**Section 843.100 Enforcement and Penalties**

a) All lead abatement contractors, lead abatement supervisors, lead abatement workers, lead inspectors and lead risk assessors are subject to administrative penalties in accordance with the Lead Poisoning Prevention Act [410 ILCS 45], the Lead Poisoning Prevention Code, the Act and this Part.

b) All plumbers are subject to administrative penalties in accordance with the Illinois Plumbing License Law [225 ILCS 320], the Illinois Plumbing Code (77 Ill. Adm. Code 890), the Act and this Part.

c) In addition to any other action authorized by the Act or this Part, *the Department of Public Health is authorized to assess administrative fines and penalties, as established by the Department by rule, for persons violating rules adopted by the Department under this Act* or this Part. (Section 5(d)(3) of the Act) The Department shall determine whether a fine will be assessed and the amount of any such fine.

d) The Department may consider the following criteria independently or aggregately to determine whether a fine shall be assessed:

1) Whether the person has previously been cited for a violation of the Act or this Part, except that any previously cited violation shall not be considered if the violation was held to be unfounded by a final order of the Department or by a court, or if any previous citations for violations occurred more than 3 years prior;

2) Whether the violation is of such nature as to result in the possibility of injury or other harm to the environment; to the person's agents or employees; to the building owner, users or occupants; or to the general public;

3) Whether the violation appears to be the result of any degree of negligence by the person or by the person's agents or employees;

4) Whether the person demonstrated good faith efforts to correct the violation upon receipt of oral or written notice of the violation and whether such actions in fact corrected the violation;

5) Whether the person falsified any record keeping information required by the Act or this Part;

6) Whether the person submitted an application containing false information for LDAP;

7) Whether the person submitted invoices pursuant to contract(s) for which the work is not completed or was not completed in accordance with the contract or any applicable code or standard;

8) Whether the actions of the person caused or threatened to cause or exacerbate the lead poisoning of a child or pregnant person;

9) Whether the person does not submit appropriate and complete documentation as required by the Act and this Part;

10) Whether the person has performed work in violation of the Lead Poisoning Prevention Act [410 ILCS 45] or the Lead Poisoning Prevention Code;

11) Whether the person has performed work in violation with the Illinois Plumbing License Law [225 ILCS 320] or the Illinois Plumbing Code;

12) Whether the person failed to maintain the property in compliance with the Lead Safe Housing Maintenance Standards in Section 843.90;

13) Whether the person failed to ensure the rental property was rented to the same tenant or other low-income tenant for a period of not less than 5 years following the completion of the work;

14) Whether the person failed to comply with the conditions of the LDAP (see Sections 843.50 through 843.90); and

15) Whether the person failed to comply with the Act or this Part.

e) Criteria to determine the amount of a fine or penalty for a violation of any provision of the Act or of this Part are as follows. All amounts determined pursuant to these criteria shall be added together to determine the total fine against the person.

1) First violation − the person may be issued a fine of up to $5,000.

2) Each day that a violation exists shall constitute a separate or repeat violation.

3) Repeat violation − the person may be issued a minimum fine of $5,000 plus additional fines calculated below:

A) For each violation that may cause or result in harm or injury to the health or safety of the agents or employees of the person present: $100 multiplied by the number of agents or employees present at any time on the date of the violation.

B) For each violation that may cause or result in harm or injury to the health or safety of the building owners or users, occupants of the building or the general public: $100 multiplied by the number of persons present at the child care facility or residential property at any time on the date of violation.

C) For each violation that may cause or result in contamination with lead dust or debris of any part of the child care facility or residential property other than the work area: $5,000.

D) For each violation that may cause or result in contamination with lead dust or debris of any surrounding areas to the child care facility or residential property: $5,000.

4) The Department shall serve notice of fine and/or penalty assessments, and shall provide the same rights and opportunity for hearing as provided in the Department’s rules of Practice and Procedure in Administrative Hearings and this Section. In the event that a person fails to request a hearing within 20 days after the notice has been mailed, the person shall be deemed to have waived the right to an administrative hearing.

5) All fine or penalty assessments that are upheld in whole or in part by final order of the Department shall be due in full at the conclusion of the time period for filing for administrative review pursuant to the Administrative Review Law, unless the person has within that time filed proceedings in administrative review specifically appealing the fine or penalty assessment and unless the court has stayed enforcement of the fine or penalty assessment. All fines and money penalties due to the Department shall be deposited in the CLEAR-Win Fund.

6) Civil actions, including for reimbursement, damages, and money penalties, and criminal actions may be brought by the Attorney General or the State’s Attorney for the county in which the violation occurs (see Section 16(g) of the Act).