



The Commonwealth of Massachusetts

AUDITOR OF THE COMMONWEALTH

ONE ASHBURTON PLACE, ROOM 1819
BOSTON, MASSACHUSETTS 02108

A. JOSEPH DeNUCCI
AUDITOR

TEL. (617) 727-6200

NO. 2007-5128-7S2

INDEPENDENT STATE AUDITOR'S REPORT ON
CERTAIN ACTIVITIES OF THE
LEAD PAINT EDUCATION AND TRAINING
TRUST ACCOUNT

OFFICIAL AUDIT
REPORT
DECEMBER 18, 2007

TABLE OF CONTENTS/EXECUTIVE SUMMARY

INTRODUCTION

1

The Childhood Lead Poisoning Prevention Program was established in 1971 for the prevention, screening, diagnosis, and treatment of lead poisoning. Chapter 482, Section 22, of the Acts of 1993, as amended by Chapter 184, Section 154, of the Acts of 2002, established a Lead Paint Education and Training Trust Account for the Department of Public Health (DPH) to specifically fund this program. Surcharges were established on fees assessed by certain boards of registration and state agencies for the licensure or certification of certain professionals, and on fees assessed for the renewal of such licensure or certification. The amounts raised by these surcharges are deposited in a retained revenue account for DPH and used for the production and dissemination of educational materials pertaining to lead paint poisoning prevention and treatment issues as required by law. The purpose of our audit was to determine whether (1) all fees and surcharges are being collected and deposited in the trust account, (2) the account was operating in compliance with applicable laws, rules, and regulations, (3) measures were taken to correct the prior audit issues concerning the processing of lead paint surcharges in a timely manner.

AUDIT RESULTS

4

PRIOR AUDIT RESULT RESOLVED – LEAD PAINT SURCHARGE BILLINGS PROCESSED IN A TIMELY MANNER

4

Our prior audit noted that the Division of Insurance's (DOI) billing and collection procedures relating to lead paint surcharges revealed that the DOI did not bill property and casualty agents the required annual \$25 surcharge in 2000 in accordance with Chapter 482, Section 22, of the Acts of 1993. As a result, potential revenue from active property and casualty agents had not been billed, deposited, and made available to the Lead Paint Education and Training Trust Account maintained by the Department of Public Health.

Our follow up audit disclosed that DOI retroactively billed the appropriate brokers and agents the \$25 annual surcharge for the year 2000 and deposited the funds into the Lead Paint Education and Training Trust Account. The DOI continued to bill the agents yearly until 2002. Thereafter, the insurance brokers and agents became known as insurance producers and were billed a \$25 surcharge in accordance with Chapter 184 of the Acts of 2002. DOI deposited \$563,505 and \$786,497 for fiscal years 2005 and 2006 respectively into the Trust Account.

APPENDIX

5

Lead Paint Education and Training Trust Account Balance, March 31, 2007

5

INTRODUCTION

Background

The Childhood Lead Poisoning Prevention Program (CLPPP) was established in 1971 for the prevention, screening, diagnosis, and treatment of lead poisoning, including the elimination of sources of poisoning through research, educational, epidemiological, and clinical services. CLPPP is mandated by Chapter 111, Sections 189A through 199B, of the Massachusetts General Laws.

Chapter 482, Section 22, of the Acts of 1993 established a retained revenue account known as the Lead Paint Education and Training Trust Account for the Department of Public Health (DPH) to fund the Childhood Lead Poisoning Prevention Program. Section 22 established surcharges on fees assessed by certain boards of registration, state agencies for the licensure or certification of certain professionals, and on fees assessed for the renewal of such licensure or certification. These surcharges include a \$25 surcharge to those persons licensed by the Board of Registration of Real Estate Brokers and Salespersons (now part of the Division of Professional Licensure); a \$25 surcharge to those persons licensed by the Department of Labor and Industries to perform deleading services; a \$25 surcharge to those persons licensed by the Department of Public Health to perform lead inspections; a \$100 surcharge on the annual licensing fee paid by mortgage brokers, mortgage lenders, and small loan agencies registered with the Division of Banks; and a \$25 dollar annual surcharge on the licensing fee paid by property and casualty insurance brokers and property and casualty agents of direct writers registered with the Division of Insurance. On May 3, 2002, Chapter 106 of the Acts of 2002, *An Act Relative to the Licensing of Insurance Producers* was signed into law, with an effective date of January 1, 2003. This law established a new title of insurance producers. Chapter 106 was enacted in response to the provisions set forth in Title III (c), Section 321 of the Gramm-Leach-Bliley Act (GLBA), a federal law enacted in 1999. The GLBA requires a majority of states, no later than November 12, 2002 (three years after the date of the enactment of GLBA) to enact: (1) uniform laws and regulations governing the licensure of individuals and entities to sell, solicit, and/or negotiate the purchase of insurance within the State; or (2) reciprocity laws and regulations governing the licensure of nonresident individuals and entities authorized to sell, solicit, or negotiate the purchase of insurance within those states. The individual producer license is for a term of three years.

Subsequently, Chapter 184, Section 154, of the Acts of 2002 amended Section 22 of Chapter 482 by striking out the words “and a twenty-five dollar annual surcharge on the licensing fee paid by property and casualty insurance brokers and property and casualty agents of direct writers registered with the Division of Insurance,” and inserted, in place thereof, the following words: “a surcharge equal to \$25 per year on the license, payable at the time of the licensing fee paid by insurance producers licensed in property or casualty lines of insurance by the Division of Insurance.”

Amounts raised by these surcharges are deposited into a retained revenue account for the DPH for the production and dissemination of educational materials pertaining to lead paint poisoning prevention and treatment issues, and for training of lead paint inspectors as well as homeowner training.

Audit Scope, Objectives, and Methodology

In accordance with Chapter 11, Section 12, of the General Laws, the Office of the State Auditor conducted a review of the Lead Paint Education and Training Trust Account for the period July 1, 2005 to March 31, 2007. The objectives of our review were to determine whether (1) all fees and surcharges are being collected and deposited in the trust account, (2) the account was operating in compliance with applicable laws, rules, and regulations, and (3) measures were taken to correct the prior audit weakness concerning the processing of lead paint surcharges in a timely manner.

Our review was conducted in accordance with applicable generally accepted government auditing standards. We conducted site visits and interviews with state officials, including representatives with the Office of Consumer Affairs and Department of Public Health.

To determine compliance with Chapter 482, Section 22, of the Acts of 1993 and Chapter 184, Section 154 of the Acts of 2002, we requested and received financial data related to the trust account, including data specifically related to trust receipts from those state agencies responsible for the collection and processing of certain fees to support the trust. Additionally, we tested expenditures from the trust to determine that those expenditures were made for the production and dissemination of educational materials pertaining to lead paint poisoning prevention and treatment issues, and for training of lead paint inspectors as well as homeowner training.

Based upon our review, we have determined that the Lead Paint Education and Training Trust Account has been properly funded and was operating in compliance with applicable laws, rules, and regulations.

AUDIT RESULTS**PRIOR AUDIT RESULT RESOLVED – LEAD PAINT SURCHARGE BILLINGS PROCESSED IN A TIMELY MANNER**

Our prior audit noted that the Division of Insurance's (DOI) billing and collection procedures relating to lead paint surcharges revealed that the DOI did not bill property and casualty agents the required annual \$25 surcharge in 2000 in accordance with Chapter 482, Section 22, of the Acts of 1993. As a result, potential revenue from active property and casualty agents had not been billed, deposited, and made available to the Lead Paint Education and Training Trust Account maintained by the Department of Public Health.

Our follow up audit disclosed that the DOI retroactively billed the appropriate agents the \$25 annual surcharge for the year 2000 and deposited the funds into the Trust Account. The DOI continued to bill the agents yearly until 2002. In 2002, legislation (Chapter 106 of the Acts of 2002) was enacted that eliminated references to property and casualty brokers and agents. Thereafter, the insurance brokers and agents became known as insurance producers and were billed a \$25 surcharge in accordance with Chapter 184 of the Acts of 2002. DOI deposited \$563,505 and \$786,497 for fiscal years 2005 and 2006 respectively into the Trust Account

APPENDIX**Lead Paint Education and Training Trust Account Balance
March 31, 2007**

Balance Forward as of July 1, 2005	\$ 1,688,715
Add: Revenue	
July 1, 2005 to March 31, 2007	3,200,030
Less: Expenditures	
July 1, 2005 to March 31, 2007	<u>3,161,513</u>
Balance	
March 31, 2007	<u>\$1,727,232</u>