

Real Estate Advisor
**Partnership Reduces Lead-Paint Hazards
by Granting Immunity**
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Wisconsin's New Lead-Based Paint Immunity Rules

Wisconsin's new Lead-Based Paint (LBP) Immunity Law took effect March 1, 2002. This law was created to protect children from lead paint poisoning by providing incentives for landlords to make their property lead safe. The incentive is immunity. Property owners who meet the standards set by the Department of Health and Family Services (DHFS) will be immune from civil and criminal liability for any lead poisoning, which occurs while the property is certified.

The new rules establish the standards that a property owner must meet in order to have the property be certified as lead-free or lead-safe by the DHFS. Property owners are not required to obtain lead-free or lead-safe certificates - this program is voluntary (except in cases where the health department reports that a property occupant under the age of 6 has elevated blood lead levels).

Certified properties become part of a registry that must meet high maintenance standards imposed by the DHFS and are inspected regularly for LBP hazards. Owners must promptly repair any potential LBP problems, must use only certified persons to perform LBP repairs and must follow special rules when work being done in the property may disturb LBP.

A certificate of lead-free status or a lead-free certificate means that a certified lead inspector or risk assessor finds that the property was free from LBP as of the date specified on the certificate.

A certificate of lead-safe status or a lead-safe certificate means that a certified lead hazard investigator or risk assessor finds that no LBP hazards were detected affecting the property as of the date specified on the certificate.

Lead-safe certificates have time limits reflective of the condition of the property when third-party risk assessors certify the property as free of lead-based paint hazard. A certificate can be issued for a period as short as nine months or as long as 20 years, depending on the extent of the long-term LBP hazard reduction that has been achieved. A property owner can obtain short-term certificates by eliminating immediate LBP hazards and stabilizing painted surfaces. This gives the owner time to take more permanent hazard reduction measures and earn progressively longer certificate terms.

The DHFS was required to develop these rules under the LBP Immunity Law (1999 Wisconsin Act 113) enacted in 2000. The legislature, in recognition of the lack of state funding available for LBP hazard reduction efforts, established the LBP Immunity program as an incentive to property owners to invest in long-term LBP hazard reduction measures. The DHFS will post properties with certificates in an Internet-based registry that is accessible by the public.