

1 AN ACT relating to testing for lead content prior to a home sale or rental and  
2 making an appropriation therefor.

3 *Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

4 ➔SECTION 1. A NEW SECTION OF KRS CHAPTER 382 IS CREATED TO  
5 READ AS FOLLOWS:

6 *(1) As used in this section:*

7 *(a) "Commissioner" means the commissioner of the department for*  
8 *Environmental Protection;*

9 *(b) "Department" means the Department for Environmental Protection;*

10 *(c) "Pervious outdoor space" means any outdoor soil, natural turf, or other*  
11 *surface that does not substantially reduce or prevent absorption of storm*  
12 *water into land, and that can be dug and harvested from the ground*  
13 *through the use of ordinary garden tools without great effort;*

14 *(d) "Lead-based paint" means paint or other surface coatings that contain lead*  
15 *in excess of safe limits established by the Environmental Protection Agency*  
16 *or other appropriate federal agency;*

17 *(e) "Lead-contaminated dust" means surface dust in residential dwellings that*  
18 *contains an area or mass concentration of lead in excess of levels*  
19 *determined by the Environmental Protection Agency or other appropriate*  
20 *federal agency to pose a threat of adverse health effects in pregnant women*  
21 *or young children;*

22 *(f) "Lead-contaminated soil" means bare soil on residential real property that*  
23 *contains lead at or in excess of the levels determined to be hazardous to*  
24 *human health by the Environmental Protection Agency or other*  
25 *appropriate federal agency; and*

26 *(g) "Soil-testing laboratory" means a soil-testing laboratory certified by the*  
27 *department pursuant to administrative regulations to determine lead*

1 content in soil.

2 (2) A contract of sale for an individual lot of real property built before 1978 that is  
3 intended for residential purposes and includes at least two thousand five hundred  
4 (2,500) square feet of pervious outdoor space shall include a requirement:

5 (a) That the seller conduct the following tests for:

6 1. Lead-contaminated soil, conducted by a soil-testing laboratory;

7 2. Lead-based paint inside the residence; and

8 3. Lead-contaminated dust inside the residence;

9 (b) That the cost of all testing shall be paid by the seller; and

10 (c) That the transfer of title shall not occur unless both the buyer and seller  
11 have received and signed a copy of the results of the tests for lead-  
12 contaminated soil, lead-based paint, and lead-contaminated dust.

13 (3) (a) The results of each test required under subsection (2)(a) of this section to  
14 determine lead content shall be reported to the buyer, the seller, and the  
15 department in a format that provides the level of lead content in the soil of  
16 the lot, in parts-per-million, as well as the results of tests for lead-based  
17 paint and lead-contaminated dust and whether the lead content is high  
18 enough to constitute a hazard under the standards established by the  
19 Environmental Protection Agency or other appropriate federal agency.

20 (b) The department shall compile the data accumulated from the test results in  
21 a manner that shall be useful for studying lead contamination  
22 comprehensively throughout the Commonwealth.

23 (4) The commissioner, in accordance with KRS Chapters 13A, and in consultation  
24 with the commissioner of Public Health and the commissioner for the Cabinet for  
25 Health and Family Services, shall promulgate administrative regulations  
26 necessary for the implementation of this section, including but not limited to  
27 standards for tests for lead-contaminated soil, lead-based paint, and lead-

1        **contaminated dust; the certification of soil-testing laboratories; and acceptable**  
 2        **methods of soil harvesting, delivery, and testing.**

3        ➔Section 2. KRS 324.360 is amended to read as follows:

4        (1) This section shall apply to sales and purchases involving single-family residential  
 5        real estate dwellings if any person licensed under this chapter receives  
 6        compensation.

7        (2) The commission shall promulgate an administrative regulation authorizing a  
 8        "seller's disclosure of conditions form."

9        (3) The form shall provide for disclosure by the seller of the following:

10        (a) Basement condition and whether it leaks;

11        (b) Roof condition and whether it leaks;

12        (c) Source and condition of water supply;

13        (d) Source and condition of sewage service;

14        (e) Working condition of component systems;

15        **(f) Results of tests for lead-based paint, lead-contaminated soil, and lead-**  
 16        **contaminated dust as required under Section 1 of this Act;** and

17        ~~(g)~~ Other matters the commission deems appropriate.

18        (4) The seller of the property shall complete and sign the form at the time he or she  
 19        executes any listing agreement or similar agreement by which a licensee intends to  
 20        market the property. A copy of the form shall be provided by the listing agent to any  
 21        prospective buyer or a buyer's authorized representative upon request. A copy of the  
 22        form shall be delivered by the listing agent to any prospective purchaser or his  
 23        representative within seventy-two (72) hours of the listing agent's receipt of a  
 24        written and signed offer to purchase. The listing agent shall solicit the signature of  
 25        the buyer on a copy of the form which the listing agent shall retain in the principal  
 26        broker's records. The signature shall evidence the listing agent's compliance with  
 27        the provisions of this section. Should the buyer refuse to sign the form, the licensee

- 1 shall record the buyer's refusal to sign on the form and retain a copy in his principal  
2 broker's records.
- 3 (5) If the subject property is offered for sale by the property's owner without a listing  
4 agreement, any licensee involved in the transaction shall provide a blank form to the  
5 property's owner and shall request that the property's owner complete and sign the  
6 form. If the property's owner completes and signs the form, the licensee shall  
7 deliver the form to the buyer or potential buyer not later than one hundred twenty  
8 (120) hours after the creation of any executory contract for sale of the property. The  
9 licensee shall solicit the signature of the buyer on a copy of the form as delivered to  
10 the buyer or prospective buyer and shall retain the copy in his or her principal  
11 broker's records. The signature of the buyer or prospective buyer shall evidence the  
12 listing agent's compliance with the provisions of this section. Should the buyer  
13 refuse to sign the form, the licensee shall record the buyer's refusal to sign on the  
14 form and retain a copy in his or her principal broker's records.
- 15 (6) The original of the form shall be retained by the listing broker or by the broker of  
16 any licensee who presents an offer on a property not subject to a listing agreement.
- 17 (7) The form shall not be required for residential purchases of new homes if a warranty  
18 is offered, for a sale of real estate at an auction, or for a court supervised  
19 foreclosure.
- 20 (8) If the seller refuses to complete and sign the form, his refusal shall be  
21 communicated in writing by the broker or sales associate who is involved in the  
22 transaction to the purchaser or prospective purchaser, without unreasonable delay.
- 23 (9) It shall be a violation of this chapter for a licensee to complete any portion of the  
24 form unless the licensee is the owner of the property or has been requested by the  
25 owner to complete the form. The request shall be acknowledged in writing on the  
26 form and the licensee shall be held harmless for any representation that appears on  
27 the form.

1 (10) Nothing in this section shall be construed to restrict any municipality or city,  
 2 county, urban-county, charter county, consolidated local, or unified local  
 3 government from imposing stricter guidelines regarding testing for lead-based  
 4 paint, lead-contaminated soil, and lead-contaminated dust.

5 ➔SECTION 3. A NEW SECTION OF KRS CHAPTER 211 IS CREATED TO  
 6 READ AS FOLLOWS:

7 (1) There is created the lead mitigation and control fund as a separate trust and  
 8 agency fund in the State Treasury to be administered by the Cabinet for Health  
 9 and Family Services. All fees, fines, and other moneys received by the cabinet  
 10 pursuant to KRS 211.9061 to 211.9079 shall be deposited in the fund and shall be  
 11 used and are hereby appropriated for:

12 (a) The implementation of KRS 211.9061 to 211.9079; and

13 (b) Disbursement to homeowners and landlords whose properties have lead  
 14 levels that exceed a safe level as determined by the Environmental  
 15 Protection Agency or other appropriate federal agency.

16 (2) Notwithstanding KRS 45.229, any moneys remaining in the fund at the close of  
 17 the fiscal year shall not lapse but shall be carried forward to the next fiscal year.

18 (3) Any interest earnings of the fund shall become part of the fund and shall not  
 19 lapse.

20 ➔SECTION 4. A NEW SECTION OF KRS CHAPTER 383 IS CREATED TO  
 21 READ AS FOLLOWS:

22 A landlord shall conduct tests for lead-contaminated soil, lead-based paint, and lead-  
 23 contaminated dust as described in Section 1 of this Act on both the interior and  
 24 exterior of all rental property built before 1978 that he or she owns. The results of the  
 25 tests shall be provided to all tenants prior to entering into a lease agreement. These  
 26 tests shall be completed once every five (5) years at the expense of the landlord after the  
 27 initial tests are conducted.

1           ➔Section 5.    This act takes effect on January 1, 2023.