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ILLINOIS LAW MANUAL
CHAPTER VI
OTHER CAUSES OF ACTION

E. LEAD POISONING AND EXPOSURE TO TOXIC SUBSTANCES

Illinois courts currently recognize two separate and distinct causes of action for emotional distress, one for intentional infliction of emotional distress and another for negligent infliction of emotional distress.

The Illinois Lead Poisoning Prevention Act and Code was created in order to reduce and prevent lead poisoning in the children of Illinois. It prohibits the sale of items that contain lead bearing substances. (410 ILCS 45/4 and 45/5). It provides for warning statements on some lead bearing substances (410 ILCS 45/6). It requires children under six years of age to have screening or risk assessment if they lived in an area determined to be “high risk.” (410 ILCS 45/6.2). It creates a procedure for reporting lead poisoning. (410 ILCS 45/7). Additionally, it authorizes the Illinois Department of Health to create procedures when a child is found to have elevated blood lead level and subsequently create rules surrounding what methods of lead hazard mitigation are acceptable. (ILCS 45/8 and 45/9).

The courts have debated whether the Lead Poisoning Prevention Act creates a private right of action. The Appellate Court in *Abbasi by & Through Abbasi v. Paraskevoulakos* stated that “if the purpose of the Act is to prevent lead poisoning, then plaintiff is correct in asserting that the drafters of the legislation must have intended that a private right of action be available not only to redress injuries suffered by children but to encourage landlords to actively eliminate lead substances from their buildings or not use them at all.” *Abbasi by & Through Abbasi v. Paraskevoulakos*, Ill. App. 3d 278, 284 (1st Dist. 1998). Therefore, the court concluded that a private right of action is implied by the statute. *Id.* However, the Illinois Supreme Court later reversed this, holding that the Act does not create a private right of action since it is not necessary to provide an adequate remedy for violation of the Act, to uphold the public policy behind it. *Abbasi by & ex rel. Abbasi v. Paraskevoulakos*, 187 Ill. 2d 386, 392 (1999). Additionally, they stated that a private right of action under the Act would essentially be the same as common law negligence. *Id.*