prevent the spread of 1144
lead-contaminated dust; 1145

(2) Perform visual examinations for deteriorated paint, 1146

underlying damage, and other conditions that may cause exposure to lead; 1147
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(3) Promptly and safely repair deteriorated paint or other building components that may cause exposure to lead and eliminate the cause of the deterioration; 1149
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(4) Ask tenants in a residential unit, and parents, guardians, and custodians of children in a child day-care facility or school, to report concerns about potential lead hazards by posting notices in conspicuous locations and by annually providing written notices to the tenants or parents, guardians, or custodians; 1152
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(5) Perform specialized cleaning in accordance with section 3742.45 of the Revised Code to control lead-contaminated dust; 1158
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(6) Cover any bare soil on the property, except soil proven not to be lead-contaminated; 1160
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(7) Maintain an affidavit of essential maintenance practices for at least three years that document all essential maintenance practices. The director may require that the affidavit be notarized. 1162
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(B) Division (A) of this section does not apply to any of the following: 1166
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(1) The owner of a freestanding single-family home occupied by the owner; 1168
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(2) The owner or manager of a residential unit designated for and used exclusively by senior citizens or disabled adults and only as a residence; 1170
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(3) The owner or manager of a one-room residential unit designed for single-occupancy and used exclusively by an adult and only as a residence. 1173
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(C) The areas of a residential unit, child day-care facility, 1176

or school that are subject to division (A) of this section include 1177
all of the following: 1178

(1) The interior and exterior surfaces and all common areas 1179
of the unit, facility, or school; 1180

(2) Every attached or unattached structure located within the 1181
same lot line as the unit, facility, or school that the owner or 1182
manager considers to be associated with the operation of the unit, 1183
facility, or school, including garages, play equipment, and 1184
fences; 1185

(3) The lot or land that the unit, facility, or school 1186
occupies. 1187

(D) A person who violates division (A) of this section is 1188
subject to section 3742.50 and division (A)(2) of section 3742.51 1189
of the Revised Code. 1190

Sec. 3742.42. (A) A property constructed before January 1, 1191
1950, that is used as a residential unit, child day-care facility, 1192
or school shall be legally presumed not to contain a lead hazard 1193
and not be the source of the lead poisoning of an individual who 1194
resides in the unit or receives child day-care or education at the 1195
facility or school if the owner or manager of the unit, facility, 1196
or school successfully completes both of the following preventive 1197
treatments: 1198

(1) Follows the essential maintenance practices specified in 1199
division (A) of section 3742.41 of the Revised Code; 1200

(2) Covers all horizontal surfaces within the unit, facility, 1201
or school that are rough, pitted, or porous with a smooth, 1202
cleanable covering or coating, such as metal coil stock, plastic, 1203
polyurethane, or linoleum. 1204

(B) The owner or manager of a residential unit, child 1205
day-care facility, or school has successfully completed the 1206

preventive treatments specified in division (A) of this section if 1207
the unit, facility, or school passes a clearance examination in 1208
accordance with standards for passage established by rules adopted 1209
under section 3742.49 of the Revised Code. 1210

(C) The legal presumption established under this section is 1211
rebuttable in a court of law only on a showing of clear and 1212
convincing evidence to the contrary. 1213

Sec. 3742.43. A person who implements essential maintenance 1214
practices shall do all of the following in the area of the 1215
residential unit, child day-care facility, or school in which the 1216
essential maintenance practices are being performed: 1217

(A) Allow only persons performing the essential maintenance 1218
practices access to the area; 1219

(B) Cover the area with six mil polyethylene plastic or its 1220
equivalent; 1221

(C) Protect workers; 1222

(D) Protect occupants' belongings by covering or removing 1223
them from the area; 1224

(E) Wet down all painted surfaces before disturbing the 1225
surfaces; 1226

(F) Wet down debris before sweeping or vacuuming. 1227

Sec. 3742.44. (A) The following activities shall be 1229
considered unsafe work practices due to the likelihood that 1230
engaging in the activities will create lead hazards, and in no 1231
event shall any person engage in the following activities when 1232
implementing essential maintenance practices or preventive 1233
treatments: 1234

(1) Open flame burning or torching; 1235

<u>(2) Machine sanding or grinding without a HEPA local vacuum exhaust tool;</u>	1236
	1237
<u>(3) Abrasive blasting or sandblasting without a HEPA local vacuum exhaust tool;</u>	1238
	1239
<u>(4) Use of a heat gun operating above one thousand one hundred degrees fahrenheit;</u>	1240
	1241
<u>(5) Charring paint;</u>	1242
<u>(6) Dry sanding;</u>	1243
<u>(7) Dry scraping, except when done as follows:</u>	1244
<u>(a) In conjunction with a heat gun operating at no more than one thousand one hundred degrees fahrenheit;</u>	1245
	1246
<u>(b) Within one foot of an electrical outlet;</u>	1247
<u>(c) To treat defective paint spots totaling not more than two square feet in an interior room or space or twenty square feet on an exterior surface.</u>	1248
	1249
	1250
<u>(8) Uncontained hydroblasting or high-pressure washing;</u>	1251
<u>(9) Paint stripping in a poorly ventilated space using a volatile stripper that is considered a hazardous substance under 16 C.F.R. 1500.3 or a hazardous chemical under 29 C.F.R. 1910.1200 or 29 C.F.R. 1926.59 in the type of work being performed.</u>	1252
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<u>(B) A person may engage in the following activities when performing essential maintenance practices or preventive treatments, but only if licensed under this chapter:</u>	1256
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<u>(1) Machine sanding or grinding performed with a HEPA local vacuum exhaust tool;</u>	1259
	1260
<u>(2) Abrasive blasting or sandblasting performed with a HEPA local vacuum exhaust tool;</u>	1261
	1262
<u>(3) Hydroblasting or high-pressure washing if the activity is</u>	1263

contained. 1264

Sec. 3742.45. (A) Specialized cleaning methods used as 1265
essential maintenance practices or preventive treatments to 1266
control lead-contaminated dust may include any of the following: 1267

(1) Cleaning potentially lead-contaminated surfaces with a 1268
detergent; 1269

(2) Vacuuming potentially lead-contaminated surfaces with a 1270
HEPA vacuum; 1271

(3) Covering potentially lead-contaminated soil. 1272

(B) A person who uses or provides for others to use 1273
specialized cleaning methods as an essential maintenance practice 1274
or preventive treatment shall ensure that the cleaning is 1275
performed as follows: 1276

(1) The common areas of a building with more than one 1277
residential unit must undergo specialized cleaning at least 1278
annually, including hallways, stairways, laundry rooms, 1279
recreational rooms, playgrounds, boundary fences, and other 1280
portions of the building and its surroundings that are generally 1281
accessible to all residents. 1282

(2) A residential unit that is vacated by its occupants must 1283
undergo specialized cleaning before it may be reoccupied. 1284

(3) A child day-care facility or school must undergo 1285
specialized cleaning at least annually at a time when children are 1286
not present at the facility or school. 1287

(4) A residential unit, child day-care facility, or school 1288
must undergo specialized cleaning on the completion of any 1289
maintenance or repair work that disturbs lead-contaminated dust. 1290

Sec. 3742.46. Except as provided in division (B) of section 1291

3742.44 of the Revised Code, essential maintenance practices and preventive treatments need not be performed by an individual who is licensed as a lead abatement contractor, lead abatement worker, or lead-safe renovator under this chapter. Any person, other than a licensed lead abatement contractor, lead abatement worker, or lead-safe renovator, who performs or supervises essential maintenance practices or preventive treatments must have successfully completed a not more than one-day training program approved by the director of health under section 3742.47 of the Revised Code in the identification and control of lead hazards.

Sec. 3742.47. (A) A person seeking approval of a not more than one-day training program in the identification and control of lead hazards shall apply for approval to the director of health. The application shall be made on a form prescribed by the director and shall include the fee established under division (B) of this section. The director shall issue approval to the applicant if the training program meets the requirements established by rules adopted under section 3742.49 of the Revised Code.

(B) The director of health shall establish an application fee for approving not more than one-day training programs under this section. The fee shall be reasonable and shall not exceed the expenses incurred in conducting the approval of training programs. An application fee submitted under division (A) of this section is nonrefundable.

Sec. 3742.48. The director of health, in consultation with the individual authorized by the governor to act as the state historic preservation officer, shall develop recommendations for controlling lead hazards that take into consideration the historic nature of the property in which the hazards are located. The director shall advise property owners, property managers, and

others of the recommendations by including them in the educational materials distributed through the childhood lead poisoning prevention program established under section 3742.31 of the Revised Code. The director shall provide periodic notifications of the recommendations to all persons licensed under this chapter. All lead hazard control orders issued under section 3742.37 of the Revised Code shall inform the recipient of the recommendations developed under this section.

In no event shall a person use the recommendations as justification for refusing to comply with a lead hazard control order issued under section 3742.37 of the Revised Code.

Sec. 3742.49. (A) The public health council shall adopt rules in accordance with Chapter 119. of the Revised Code establishing all of the following:

(1) Procedures necessary for the development and operation of the childhood lead poisoning prevention program established under section 3742.31 of the Revised Code;

(2) Standards and procedures for conducting investigations and risk assessments under sections 3742.35 and 3742.36 of the Revised Code;

(3) Standards and procedures for issuing lead hazard control orders under section 3742.37 of the Revised Code, including standards and procedures for determining appropriate deadlines for complying with lead hazard control orders;

(4) The method of determining whether a child whose lead poisoning initiates an investigation of a residential unit, child day-care facility, or school is the victim of an environmental hazard or immediate medical emergency;

(5) The level of lead in human blood that is hazardous to

human health, based on information obtained from the centers for 1351
disease control and prevention in the public health service of the 1352
United States department of health and human services; 1353

(6) The level of lead in paint, dust, and soil that is 1354
hazardous to human health; 1355

(7) Standards and procedures to be followed when implementing 1356
essential maintenance practices or preventive treatments for the 1357
control of lead hazards pursuant to sections 3742.41 and 3742.42 1358
of the Revised Code that are based on information from the United 1359
States environmental protection agency, department of housing and 1360
urban development, occupational safety and health administration, 1361
or other agencies with recommendations or guidelines regarding 1362
implementation of essential maintenance practices or preventive 1363
treatments; 1364

(8) Standards that must be met to pass a clearance 1365
examination; 1366

(9) Procedures for approving under section 3742.47 of the 1367
Revised Code not more than one-day training programs in the 1368
identification and control of lead hazards and requirements a 1369
program must meet to receive approval. 1370

(B) The public health council shall establish procedures for 1371
revising its rules to ensure that the childhood lead poisoning 1372
prevention activities conducted under this chapter continue to 1373
meet the requirements necessary to obtain any federal funding 1374
available for those activities, including requirements established 1375
by the United States environmental protection agency, United 1376
States department of housing and urban development, or any other 1377
federal agency with jurisdiction over activities pertaining to 1378
childhood lead poisoning prevention. 1379

Sec. 3742.50. At the request of the director of health, the 1380

attorney general may commence a civil action for civil penalties 1381
and injunctive and other equitable relief against a person who 1382
violates division (A) of section 3742.41 of the Revised Code. The 1383
action shall be commenced in a court of competent jurisdiction in 1384
the county in which the violation occurred or is about to occur. 1385
Any person affected by a lead hazard created in a residential 1386
unit, child day-care facility, or school as a result of the 1387
violation may intervene in the action as a matter of right. 1388

The court shall grant injunctive and other equitable relief 1389
on a showing that the person has violated or is about to violate 1390
division (A) of section 3742.41 of the Revised Code. On a finding 1391
of a violation, the court shall assess a civil penalty of not more 1392
than one thousand dollars. Each day a violation continues is a 1393
separate violation, unless the court determines that the person is 1394
making a good faith effort to end the violation. With the 1395
exception of the civil penalties that the court awards to a person 1396
who intervenes in the action, all civil penalties collected by the 1397
court under this section shall be deposited into the state 1398
treasury to the credit of the lead poisoning prevention fund 1399
created under section 3742.52 of the Revised Code. 1400

Sec. 3742.51. (A)(1) Any person affected by a lead hazard in 1401
a residential unit, child day-care facility, or school may 1402
petition a court of competent jurisdiction in the county where the 1403
unit, facility, or school is located for an injunction enjoining 1404
another person from allowing the lead hazard to be created or to 1405
continue to exist. The court shall grant the injunctive relief on 1406
a showing that the lead hazard exists. 1407

(2) Any person affected by a lead hazard in a residential 1408
unit, child day-care facility, or school may commence a civil 1409
action for civil penalties against a person who violates division 1410
(A) of section 3742.41 of the Revised Code. The action shall be 1411

commenced in a court of competent jurisdiction in the county where 1412
the unit, facility, or school is located. The director of health 1413
or board of health may intervene in the action as a matter of 1414
right. 1415

The court shall grant the relief sought on a showing that the 1416
person has violated division (A) of section 3742.41 of the Revised 1417
Code. On a finding of a violation, the court shall assess a civil 1418
penalty of not more than one thousand dollars. Each day a 1419
violation continues is a separate violation, unless the court 1420
determines that person is making a good faith effort to end the 1421
violation. 1422

In addition to assessing a civil penalty, the court may award 1423
to the person who commenced the action the costs of litigation, 1424
including reasonable attorney's and expert witness fees, if the 1425
court determines an award of that nature is appropriate. 1426

(B) No action may be commenced under division (A) of this 1427
section sooner than thirty days after the person intending to 1428
bring the action has given notice to the person against whom the 1429
action will be brought and to the director of health or board of 1430
health with jurisdiction in the case, except that an action may be 1431
brought immediately after notification of the person and the 1432
director or board if the action is being brought on behalf of a 1433
child identified with lead poisoning. 1434

(C) Nothing in this section abridges or alters any rights of 1435
action or civil or criminal penalties existing in equity, under 1436
the common law, or by statute. The injunctive and other relief 1437
granted under this section is in addition to any other remedies 1438
available to the person affected by the lead hazard. 1439

Sec. 3742.52. (A) There is hereby created in the state 1440
treasury the lead poisoning prevention fund. The fund shall 1441
include all moneys appropriated to the department of health for 1442

the administration and enforcement of sections 3742.31 to 3742.51 1443
of the Revised Code and the rules adopted under those sections and 1444
all civil penalties awarded to the department of health or a board 1445
of health under section 3742.50 or 3742.51 of the Revised Code. 1446
Any grants, contributions, or other moneys collected by the 1447
department for purposes of preventing lead poisoning shall be 1448
deposited in the state treasury to the credit of the fund. 1449

(B) Moneys in the fund shall be used solely for the purposes 1450
of the childhood lead poisoning prevention program established 1451
under section 3742.31 of the Revised Code, including providing 1452
financial assistance to individuals who are unable to pay for the 1453
following: 1454

(1) Costs associated with obtaining lead tests and lead 1455
poisoning treatment for children under six years of age who are 1456
not covered by private medical insurance or are underinsured, are 1457
not eligible for the medicaid program established under Chapter 1458
5111. of the Revised Code or any other government health program, 1459
and do not have access to another source of funds to cover the 1460
cost of lead tests and any indicated treatments; 1461

(2) Costs associated with having essential maintenance 1462
practices, preventive treatments, or lead abatement performed. 1463

Sec. 3742.99. (A) At the request of the director of health or 1465
a board of health, a prosecuting attorney, city director of law, 1466
village solicitor, or similar chief legal officer may commence a 1467
criminal action against any person who violates any provision of 1468
this chapter section 3742.02, 3742.06, or 3742.07 of the Revised 1469
Code, any rule adopted under it this chapter that is directly 1470
related to any of the provisions of those sections, or any order 1471
issued pursuant to this chapter that is directly related to any of 1472
the provisions of those sections. 1473

(B) Upon conviction, the person is subject to:	1474
(1) A fine of not more than one thousand dollars or imprisonment for not more than six months, or both, for a first offense;	1475 1476 1477
(2) A fine of at least one thousand but not more than five thousand dollars or imprisonment for at least six months but not more than three years, or both, for a second or subsequent offense. Each day of violation is a separate offense.	1478 1479 1480 1481
Section 2. That existing sections 3314.03, 3318.031, 3742.01, 3742.02, 3742.03, 3742.04, 3742.05, 3742.06, 3742.07, 3742.08, 3742.10, 3742.11, 3742.12, 3742.13, 3742.14, 3742.15, 3742.16, 3742.17, 3742.18, 3742.19, and 3742.99 of the Revised Code are hereby repealed.	1482 1483 1484 1485 1486
Section 3. The Superintendent of Insurance, not later than one year after the effective date of this act, shall determine the extent to which insurance policies are available in this state that provide property owners and lead abatement contractors with coverage of any liability they may have with regard to lead hazards, lead poisoning, efforts to control lead hazards, and the results of lead abatement projects. If the Superintendent determines that the market for such liability insurance has not developed, the Superintendent shall take appropriate measures to encourage the development of liability insurance policies to meet those needs.	1487 1488 1489 1490 1491 1492 1493 1494 1495 1496 1497
Section 4. Section 3742.32 of the Revised Code is repealed effective December 31, 2004.	1498 1499
Section 5. Section 3314.03 of the Revised Code is presented in this act as a composite of the section as amended by both Am.	1500 1501

Sub. H.B. 121 and Am. Sub. H.B. 282 of the 123rd General Assembly. 1502
The General Assembly, applying the principle stated in division 1503
(B) of section 1.52 of the Revised Code that amendments are to be 1504
harmonized if reasonably capable of simultaneous operation, finds 1505
that the composite is the resulting version of the section in 1506
effect prior to the effective date of the section as presented in 1507
this act. 1508