CHAPTER 6-400. MISCELLANEOUS STANDARDS AND REQUIREMENTS

§ 6-403. Residential and Occupancy Hygiene.

1. Definition.

(a) Lead Based Coating. Any paint, lacquer or other applied liquid surface coating, and putty or caulking or other sealing compound which contains a quantity of lead in excess of that amount allowed by Federal Law or Regulation pertaining to lead based paint.

(b) Containing Lead. Having a content that includes lead or lead compound in excess of the limits set forth in the Consumer Product Safety Improvement Act of 2008, P.L. 110-314, § 101 (codified at 12 U.S.C. § 1278a(a)(2)), unless the Board of Health determines that the amount of lead in the content of a specific product or type of product does not constitute "Containing Lead" for purposes of this Section.

2. Prohibited Conduct.

(a) No person shall apply or cause to be applied any lead based coating to toys, furniture, food utensils, jewelry, household products or the interior or exterior surfaces, fixtures or appurtenances of any dwelling, rooming house, dwelling unit, rooming unit, institution or similar type facility, except at those locations permitted by Federal Law or Regulation.

(b) No person shall sell, transfer or deliver toys, furniture, food utensils, jewelry, or household products containing lead, or to which lead based coating has been applied.

(c) No person shall store, sell, or transfer for retail purposes any lead based coating, except where permitted by Federal Law or Regulations. Any lead based coating stored, sold or transferred in violation of this provision shall be disposed of in accordance with regulations adopted by the Board of Health.

(d) No person shall permit lead based coating to remain on any toy, furniture, food utensil, jewelry, household product or the exterior or interior surfaces, fixtures or appurtenances of any dwelling, rooming house, dwelling unit, rooming unit, institution or similar type facility where the surface may be readily accessible to children under the age of six years and where the Department determines that the presence of lead based coating creates a health hazard to children under the age of six.

(e) No person shall permit any toy, furniture, food utensil, jewelry, household product or exterior or interior surfaces, fixtures or appurtenances containing lead to remain in or on any dwelling, rooming house, dwelling unit, rooming unit, institution or similar type facility where the object or material may be readily accessible to children under the age of six years.

3. Labeling.

(a) Containers in which lead based coating is stored, sold or transferred for retail purposes, as permitted by Federal Law or Regulation, shall be labeled in accordance with regulations adopted by the Department.

4. Hazardous Conditions.
(a) The Department of Public Health, upon application by any owner or person in control of a premises, shall test or cause to be tested said premises to determine the presence of lead based coating. The Department shall make such additional determinations as to enable the Department to issue a certificate that the premises is or is not in compliance with this Section of The Philadelphia Code.

(.1) The fee for aforesaid examination and certificate shall be three hundred thirty (330) dollars, or such higher amount as is set forth in the contract between the City and the United States Department of Housing and Urban Development (HUD) for inspection of residential properties owned by HUD. 58

(b) Where analysis, through the use of instrumentation approved by the Department or made in a laboratory, reveals the presence of lead based coating on any toy, furniture, food utensil, household product or on any interior or exterior surface, fixture or appurtenance in violation of § 6-403(2)(d), the Department shall issue an order to the owner, his agent or occupant to eliminate the health hazard in accordance with methods prescribed by regulations issued by the Department.

(.1) Abatement of Violations.

(a) If the person upon whom the order is served does not comply with the order of the Department to correct the condition creating the health hazard within the prescribed time period the Department may, itself or by contract, correct the condition by eliminating the hazard, charge the costs thereof to the owner, and, with the approval of the Law Department, collect the costs by lien or otherwise.

(5) Tenant Protection Against Retaliation.

(a) When the Department issues an order to the owner or to a representative of the owner of a residential housing unit to eliminate lead-based paint hazards, the owner or a representative of the owner is prohibited thereafter from:

(.1) Evicting or attempting to evict the tenant from the residential housing unit through judicial process, self-help or any other means;

(.2) Coercing or attempting to coerce the tenant into abandoning the residential housing unit;

(.3) Otherwise changing or attempting to change the lease terms;

(.4) Re-renting the residential housing unit to a subsequent tenant or tenants, until such time as the lead-based paint hazard has been eliminated, as set forth in subsection 6-403(d);

(.5) Collecting or attempting to collect any further rent from the tenant of the residential housing unit if the owner or the owner's representative fails to comply or substantially comply with the order, as determined by the Department, within thirty (30) days.

(b) (.1) Any owner or representative of the owner who violates any provision of subsection 6-403(5)(a) shall be subject to a fine of three hundred (300) dollars and/or imprisonment of up to ninety (90) days for each offense for each residential unit. Continuing violation of the same provision shall constitute a separate violation for each day for each residential housing unit.

(.2) Any tenant may enforce the provisions of subsection 6-403(5)(a) in the Philadelphia Court of Common Pleas, the Philadelphia Municipal Court or any other Court having
jurisdiction. A prevailing tenant shall be entitled to actual damages and to not less than triple the
monthly rent for each violation, plus attorneys fees and costs.

(c) When the Department issues an order to the owner or to a representative of the owner of
a residential housing unit to eliminate lead-based paint health hazards, the Department will direct
the Department of Licenses and Inspections to revoke the rental license for the unit.

(d) When the Department certifies in writing, to the tenant and to the owner or the
representative of the owner, that the lead-based paint hazard has been removed, the Health
Department will direct the Department of Licenses and Inspections to reinstate the rental license
and, the owner or the representative of the owner may resume collecting rent from the date the
tenant is notified in writing.

(e) Nothing in this Section shall be construed to exclude or substitute for the rights and
remedies contained in Chapter 9-1600 of The Philadelphia Code, relating to the Prohibition
Against Unlawful Eviction Practices, or any other legal remedies of the tenant.