

2797

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I N A S S E M B L Y

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Introduced by M. of A. GANTT, PEOPLES, KOON, TOWNSEND, WALKER, LUPARDO, KAVANAGH, BENEDETTO, GUNTHER, CLARK, BENJAMIN, GREENE, FINCH, ROSENTHAL, LENTOL, ALFANO, PERALTA, LAVINE, CAMARA, SCHROEDER, ROBINSON, BOYLAND, PERRY, ORTIZ, JAFFEE, CAHILL -- Multi-Sponsored by -- M. of A. ABBATE, BACALLES, BARRA, BRENNAN, BROOK-KRASNY, BURLING, CHRISTENSEN, COLTON, COOK, CROUCH, DelMONTE, DESTITO, DUPREY, ERRIGO, FARRELL, GALEF, GIANARIS, HOOPER, HYER-SPENCER, JOHN, KOLB, LANCMAN, LATIMER, MAGEE, MAISEL, MARKEY, MAYERSOHN, McDONOUGH, McENENY, McKEVITT, MILLMAN, MOLINARO, OAKS, PAULIN, PHEFFER, REILLY, SAYWARD, SEMINERIO, SPANO, SWEENEY, THIELE, TITONE, TOWNS, WEISENBERG -- read once and referred to the Committee on Health

AN ACT to amend the public health law, in relation to establishing the childhood lead poisoning primary prevention and safe housing act; to amend the state finance law, in relation to establishing the childhood lead poisoning primary prevention and safe housing fund; to amend the tax law, in relation to authorizing a credit for lead hazard reduction activities; and providing for the repeal of certain provisions upon expiration thereof

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 Section 1. This act shall be known and may be cited as the "childhood
2 lead poisoning primary prevention and safe housing act".
3 S 2. Legislative findings and purposes. 1. (a) Lead poisoning of chil-
4 dren persists as one of the most prevalent and preventable environmental
5 diseases in New York. At least 10,000 children were newly identified
6 with levels of lead in their blood at 10 micrograms per deciliter in New
7 York state in 2001. Moreover, only about one-third of children are
8 receiving the lead screenings that are required by law and therefore,
9 the actual number of children affected by the ingestion of lead is
10 undoubtedly significantly greater than reported. Prevention is the only
11 effective way to protect children from irreversible damage. Unless lead

EXPLANATION--Matter in *ITALICS* (underscored) is new; matter in brackets
[] is old law to be omitted.

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1 poisoning is prevented, elevated blood lead levels will result in
2 impairment of the ability to think, concentrate, and learn.

3 (b) Medical research indicates that children can suffer permanent,
4 irreparable damage at blood levels even lower than 10 micrograms per
5 deciliter, and that there is no level of lead ingestion which is without
6 adverse impact. Medical research also indicates that fetal injuries from
7 lead paint can occur if women have elevated blood levels during pregnan-
8 cy. Because of this, intervention measures that wait until children have
9 been exposed have limited benefits, and the pursuit of primary
10 prevention, which means eliminating lead hazards before children are
11 exposed, has been recommended by the United States centers for disease
12 control and prevention and promoted by leading experts in the field as a
13 critical course of action to protect the health of young children.

14 (c) The predominant cause of lead poisoning in children is the inges-
15 tion of lead particles from deteriorating or abraded lead-based paint
16 from older and poorly maintained residences.

17 (d) Deteriorating lead-based paint or excessive amounts of lead-conta-
18 minated dust in these poorly maintained homes endangers the intellectual
19 and emotional development and physical well being of affected children.
20 In addition, unsafe work practices that inadequately control lead dust
21 in the repair or renovation of older homes can cause substantial lead
22 hazards.

23 (e) Although lead-based paint was banned for residential use in 1978,
24 New York state has both the largest percentage and the largest absolute
25 number of older housing units with lead paint in the nation.

26 (f) The dangers posed by lead-based paint can be substantially reduced
27 by taking measures to prevent paint deterioration and limiting chil-
28 dren's exposure to paint chips and lead dust.

29 (g) The deterioration of lead-based paint in older residences results
30 in increased expenses each year for the state of New York in the form of
31 special education and other education expenses, medical care for lead-
32 poisoned children, and expenditures for delinquent youth and others
33 needing special supervision.

34 (h) Older housing units remain an important part of New York's housing
35 stock, particularly for those of modest or limited incomes. The problem
36 of lead-based paint in housing affects urban, suburban and rural areas
37 of the state.

38 (i) The existing housing codes and enforcement systems in most juris-
39 dictions do not include primary prevention measures for lead hazards and
40 have proven ineffective in encouraging widespread lead-based paint
41 hazard abatement, mitigation, and control.

42 (j) The financial incentives currently in place have not proven suffi-
43 cient to motivate property owners to undertake widespread and effective
44 lead-based paint hazard abatement, mitigation, and control; moreover low
45 and moderate income property owners may not have access to the resources
46 to eliminate or control lead hazards.

47 (k) Knowledge of lead-based paint hazards, their control, mitigation,
48 abatement, and risk avoidance is not sufficiently widespread, especially
49 outside urban areas.

50 2. The purposes of this act are: (a) to increase the supply of afford-
51 able rental housing in the state of New York in which measures have been
52 taken to eliminate or substantially reduce the risk of childhood lead
53 poisoning;

54 (b) to ensure that New York's response to lead-based paint hazards
55 focuses on primary prevention as the essential tool to combat childhood
56 lead poisoning, and thus to substantially reduce, and eventually elimi-

1 nate, the incidence of childhood lead poisoning in the state of New
2 York;

3 (c) to improve public awareness of lead safety issues and to educate
4 both property owners and tenants about practices that can reduce the
5 incidence of lead poisoning;

6 (d) to provide access to the resources for property owners who commit
7 to undertake specified lead hazard reduction measures.

8 S 3. Section 1370 of the public health law is amended by adding eigh-
9 teen new subdivisions 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20,
10 21, 22, 23, 24, and 25 to read as follows:

11 8. "DUST-LEAD HAZARD" MEANS SURFACE DUST THAT CONTAINS A DUST-LEAD
12 LOADING (AREA CONCENTRATION OF LEAD) AT OR EXCEEDING THE LEVELS PROMUL-
13 GATED BY THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY PURSUANT TO
14 SECTION 403 OF THE TOXIC SUBSTANCES CONTROL ACT.

15 9. "DWELLING UNIT" MEANS A:

16 (A) SINGLE-FAMILY DWELLING, INCLUDING ATTACHED STRUCTURES SUCH AS
17 PORCHES AND STOOPS; OR

18 (B) HOUSING UNIT IN A STRUCTURE THAT CONTAINS MORE THAN ONE SEPARATE
19 HOUSING UNIT, AND FOR WHICH EACH SUCH UNIT IS USED OR OCCUPIED, OR
20 INTENDED TO BE USED OR OCCUPIED, IN WHOLE OR IN PART, AS THE HOME OR
21 SEPARATE LIVING QUARTERS OF ONE OR MORE PERSONS.

22 10. "ENCAPSULATION" MEANS THE APPLICATION OF A COVERING OR COATING
23 THAT ACTS AS A BARRIER BETWEEN THE LEAD-BASED PAINT AND THE ENVIRONMENT
24 AND THAT RELIES FOR ITS DURABILITY ON ADHESION BETWEEN THE ENCAPSULATE
25 AND THE PAINTED SURFACE, AND ON THE INTEGRITY OF THE EXISTING BONDS
26 BETWEEN PAINT LAYERS AND BETWEEN THE PAINT AND THE SUBSTRATE. ENCAPSULA-
27 TION MAY BE USED AS A METHOD OF ABATEMENT IF IT IS DESIGNED AND
28 PERFORMED SO AS TO BE PERMANENT.

29 11. "FRICTION SURFACE" MEANS AN INTERIOR OR EXTERIOR PAINTED SURFACE
30 THAT TOUCHES OR IS IN CONTACT WITH ANOTHER SURFACE, SUCH THAT THE TWO
31 SURFACES ARE CAPABLE OF RELATIVE MOTION AND ABRASE, SCRAPE, OR BIND WHEN
32 IN RELATIVE MOTION. FRICTION SURFACES SHALL INCLUDE, BUT NOT BE LIMITED
33 TO, WINDOW FRAMES AND JAMBS, DOORS, AND HINGES.

34 12. "HAZARD REDUCTION" MEANS MEASURES DESIGNED TO REDUCE OR ELIMINATE
35 HUMAN EXPOSURE TO LEAD-BASED PAINT HAZARDS.

36 13. "HIGH EFFICIENCY PARTICLE AIR VACUUM" OR "HEPA-VACUUM" MEANS A
37 DEVICE CAPABLE OF FILTERING OUT PARTICLES OF 0.3 MICRONS OR GREATER FROM
38 A BODY OF AIR AT AN EFFICIENCY OF 99.97% OR GREATER; "HEPA-VACUUM"
39 INCLUDES USE OF A HEPA-VACUUM.

40 14. "LEAD-BASED PAINT HAZARD" MEANS ANY CONDITION IN, OR PROXIMATE TO,
41 A DWELLING UNIT THAT CAUSES EXPOSURE TO LEAD FROM LEAD-CONTAMINATED
42 DUST, FROM LEAD-BASED PAINT THAT IS DETERIORATED, OR FROM LEAD-BASED
43 PAINT THAT IS PRESENT ON CHEWABLE SURFACES, DETERIORATED SUBSURFACES,
44 FRICTION SURFACES, OR IMPACT SURFACES, OR IN SOIL, THAT WOULD RESULT IN
45 ADVERSE HUMAN HEALTH EFFECTS.

46 15. "IMPACT SURFACE" MEANS AN INTERIOR OR EXTERIOR PAINTED SURFACE
47 THAT SHOWS EVIDENCE, SUCH AS MARKING, DENTING, OR CHIPPING, THAT IT IS
48 SUBJECT TO DAMAGE BY REPEATED SUDDEN FORCE, SUCH AS CERTAIN PARTS OF
49 DOOR FRAMES, MOLDINGS, OR BASEBOARDS.

50 16. "DETERIORATED PAINT" MEANS ANY INTERIOR OR EXTERIOR PAINT OR OTHER
51 COATING THAT IS CURLING, SCALING, FLAKING, BLISTERING, PEELING, CHIP-
52 PING, CHALKING, CRACKING, OR LOOSE IN ANY MANNER, SUCH THAT A SPACE OR
53 POCKET OF AIR IS BEHIND A PORTION THEREOF OR SUCH THAT THE PAINT IS NOT
54 COMPLETELY ADHERED TO THE UNDERLYING SUBSURFACE, OR IS OTHERWISE DAMAGED
55 OR SEPARATED FROM THE SUBSTRATE.

1 17. "DETERIORATED SUBSURFACE" SHALL MEAN AN UNSTABLE OR UNSOUND PAINT-
2 ED SUBSURFACE, AN INDICATION OF WHICH CAN BE OBSERVED THROUGH A VISUAL
3 INSPECTION, INCLUDING, BUT NOT LIMITED TO, ROTTED OR DECAYED WOOD, OR
4 WOOD OR PLASTER THAT HAS BEEN SUBJECT TO MOISTURE OR DISTURBANCE.

5 18. "CHEWABLE SURFACE" MEANS AN INTERIOR OR EXTERIOR SURFACE PAINTED
6 WITH LEAD-BASED PAINT THAT A YOUNG CHILD CAN MOUTH OR CHEW. A CHEWABLE
7 SURFACE IS THE SAME AS AN "ACCESSIBLE SURFACE" AS DEFINED IN 42 U.S.C.
8 4851B(2). HARD METAL SUBSTRATES AND OTHER MATERIALS THAT CANNOT BE DENT-
9 ED BY THE BITE OF A YOUNG CHILD ARE NOT CONSIDERED CHEWABLE.

10 19. "PERMANENT" MEANS AN EXPECTED DESIGN LIFE OF AT LEAST TWENTY
11 YEARS.

12 20. "SOIL-LEAD HAZARD" MEANS BARE SOIL ON RESIDENTIAL PROPERTY THAT
13 CONTAINS LEAD EQUAL TO OR EXCEEDING LEVELS PROMULGATED BY THE UNITED
14 STATES ENVIRONMENTAL PROTECTION AGENCY PURSUANT TO SECTION 403 OF THE
15 TOXIC SUBSTANCES CONTROL ACT.

16 21. "TENANT" MEANS THE INDIVIDUAL NAMED AS THE LESSEE IN A LEASE,
17 RENTAL AGREEMENT OR OTHER FORM OF OCCUPANCY AGREEMENT, WHETHER WRITTEN
18 OR ORAL, FOR A DWELLING UNIT, AND INCLUDES TENANCIES INCIDENT TO EMPLOY-
19 MENT. WHERE APPLICABLE, THE TERM "TENANT" SHALL ALSO INCLUDE ANY MEMBER
20 OF THE TENANT'S HOUSEHOLD.

21 22. "WIPE SAMPLE" MEANS A SAMPLE COLLECTED BY WIPING A REPRESENTATIVE
22 SURFACE OF KNOWN AREA, AS DETERMINED BY ASTM E1728, "STANDARD PRACTICE
23 FOR FIELD COLLECTION OF SETTLED DUST SAMPLES USING WIPE SAMPLING METHODS
24 FOR LEAD DETERMINATION BY ATOMIC SPECTROMETRY TECHNIQUES," OR EQUIVALENT
25 METHOD, WITH AN ACCEPTABLE WIPE MATERIAL AS DEFINED IN ASTM E 1792,
26 "STANDARD SPECIFICATION FOR WIPE SAMPLING MATERIALS FOR LEAD IN SURFACE
27 DUST."

28 23. "CLEARANCE EXAMINATION" MEANS AN ACTIVITY, CONDUCTED BY A RISK
29 ASSESSOR OR LEAD-BASED PAINT INSPECTOR, FOLLOWING LEAD-BASED PAINT
30 HAZARD REDUCTION ACTIVITIES TO DETERMINE THAT THE HAZARD REDUCTION
31 ACTIVITIES ARE COMPLETE AND THAT NO SOIL-LEAD HAZARDS OR SETTLED
32 DUST-LEAD HAZARDS EXIST IN THE DWELLING UNIT OR WORKSITE.

33 24. "WORKSITE" MEANS AN INTERIOR OR EXTERIOR AREA WHERE LEAD-BASED
34 PAINT HAZARD REDUCTION ACTIVITY TAKES PLACE. THERE MAY BE MORE THAN ONE
35 WORKSITE IN A DWELLING UNIT.

36 25. "INSPECTIONS FOR CONDITIONS CONDUCIVE TO LEAD POISONING OR
37 LEAD-BASED PAINT HAZARDS" MEANS AN ACTIVITY CONDUCTED TO IDENTIFY ANY
38 CONDITION CONDUCIVE TO LEAD POISONING OR LEAD-BASED PAINT HAZARDS, IN
39 ACCORDANCE WITH THE RULES AND REGULATIONS PROMULGATED BY THE DEPARTMENT
40 PURSUANT TO SECTION THIRTEEN HUNDRED SEVENTY-EIGHT OF THIS TITLE, WHEN-
41 EVER SUCH ACTIVITY IS REQUIRED OR OTHERWISE CONDUCTED PURSUANT TO THE
42 PROVISIONS OF THE CHILDHOOD LEAD POISONING PRIMARY PREVENTION AND SAFE
43 HOUSING ACT.

44 S 4. Paragraph (d) of subdivision 2 of section 1370-a of the public
45 health law, as added by chapter 485 of the laws of 1992, is amended and
46 three new subdivisions 4, 5, and 6 are added to read as follows:

47 (d) develop and implement public education and community outreach
48 programs AND PUBLIC AWARENESS CAMPAIGNS on lead exposure, detection and
49 risk reduction. SUCH PROGRAMS AND CAMPAIGNS SHALL INCLUDE, BUT NOT BE
50 LIMITED TO, USE OF MASS MEDIA.

51 4. EACH HEALTH INSURER OR HEALTH MAINTENANCE ORGANIZATION SHALL REPORT
52 ANNUALLY TO THE DEPARTMENT ITS AGGREGATE DATA REGARDING COMPLIANCE WITH
53 THE SCREENING REQUIREMENTS PURSUANT TO THIS SECTION. SUCH DATA SHALL
54 DETAIL THE NUMBER AND PERCENTAGE OF CHILDREN SEEN WHO WERE AGES ONE AND
55 TWO, THE NUMBER AND PERCENTAGE WHO WERE SCREENED AT AGE ONE, AND THE
56 NUMBER AND PERCENTAGE WHO WERE SCREENED AT AGE TWO, SEPARATELY ORGANIZED

1 BY ZIP CODE. THIS REPORT ON SCREENING COMPLIANCE SHALL BE PROVIDED TO
2 THE DEPARTMENT BY FEBRUARY FIRST FOLLOWING THE END OF THE CALENDAR YEAR.

3 5. THE DEPARTMENT SHALL INCLUDE THE SCREENING AND REPORTING REQUIRE-
4 MENTS IN ITS CONTRACTS FOR SERVICES UNDER THE MEDICAID AND CHILD HEALTH
5 PLUS PROGRAMS OR ANY OTHER PROGRAMS FUNDED IN WHOLE OR IN PART WITH
6 STATE OR LOCAL FUNDS AND PROVIDING HEALTH SERVICES TO CHILDREN UNDER AGE
7 SIX AND PREGNANT WOMEN, AND SHALL IMPOSE COMPLIANCE TARGETS AND APPRO-
8 PRIATE PENALTIES OR SANCTIONS IN THE EVENT SUCH TARGETS ARE NOT
9 ACHIEVED.

10 6. BY MARCH FIFTH OF EACH YEAR THE DEPARTMENT SHALL SUBMIT TO THE
11 HEALTH COMMITTEES OF THE SENATE AND ASSEMBLY AND MAKE PUBLICLY AVAILABLE
12 A REPORT ON SCREENING RATES OF THE PRECEDING YEAR PURSUANT TO THIS
13 SECTION, INCLUDING THE ACTUAL NUMBER AND ESTIMATED PERCENTAGE OF ONE
14 YEAR OLD CHILDREN AND THE ACTUAL NUMBER AND ESTIMATED PERCENTAGE OF TWO
15 YEAR OLD CHILDREN SCREENED FOR BLOOD LEAD, THE ACTUAL NUMBER AND ESTI-
16 MATED PERCENTAGE OF CHILDREN SCREENED AT BOTH ONE YEAR OF AGE AND TWO
17 YEARS OF AGE, THE PERFORMANCE OF MEDICAID AND CHILD HEALTH PLUS PROGRAMS
18 OR ANY OTHER PROGRAMS FUNDED IN WHOLE OR IN PART WITH STATE AND LOCAL
19 FUNDS AND PROVIDING HEALTH SERVICES TO CHILDREN UNDER AGE SIX AND PREG-
20 NANT WOMEN, AND ITS ACTIONS TO PUBLICIZE AND ENFORCE THE OBLIGATIONS ON
21 HEALTH CARE PROVIDERS PURSUANT TO THIS SECTION.

22 S 5. Subdivision 1 of section 1370-c of the public health law, as
23 added by chapter 485 of the laws of 1992, is amended to read as follows:

24 1. The department is authorized to AND SHALL promulgate regulations
25 establishing the means by which and the intervals at which children and
26 pregnant women shall be screened for elevated lead levels. The depart-
27 ment is also authorized to require screening for lead poisoning in other
28 high risk groups. AT A MINIMUM, THE DEPARTMENT SHALL ENSURE THAT ALL
29 CHILDREN AT BOTH AGE ONE YEAR AND AT AGE TWO YEARS AND PREGNANT WOMEN
30 WHO ARE DETERMINED TO BE AT RISK SHALL BE SCREENED AND THAT ALL CHILDREN
31 WHO ARE CONSIDERED AT RISK UP TO SIX YEARS OF AGE SHALL BE SCREENED AT
32 LEAST ONCE EACH YEAR.

33 S 6. The public health law is amended by adding a new section 1377 to
34 read as follows:

35 S 1377. LEAD-SAFE HOUSING AWARENESS SEMINAR. WITHIN SIX MONTHS
36 FOLLOWING THE EFFECTIVE DATE OF THIS SECTION, THE DEPARTMENT SHALL
37 ESTABLISH GUIDELINES AND A TRAINER'S MANUAL FOR A "LEAD-SAFE HOUSING
38 AWARENESS SEMINAR" WITH A TOTAL CLASS TIME OF THREE HOURS OR LESS. SUCH
39 GUIDELINES AND MATERIALS SHALL BE MADE AVAILABLE SO THAT SUCH COURSES
40 MAY BE OFFERED BY THE DEPARTMENT OR OTHER STATE PERSONNEL, PROFESSIONAL
41 ASSOCIATIONS AND COMMUNITY ORGANIZATIONS WITH A TRAINING CAPACITY,
42 EXISTING ACCREDITED EDUCATIONAL INSTITUTIONS, AND NOT-FOR-PROFIT EDUCA-
43 TIONAL PROVIDERS. ALL SUCH OFFERING PROPOSALS SHALL BE REVIEWED AND
44 APPROVED, BASED ON SEMINAR CONTENT AND QUALIFICATIONS OF INSTRUCTORS, BY
45 THE DEPARTMENT OR THE DIVISION OF HOUSING AND COMMUNITY RENEWAL OR THEIR
46 DESIGNEES. THE DEPARTMENT IS AUTHORIZED TO SET AND COLLECT A FEE FOR
47 SUCH MANUALS OR COURSES. ANY FEES COLLECTED PURSUANT TO THIS SECTION
48 SHALL BE DEPOSITED INTO THE CHILDHOOD LEAD POISONING PRIMARY PREVENTION
49 AND SAFE HOUSING FUND ESTABLISHED PURSUANT TO SECTION NINETY-NINE-T OF
50 THE STATE FINANCE LAW.

51 S 7. The public health law is amended by adding a new section 1378 to
52 read as follows:

53 S 1378. CHILDHOOD LEAD POISONING PRIMARY PREVENTION AND SAFE HOUSING
54 PLAN. 1. THE DEPARTMENT IS HEREBY AUTHORIZED AND REQUIRED TO DEVELOP AND
55 IMPLEMENT, WITHIN NINE MONTHS FOLLOWING THE EFFECTIVE DATE OF THIS
56 SECTION, THE CHILDHOOD LEAD POISONING PRIMARY PREVENTION AND SAFE HOUS-

1 ING PLAN WHICH PURPOSE IS THE ELIMINATION OF CHILDHOOD LEAD POISONING.
2 THE PLAN SHALL ALSO INCLUDE PUBLIC AWARENESS CAMPAIGNS AND COMMUNITY
3 OUTREACH EFFORTS. SUCH PLAN SHALL ALSO INCLUDE LOCAL PRIMARY PREVENTION
4 PLANS FOR COMMUNITIES OF CONCERN IN ACCORDANCE WITH THE PROVISIONS OF
5 THIS SECTION. SUCH PLAN MAY BE AMENDED BY THE DEPARTMENT IN ACCORDANCE
6 WITH THE PROVISIONS OF THIS SECTION. BY MARCH FIFTH OF EACH YEAR BEGIN-
7 NING THE FIRST YEAR AFTER THIS SECTION BECOMES LAW, THE DEPARTMENT SHALL
8 SUBMIT TO THE HEALTH AND FISCAL COMMITTEES OF THE LEGISLATURE AND THE
9 ADVISORY COUNCIL ESTABLISHED IN SECTION THIRTEEN HUNDRED SEVENTY-B OF
10 THIS TITLE A REPORT ON THE CHILDHOOD LEAD POISONING PRIMARY PREVENTION
11 AND SAFE HOUSING PLAN.

12 2. THE DEPARTMENT SHALL IDENTIFY AND DESIGNATE THE THIRTY MUNICI-
13 PALITIES IN THE STATE THAT HAVE THE GREATEST NUMBERS OF CHILDREN IDENTI-
14 FIED WITH BLOOD LEAD LEVELS GREATER THAN OR EQUAL TO TEN MICROGRAMS OF
15 LEAD PER DECILITER OF WHOLE BLOOD AS COMMUNITIES OF CONCERN. SUCH DESIG-
16 NATION SHALL NOT INCLUDE CITIES WITH A POPULATION OF ONE MILLION OR
17 MORE. SUCH DESIGNATION SHALL BE MADE AT LEAST BIENNIALLY AND BY THE
18 THIRTIETH DAY OF DECEMBER OF THE YEAR IN WHICH THE DESIGNATION IS MADE.

19 3. A. THE DEPARTMENT SHALL DEVELOP AND IMPLEMENT, IN COOPERATION WITH
20 THE DEPARTMENT OF STATE AND LOCAL MUNICIPALITIES, A LOCAL PRIMARY
21 PREVENTION PLAN TO PREVENT EXPOSURE TO LEAD FOR EACH COMMUNITY OF
22 CONCERN. A LOCAL PRIMARY PREVENTION PLAN SHALL TARGET CHILDREN UNDER AGE
23 SIX AND PREGNANT WOMEN AND ANY CENSUS TRACT OR BLOCK GROUP IN THE MUNI-
24 CIPALITIES IN WHICH DURING ANY SINGLE YEAR, MORE THAN TWENTY-FIVE CHIL-
25 DREN HAVE BEEN IDENTIFIED WITH BLOOD LEAD LEVELS GREATER THAN OR EQUAL
26 TO TEN MICROGRAMS OF LEAD PER DECILITER OF WHOLE BLOOD AND SHALL SET
27 TARGETS AND A REASONABLE TIME FRAME, INCLUDING A RATIONALE FOR SUCH TIME
28 FRAME, FOR THE ELIMINATION OF CHILDHOOD LEAD POISONING WITHIN THE MUNI-
29 CIPALITY. IN MUNICIPALITIES WITH SUCH CENSUS TRACTS OR BLOCK GROUPS, A
30 LOCAL PRIMARY PREVENTION PLAN ALSO SHALL INCLUDE THE INSPECTION FOR
31 CONDITIONS CONDUCIVE TO LEAD POISONING AND LEAD-BASED PAINT HAZARDS OF
32 DWELLING UNITS WHICH ARE EITHER RENTED, LEASED, LET OR HIRED OUT, TO BE
33 OCCUPIED, OR IS OCCUPIED AS THE TEMPORARY OR PERMANENT RESIDENCE OR HOME
34 OF ONE OR MORE FAMILIES LIVING INDEPENDENTLY OF EACH OTHER AND ALSO
35 SHALL INCLUDE THE INSPECTION FOR CONDITIONS CONDUCIVE TO LEAD POISONING
36 AND LEAD-BASED PAINT HAZARDS OF DWELLING UNITS IN WHICH GROUP FAMILY DAY
37 CARE HOMES AND FAMILY DAY CARE HOMES, AS DEFINED IN SECTION THREE
38 HUNDRED NINETY OF THE SOCIAL SERVICES LAW, ARE OPERATED. SUCH PLAN SHALL
39 REQUIRE THAT ANY LEAD-BASED PAINT HAZARDS OR CONDITIONS CONDUCIVE TO
40 LEAD POISONING IDENTIFIED IN SUCH INSPECTED PROPERTIES BE ELIMINATED OR
41 CONTROLLED IN ACCORDANCE WITH THE PROVISIONS OF PARAGRAPH A OF SUBDIVI-
42 SION ONE OF SECTION THIRTEEN HUNDRED SEVENTY-NINE OF THIS CHAPTER. A
43 LOCAL PRIMARY PREVENTION PLAN SHALL BE IN EFFECT NO LATER THAN SEVEN
44 MONTHS AFTER THE MUNICIPALITY IS DESIGNATED AS A COMMUNITY OF CONCERN.

45 B. THE DEPARTMENT, IN CONSULTATION WITH THE DEPARTMENT OF STATE AND
46 LOCAL MUNICIPALITIES, SHALL PROMULGATE RULES AND REGULATIONS FOR THE
47 DEVELOPMENT, IMPLEMENTATION AND AMENDMENT OF A LOCAL PRIMARY PREVENTION
48 PLAN. PROVIDED, HOWEVER, NO SUCH PLAN SHALL BE IMPLEMENTED OR SUBSTAN-
49 Tially AMENDED UNLESS THE PLAN, INCLUDING A PROPOSED BUDGET FOR THE
50 PLAN, HAS BEEN SUBMITTED BY THE DEPARTMENT OR THE LOCAL MUNICIPALITY FOR
51 REVIEW AT LEAST ONE PUBLIC HEARING IN THE MUNICIPALITY FOR WHICH SUCH
52 PLAN IS DEVELOPED AND A PUBLIC COMMENT PERIOD OF AT LEAST SIXTY DAYS HAS
53 BEEN PROVIDED BY THE DEPARTMENT OR THE LOCAL MUNICIPALITY IN CONSIDER-
54 ATION OF THE BILL.

55 C. IF A MUNICIPALITY HAS DEVELOPED A PLAN SUBSTANTIALLY SIMILAR TO THE
56 REQUIREMENTS FOR A LOCAL PRIMARY PREVENTION PLAN IN ACCORDANCE WITH THIS

1 SECTION OR PASSED AN ORDINANCE OR LOCAL LAW OR SET OF ORDINANCES OR
2 LOCAL LAWS THAT CONSTITUTE A SUBSTANTIALLY SIMILAR PLAN SUCH PLAN OR
3 ORDINANCE OR LOCAL LAW OR SET OF ORDINANCES OR LOCAL LAWS MAY BE
4 ACCEPTED AS THE LOCAL PRIMARY PREVENTION PLAN FOR THE MUNICIPALITY. AN
5 ORDINANCE OR LOCAL LAW OR SET OF ORDINANCES OR LOCAL LAWS THAT WAS IN
6 EFFECT ON JULY FIRST, TWO THOUSAND SIX IN THE CITY OF ROCHESTER WHICH
7 POLICY AND INTENT IS TO PREVENT HUMAN EXPOSURE TO LEAD-BASED PAINT
8 HAZARDS IS A SUBSTANTIALLY SIMILAR PLAN FOR PURPOSES OF THIS SECTION AND
9 NO PUBLIC HEARING AND PUBLIC COMMENT PERIOD SHALL BE CONSIDERED TO HAVE
10 BEEN REQUIRED FOR ITS IMPLEMENTATION.

11 4. A. FUNDING FOR THE CHILDHOOD LEAD POISONING PRIMARY PREVENTION AND
12 SAFE HOUSING PLAN AND ANY LOCAL PRIMARY PREVENTION PLANS INCLUDED THERE-
13 IN SHALL BE SUBJECT TO APPROPRIATION BY THE STATE LEGISLATURE.

14 B. EXCEPT IF AGREED TO BY THE DEPARTMENT AND THE MUNICIPALITY, COSTS
15 INCURRED BY A MUNICIPALITY DIRECTLY RELATED TO A LOCAL PRIMARY
16 PREVENTION PLAN OR THE CHILDHOOD LEAD POISONING PRIMARY PREVENTION AND
17 SAFE HOUSING PLAN WHICH ARE NOT ELIGIBLE TO BE PAID FOR OR OTHERWISE
18 REIMBURSED BY A NON-STATE GOVERNMENTAL ENTITY AND WHICH ARE NOT COSTS OF
19 AN OWNER OR OCCUPANT OF AN AFFECTED PROPERTY SHALL BE CONSIDERED COSTS
20 OF THE DEPARTMENT. SUCH COSTS SHALL BE REIMBURSED TO THE MUNICIPALITY BY
21 THE DEPARTMENT. FUNDING FOR SUCH COSTS SHALL BE MADE AVAILABLE SUBJECT
22 TO APPROPRIATION BY THE STATE LEGISLATURE. A COST MAY BE CONSIDERED
23 DIRECTLY RELATED IF IT WOULD NOT HAVE BEEN INCURRED BUT FOR THE LOCAL
24 PRIMARY PREVENTION PLAN OR CHILDHOOD LEAD POISONING PRIMARY PREVENTION
25 AND SAFE HOUSING PLAN. THE DEPARTMENT MAY ENTER INTO AGREEMENTS WITH THE
26 MUNICIPALITIES, THE DEPARTMENT OF STATE OR ANY OTHER APPROPRIATE STATE
27 OR FEDERAL AGENCY, DEPARTMENT, DIVISION, QUASI-PUBLIC CORPORATION OR
28 AUTHORITY FOR THE REIMBURSEMENT OF SUCH COSTS.

29 5. THE CHILDHOOD LEAD POISONING PRIMARY PREVENTION AND SAFE HOUSING
30 PLAN SHALL ALSO REQUIRE, IN RESPONSE TO A CHILD UNDER AGE SIX OR A PREG-
31 NANT WOMAN WHO HAS A CONFIRMED BLOOD LEAD LEVEL GREATER THAN OR EQUAL TO
32 TEN MICROGRAMS OF LEAD PER DECILITER OF WHOLE BLOOD, A COMPLETE DIAGNOS-
33 TIC ASSESSMENT WHICH SHALL INCLUDE: A DETAILED LEAD EXPOSURE ASSESSMENT,
34 A NUTRITIONAL ASSESSMENT, INCLUDING IRON STATUS, AND, AS APPROPRIATE,
35 DEVELOPMENT SCREENING AND AN ENVIRONMENTAL ASSESSMENT SHALL BE CONDUCTED
36 BY THE DEPARTMENT, IN CONJUNCTION WITH THE DEPARTMENT OF STATE AND ANY
37 OTHER APPROPRIATE STATE AGENCY, DEPARTMENT, DIVISION, QUASI-PUBLIC
38 CORPORATION OR AUTHORITY AND MUNICIPALITY, TO DETERMINE THE SOURCE OF
39 EXPOSURE TO LEAD WHICH SHALL INCLUDE, TO THE EXTENT PRACTICABLE, AN
40 INSPECTION FOR CONDITIONS CONDUCIVE TO LEAD POISONING AND LEAD-BASED
41 PAINT HAZARDS WITHIN FIFTEEN DAYS OF NOTIFICATION TO THE DEPARTMENT OF
42 SUCH CONFIRMED BLOOD LEVELS.

43 6. A. THE DEPARTMENT IS HEREBY AUTHORIZED AND DIRECTED TO PROMULGATE
44 RULES AND REGULATIONS REGARDING INSPECTIONS FOR CONDITIONS CONDUCIVE TO
45 LEAD POISONING OR LEAD-BASED PAINT HAZARDS. THE RULES AND REGULATIONS
46 SHALL PROVIDE FOR, BUT NOT BE LIMITED TO, QUALIFICATIONS OF INDIVIDUALS
47 ELIGIBLE TO CONDUCT SUCH INSPECTIONS, STANDARDS OF PRACTICE, PROCEDURES
48 OR PROTOCOL FOR CONDUCTING SUCH INSPECTIONS AND REQUIREMENTS FOR WRITTEN
49 REPORTS DOCUMENTING THE RESULTS OF SUCH INSPECTIONS. TO SATISFY THE
50 REQUIREMENTS OF THIS PARAGRAPH, THE DEPARTMENT MAY ADOPT REGULATIONS
51 SUFFICIENT TO SATISFY THE REQUIREMENTS OF 40 C.F.R. PART 745 SUBPART Q
52 OR SUCCESSOR REGULATION.

53 B. THE DEPARTMENT MAY PROMULGATE RULES AND REGULATIONS SUFFICIENT TO
54 SATISFY THE REQUIREMENTS OF 40 C.F.R. PART 745 SUBPART Q OR SUCCESSOR
55 REGULATION, GOVERNING THE ACCREDITATION OF PERSONS ENGAGING IN
56 LEAD-BASED PAINT ACTIVITIES.

1 C. THE DEPARTMENT MAY ESTABLISH BY REGULATION A SCHEDULE OF FEES FOR
2 THE ACCREDITATION AND REGISTRATION OF PERSONS ENGAGING IN LEAD-BASED
3 PAINT ACTIVITIES OR CONDUCTING INSPECTIONS FOR CONDITIONS CONDUCTIVE TO
4 LEAD POISONING OR LEAD-BASED PAINT ACTIVITIES. SUCH FEES SHALL BE
5 REQUIRED TO BE PAID AT THE TIME OF INITIAL REGISTRATION AND AT THE TIME
6 OF SUBSEQUENT RENEWAL OF REGISTRATION AND SHALL BE DEPOSITED INTO THE
7 CHILDHOOD LEAD POISONING PRIMARY PREVENTION AND SAFE HOUSING FUND ESTAB-
8 LISHED PURSUANT TO SECTION NINETY-NINE-T OF THE STATE FINANCE LAW.

9 7. MUNICIPALITIES SHALL COOPERATE FULLY WITH THE DEPARTMENT, DEPART-
10 MENT OF STATE OR ANY OTHER APPROPRIATE STATE AGENCY, DEPARTMENT, DIVI-
11 SION, QUASI-PUBLIC CORPORATION OR AUTHORITY TO CARRY OUT THE PROVISIONS
12 OF THIS SECTION.

13 8. THE DEPARTMENT SHALL, IN COOPERATION WITH ANY OTHER APPROPRIATE
14 STATE AGENCY, DEPARTMENT, DIVISION, QUASI-PUBLIC CORPORATION OR AUTHORI-
15 TY, LOCAL MUNICIPALITIES AND COMMUNITY ORGANIZATIONS, TAKE STEPS AND
16 DEVELOP STRATEGIES TO BALANCE THE NEED TO ELIMINATE THE INCIDENCE OF
17 CHILDHOOD LEAD POISONING WITH THE NEED FOR AVAILABLE, AFFORDABLE HOUSING
18 AND CHILD CARE. SUCH STEPS AND STRATEGIES SHALL BE REFLECTED IN THE
19 DEVELOPMENT AND IMPLEMENTATION OF THE CHILDHOOD LEAD POISONING PRIMARY
20 PREVENTION AND SAFE HOUSING PLAN AND LOCAL PRIMARY PREVENTION PLANS.

21 9. THE COMMISSIONER SHALL DESIGNATE A DEPUTY COMMISSIONER OF HEALTH
22 RESPONSIBLE FOR FULFILLING THE REQUIREMENTS OF THIS SECTION WHEN SUCH
23 REQUIREMENTS INVOLVE THE RESPONSIBILITIES OF THE DEPARTMENT.

24 S 8. Section 606 of the tax law is amended by adding a new subsection
25 (qq) to read as follows:

26 (QQ) CREDIT FOR LEAD HAZARD REDUCTION ACTIVITIES. (1) AUTHORIZATION OF
27 CREDIT. A TAXPAYER SHALL BE ALLOWED A CREDIT AGAINST THE TAX IMPOSED BY
28 THIS ARTICLE EQUAL TO FIFTY PERCENT OF THE COST OF THE QUALIFIED ACTIV-
29 ITIES COMPLETED WHICH BROUGHT ANY DWELLING UNIT LOCATED IN THIS STATE
30 INCLUDING OWNER OCCUPIED DWELLING UNITS INTO COMPLIANCE WITH EITHER
31 "ABATED" OR "INTERIM CONTROLS IMPLEMENTED" CERTIFICATION STATUS AS
32 DESCRIBED IN SECTION THIRTEEN HUNDRED SEVENTY-NINE OF THE PUBLIC HEALTH
33 LAW, PROVIDED THAT THE TAXPAYER COMPLIES WITH THE DOCUMENTATION REQUIRE-
34 MENTS OF PARAGRAPH EIGHT OF THIS SUBSECTION. SUCH DWELLING UNIT MUST BE
35 CERTIFIED AS EITHER "ABATED" OR "INTERIM CONTROLS IMPLEMENTED" IN ORDER
36 FOR ANY CREDIT TO BE ALLOWED UNDER THIS SUBSECTION. A CREDIT SHALL BE
37 ALLOWED UNDER THIS SUBSECTION FOR THE COSTS OF THE FOLLOWING QUALIFIED
38 ACTIVITIES PROVIDED THE EXPECTED USEFUL LIFE OF SUCH ACTIVITIES IS TEN
39 YEARS OR MORE, AS DETERMINED BY REGULATIONS PROMULGATED BY THE DEPART-
40 MENT IN CONSULTATION WITH THE DEPARTMENT OF STATE, THE DEPARTMENT OF
41 HEALTH, AND THE DIVISION OF HOUSING AND COMMUNITY RENEWAL, AND THE
42 TAXPAYER COMPLIES WITH THE DOCUMENTATION REQUIREMENTS OF PARAGRAPH EIGHT
43 OF THIS SUBSECTION:

44 (A) ANY SET OF MEASURES WHICH WOULD RESULT IN THE PERMANENT ELIMI-
45 NATION OF LEAD-BASED PAINT OR LEAD-BASED PAINT HAZARDS, INCLUDING THE
46 REMOVAL OF LEAD-BASED PAINT, THE PERMANENT ENCLOSURE OR ENCAPSULATION OF
47 LEAD-BASED PAINT, THE REPLACEMENT OF COMPONENTS OR FIXTURES PAINTED WITH
48 LEAD-BASED PAINT, AND THE REMOVAL OR PERMANENT COVERING OF SOIL-BASED
49 HAZARDS;

50 (B) THE REPLACEMENT OF ANY SURFACES, WINDOWS, OR FIXTURES PAINTED WITH
51 LEAD-BASED PAINT;

52 (C) THE ENCAPSULATION OR ENCLOSURE OF LEAD-BASED PAINT; AND

53 (D) THE REMOVAL OR ENCAPSULATION OR ENCLOSURE OF LEAD-BASED PAINT, OR
54 PAINT OF UNKNOWN LEAD CONTENT, FROM FRICTION SURFACES, SUCH AS THE
55 INSTALLATION OF REPLACEMENT WINDOW CHANNELS OR SLIDES, THE STRIPPING AND
56 REPAINTING OF INTERIOR WINDOW TROUGHS AND WINDOWSILLS OR THEIR REPLACE-

MENT OR ENCAPSULATION WITH VINYL, METAL, OR ANY OTHER DURABLE MATERIALS WHICH RENDER THE SURFACE SMOOTH AND CLEANABLE, OR THE STRIPPING AND RE-HANGING OF DOORS.

(2) AMOUNT OF CREDIT. THE TAX CREDIT SHALL BE EQUAL TO FIFTY PERCENT OF THE TOTAL EXPENSES ACTUALLY INCURRED FOR QUALIFIED ACTIVITIES DESCRIBED IN THIS SUBSECTION UP TO A MAXIMUM OF ONE THOUSAND FIVE HUNDRED DOLLARS PER DWELLING UNIT. IN NO EVENT SHALL THE TOTAL TAX CREDIT RECEIVED BY A TAXPAYER PURSUANT TO THIS SUBSECTION EXCEED FIVE THOUSAND DOLLARS PER TAX YEAR.

(3) RESTRICTION OF CREDIT TO QUALIFIED RENTAL HOUSING UNITS; INCOME RESTRICTIONS UPON ELIGIBILITY OF TAXPAYER. IN THE CASE OF A DWELLING UNIT THAT IS RENTED OR LEASED, THE AVAILABILITY OF A TAX CREDIT PURSUANT TO THIS SUBSECTION SHALL BE LIMITED TO SUCH DWELLING UNITS FOR WHICH THE CONTRACT RENT, INCLUDING ANY RENT SUBSIDY OR SHELTER ALLOWANCE THAT HAS BEEN PAID TO THE OWNER ON BEHALF OF THE TENANT, HAS AT NO TIME DURING THE TAX YEAR IN WHICH THE ELIGIBLE COSTS WERE INCURRED EXCEEDED ONE HUNDRED PERCENT OF THE APPLICABLE AREA FAIR MARKET RENT PUBLISHED ANNUALLY BY THE FEDERAL DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT PURSUANT TO SECTION 8(C)(1) OF THE UNITED STATES HOUSING ACT OF 1937, AS AMENDED, 42 USC 1437F(C)(1).

(4) RESTRICTION UPON THE INCOME LEVEL OF TAXPAYERS ELIGIBLE FOR CREDIT. (A) WITH RESPECT TO TAXPAYERS CLAIMING THE TAX CREDIT IN CONJUNCTION WITH ACTIVITIES MADE TO AN OWNER-OCCUPIED UNIT, THE ELIGIBILITY FOR THE TAX CREDIT SHALL BE LIMITED TO TAXPAYERS WHOSE INCOME DOES NOT EXCEED ONE HUNDRED PERCENT OF THE AREA MEDIAN FAMILY INCOME ESTABLISHED ANNUALLY BY THE FEDERAL DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT PURSUANT TO SECTION 3(B)(2) OF THE UNITED STATES HOUSING ACT OF 1937, AS AMENDED, 42 USC 1437C(B)(2); AND

(B) WITH RESPECT TO TAXPAYERS CLAIMING THE TAX CREDIT IN CONJUNCTION WITH ACTIVITIES MADE TO A DWELLING UNIT IN WHICH THERE ARE FOUR OR MORE DWELLING UNITS THAT ARE RENTED OR LEASED, THEN ELIGIBILITY FOR THE TAX CREDIT SHALL BE LIMITED TO SUCH DWELLING UNITS IN WHICH THE HOUSEHOLD INCOME OF THE OCCUPANTS IN EACH DWELLING UNIT DID NOT EXCEED EIGHTY PERCENT OF THE AREA MEDIAN FAMILY INCOME ESTABLISHED ANNUALLY BY THE FEDERAL DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT PURSUANT TO SECTION 3(B)(2) OF THE UNITED STATES HOUSING ACT OF 1937, AS AMENDED, 42 USC 1437C(B)(2).

(5) MULTIPLE TAXPAYERS. IF THE DWELLING UNIT IS OWNED BY TWO OR MORE TAXPAYERS, THE AMOUNT OF THE CREDIT ALLOWED UNDER THIS SUBSECTION FOR EACH SUCH ELIGIBLE TAXPAYER SHALL BE PRORATED ACCORDING TO THE PERCENTAGE OF THE TOTAL EXPENDITURE FOR ELIGIBLE ACTIVITIES INCURRED BY EACH TAXPAYER AND SHALL NOT EXCEED FIVE THOUSAND DOLLARS.

(6) EXPENSES TO BE PAID BY TAXPAYER. THE AMOUNT OF ANY CREDIT ALLOWED UNDER THIS SUBSECTION SHALL BE RESTRICTED TO EXPENSES ACTUALLY INCURRED AND SHALL NOT INCLUDE ANY COST TO THE EXTENT SUCH COST IS FUNDED BY ANY GRANT, CONTRACT, OR OTHERWISE BY ANOTHER PERSON OR BY ANY GOVERNMENTAL ENTITY, INCLUDING A LOAN FROM MONEYS IN THE CHILDHOOD LEAD POISONING PRIMARY PREVENTION AND SAFE HOUSING FUND.

(7) APPLICATION OF CREDIT. IF THE AMOUNT OF THE CREDIT ALLOWED UNDER THIS SUBSECTION FOR ANY TAXABLE YEAR SHALL EXCEED THE TAXPAYER'S TAX FOR SUCH YEAR, THE EXCESS SHALL BE TREATED AS AN OVERPAYMENT OF TAX TO BE CREDITED OR REFUNDED IN ACCORDANCE WITH THE PROVISIONS OF SECTION SIX HUNDRED EIGHTY-SIX OF THIS ARTICLE, PROVIDED, HOWEVER, THAT NO INTEREST SHALL BE PAID THEREON.

(8) DUPLICATE CREDIT PROHIBITED. NO COST SHALL BE ELIGIBLE FOR A CREDIT UNDER THIS SUBSECTION IF THE TAXPAYER IS ENTITLED TO CLAIM A CREDIT

1 IN THE SAME AMOUNT UNDER EITHER THE FEDERAL TAX CODE OR OTHER PROVISIONS
2 OF THIS CHAPTER.

3 (9) DOCUMENTATION REQUIRED FOR CREDIT ALLOWANCE. NO CREDIT SHALL BE
4 ALLOWED UNDER THIS SUBSECTION UNLESS THE TAXPAYER PROVIDES TO THE
5 COMMISSIONER:

6 (A) A CERTIFICATE OF LEAD HAZARD REDUCTION ACTIVITIES FOR PURPOSES OF
7 A TAX CREDIT PURSUANT TO SECTION THIRTEEN HUNDRED SEVENTY-NINE OF THE
8 PUBLIC HEALTH LAW; AND

9 (B) ANY OTHER DOCUMENTS THE DEPARTMENT DEEMS NECESSARY TO DETERMINE
10 ELIGIBILITY FOR THE TAX CREDIT PURSUANT TO THIS SUBSECTION.

11 (10) PROMULGATION OF REGULATIONS. THE COMMISSIONER, IN CONSULTATION
12 WITH THE COMMISSIONER OF HEALTH, THE SECRETARY OF STATE AND THE COMMIS-
13 SIONER OF HOUSING AND COMMUNITY RENEWAL SHALL PROMULGATE REGULATIONS
14 NECESSARY TO IMPLEMENT THE PROVISIONS OF THIS SUBSECTION.

15 (11) MAXIMUM AGGREGATE. PURSUANT TO SECTION THIRTEEN HUNDRED SEVENTY-
16 NINE OF THE PUBLIC HEALTH LAW, THE MAXIMUM AMOUNT OF CREDIT ALLOWED, IN
17 THE AGGREGATE, FOR ALL TAX CREDITS SHALL NOT EXCEED FIFTEEN MILLION
18 DOLLARS AND FUNDING FOR SUCH TAX CREDITS IS SUBJECT TO APPROPRIATION.

19 S 9. Subparagraph (B) of paragraph 1 of subsection (i) of section 606
20 of the tax law, as amended by section 2 of part ZZ-1 of chapter 57 of
21 the laws of 2008, is amended to read as follows:

22 (B) shall be treated as the owner of a new business with respect to
23 such share if the corporation qualifies as a new business pursuant to
24 paragraph (j) of subdivision twelve of section two hundred ten of this
25 chapter.

26
27 The corporation's credit base under
28 With respect to the following section two hundred ten or section
29 credit under this section: fourteen hundred fifty-six of this
chapter is:

30 (I) Investment tax credit Investment credit base
31 under subsection (a) or qualified
32 rehabilitation
33 expenditures under
34 subdivision twelve of
35 section two hundred ten

36 (II) Empire zone Cost or other basis
37 investment tax credit under subdivision
38 under subsection (j) twelve-B
39 of section two hundred
40 ten

41 (III) Empire zone Eligible wages under
42 wage tax credit subdivision nineteen of
43 under subsection (k) section two hundred ten
44 or subsection (e) of
45 section fourteen hundred
46 fifty-six

47 (IV) Empire zone Qualified investments
48 capital tax credit and contributions under
49 under subsection (l) subdivision twenty of
50 section two hundred ten
51 or subsection (d) of

1		section fourteen hundred
2		fifty-six
3	(V) Agricultural property tax	Allowable school
4	credit under subsection (n)	district property taxes under
5		subdivision twenty-two of
6		section two hundred ten
7	(VI) Credit for employment	Qualified first-year wages or
8	of persons with dis-	qualified second-year wages
9	abilities under	under subdivision
10	subsection (o)	twenty-three of section
11		two hundred ten
12		or subsection (f)
13		of section fourteen
14		hundred fifty-six
15	(VII) Employment incentive	Applicable investment credit
16	credit under subsec-	base under subdivision
17	tion (a-1)	twelve-D of section two
18		hundred ten
19	(VIII) Empire zone	Applicable investment
20	employment	credit under sub-
21	incentive credit under	division twelve-C
22	subsection (j-1)	of section two hundred ten
23	(IX) Alternative fuels credit	Cost under subdivision
24	under subsection (p)	twenty-four of section two
25		hundred ten
26	(X) Qualified emerging	Applicable credit base
27	technology company	under subdivision twelve-E
28	employment credit	of section two hundred ten
29	under subsection (q)	
30	(XI) Qualified emerging	Qualified investments under
31	technology company	subdivision twelve-F of
32	capital tax credit	section two hundred ten
33	under subsection (r)	
34	(XII) Credit for purchase of an	Cost of an automated
35	automated external defibrillator	external defibrillator under
36	under subsection (s)	subdivision twenty-five of
37		section two hundred ten
38		or subsection (j) of section
39		fourteen hundred fifty-six
40	(XIII) Low-income housing	Credit amount under
41	credit under subsection (x)	subdivision thirty
42		of section two hundred ten or
43		subsection (l) of section
44		fourteen hundred fifty-six

1	(XIV) Credit for transportation	Amount of credit under sub-
2	improvement contributions	division thirty-two of section
3	under subsection (z)	two hundred ten or subsection
4		(n) of section fourteen
5		hundred fifty-six
6	(XV) QEZE credit for real property	Amount of credit under
7	taxes under subsection (bb)	subdivision twenty-seven of
8		section two hundred ten or
9		subsection (o) of section
10		fourteen hundred fifty-six
11	(XVI) QEZE tax reduction credit	Amount of benefit period
12	under subsection (cc)	factor, employment increase factor
13		and zone allocation
14		factor (without regard
15		to pro ration) under
16		subdivision twenty-eight of
17		section two hundred ten or
18		subsection (p) of section
19		fourteen hundred fifty-six
20		and amount of tax factor
21		as determined under
22		subdivision (f) of section sixteen
23	(XVII) Green building credit	Amount of green building credit
24	under subsection (y)	under subdivision thirty-one
25		of section two hundred ten
26		or subsection (m) of section
27		fourteen hundred fifty-six
28	(XVIII) Credit for long-term	Qualified costs under
29	care insurance premiums	subdivision twenty-five-a of
30	under subsection (aa)	section two hundred ten
31		or subsection (k) of section
32		fourteen hundred fifty-six
33	(XIX) Brownfield redevelopment	Amount of credit
34	credit under subsection	under subdivision
35	(dd)	thirty-three of section
36		two hundred ten
37		or subsection (q) of
38		section fourteen hundred
39		fifty-six
40	(XX) Remediated brownfield	Amount of credit under
41	credit for real property	subdivision thirty-four
42	taxes for qualified	of section two hundred
43	sites under subsection	ten or subsection (r) of
44	(ee)	section fourteen hundred
45		fifty-six
46	(XXI) Environmental	Amount of credit under
47	remediation	subdivision thirty-five of
48	insurance credit under	section two hundred
49	subsection (ff)	ten or subsection

1		(s) of section
2		fourteen hundred
3		fifty-six
4	(XXII) Empire state film	Amount of credit for qualified
5	production credit	production costs in production
6	under subsection (gg)	of a qualified film under
7		subdivision thirty-six of
8		section two hundred ten
9	(XXIII) Qualified emerging	Qualifying expenditures and
10	technology company facilities,	development activities under
11	operations and training credit	subdivision twelve-G of section
12	under subsection (nn)	two hundred ten
13	(XXIV) Security training tax	Amount of credit
14	credit under	under subdivision thirty-seven
15	subsection (ii)	of section two hundred ten or
16		under subsection (t) of
17		section fourteen hundred fifty-six
18	(XXV) Credit for qualified fuel	Amount of credit under
19	cell electric generating equipment	subdivision thirty-seven
20	expenditures under subsection (g-2)	of section two hundred ten
21		or subsection (t) of
22		section fourteen hundred
23		fifty-six
24	(XXVI) Empire state commercial	Amount of credit for qualified
25	production credit under	production costs in production
26	subsection (jj)	of a qualified commercial under
27		subdivision thirty-eight of sec-
28		tion two hundred ten
29	(XXVII) Biofuel production	Amount of credit
30	tax credit under	under subdivision
31	subsection (jj)	thirty-eight of
32		section two hundred ten
33	(XXVIII) Clean heating fuel credit	Amount of credit under
34	under subsection (mm)	subdivision thirty-nine of
35		section two hundred ten
36	(XXIX) Credit for rehabilitation	Amount of credit under
37	of historic properties	subdivision forty of
38	under subsection (oo)	[subsection] SECTION
39		two hundred ten
40	(XXX) Credit for companies who	Amount of credit under
41	provide transportation	subdivision forty of
42	to individuals	section two hundred ten
43	with disabilities	
44	under subsection (oo)	

1	(XXXI) CREDIT FOR LEAD HAZARD	AMOUNT OF CREDIT UNDER
2	REDUCTION ACTIVITIES	SUBDIVISION FORTY-ONE OF
3	UNDER SUBSECTION (QQ)	SECTION TWO HUNDRED TEN

4 S 10. Section 210 of the tax law is amended by adding a new subdivi-
5 sion 41 to read as follows:

6 41. CREDIT FOR LEAD HAZARD REDUCTION ACTIVITIES. (1) AUTHORIZATION OF
7 CREDIT. A TAXPAYER SHALL BE ALLOWED A CREDIT AGAINST THE TAX IMPOSED BY
8 THIS ARTICLE EQUAL TO FIFTY PERCENT OF THE COST OF THE QUALIFIED ACTIV-
9 ITIES COMPLETED WHICH BROUGHT ANY DWELLING UNIT LOCATED IN THIS STATE
10 INCLUDING OWNER OCCUPIED DWELLING UNITS INTO COMPLIANCE WITH EITHER
11 "ABATED" OR "INTERIM CONTROLS IMPLEMENTED" CERTIFICATION STATUS AS
12 DESCRIBED IN SECTION THIRTEEN HUNDRED SEVENTY-NINE OF THE PUBLIC HEALTH
13 LAW, PROVIDED THAT THE TAXPAYER COMPLIES WITH THE DOCUMENTATION REQUIRE-
14 MENTS OF PARAGRAPH EIGHT OF THIS SUBDIVISION. SUCH DWELLING UNIT MUST BE
15 CERTIFIED AS EITHER "ABATED" OR "INTERIM CONTROLS IMPLEMENTED" IN ORDER
16 FOR ANY CREDIT TO BE ALLOWED UNDER THIS SUBDIVISION. A CREDIT SHALL BE
17 ALLOWED UNDER THIS SUBDIVISION FOR THE COSTS OF THE FOLLOWING QUALIFIED
18 ACTIVITIES PROVIDED THE EXPECTED USEFUL LIFE OF SUCH ACTIVITIES IS TEN
19 YEARS OR MORE, AS DETERMINED BY REGULATIONS PROMULGATED BY THE DEPART-
20 MENT IN CONSULTATION WITH THE DEPARTMENT OF STATE, THE DEPARTMENT OF
21 HEALTH, AND THE DIVISION OF HOUSING AND COMMUNITY RENEWAL, AND THE
22 TAXPAYER COMPLIES WITH THE DOCUMENTATION REQUIREMENTS OF PARAGRAPH EIGHT
23 OF THIS SUBDIVISION:

24 (A) ANY SET OF MEASURES WHICH WOULD RESULT IN THE PERMANENT ELIMI-
25 NATION OF LEAD-BASED PAINT OR LEAD-BASED PAINT HAZARDS, INCLUDING THE
26 REMOVAL OF LEAD-BASED PAINT, THE PERMANENT ENCLOSURE OR ENCAPSULATION OF
27 LEAD-BASED PAINT, THE REPLACEMENT OF COMPONENTS OR FIXTURES PAINTED WITH
28 LEAD-BASED PAINT, AND THE REMOVAL OR PERMANENT COVERING OF SOIL-BASED
29 HAZARDS;

30 (B) THE REPLACEMENT OF ANY SURFACES, WINDOWS, OR FIXTURES PAINTED WITH
31 LEAD-BASED PAINT;

32 (C) THE ENCAPSULATION OR ENCLOSURE OF LEAD-BASED PAINT; AND

33 (D) THE REMOVAL OR ENCAPSULATION OR ENCLOSURE OF LEAD-BASED PAINT, OR
34 PAINT OF UNKNOWN LEAD CONTENT, FROM FRICTION SURFACES, SUCH AS THE
35 INSTALLATION OF REPLACEMENT WINDOW CHANNELS OR SLIDES, THE STRIPPING AND
36 REPAINTING OF INTERIOR WINDOW TROUGHS AND WINDOWSILLS OR THEIR REPLACE-
37 MENT OR ENCAPSULATION WITH VINYL, METAL, OR ANY OTHER DURABLE MATERIALS
38 WHICH RENDER THE SURFACE SMOOTH AND CLEANABLE, OR THE STRIPPING AND
39 RE-HANGING OF DOORS.

40 (2) AMOUNT OF CREDIT. THE TAX CREDIT SHALL BE EQUAL TO FIFTY PERCENT
41 OF THE TOTAL EXPENSES ACTUALLY INCURRED FOR QUALIFIED ACTIVITIES
42 DESCRIBED IN THIS SUBDIVISION UP TO A MAXIMUM OF ONE THOUSAND FIVE
43 HUNDRED DOLLARS PER DWELLING UNIT. IN NO EVENT SHALL THE TOTAL TAX CRED-
44 IT RECEIVED BY A TAXPAYER PURSUANT TO THIS SUBDIVISION EXCEED FIVE THOU-
45 SAND DOLLARS PER TAX YEAR.

46 (3) RESTRICTION OF CREDIT TO QUALIFIED RENTAL HOUSING UNITS; INCOME
47 RESTRICTIONS UPON ELIGIBILITY OF TAXPAYER. IN THE CASE OF A DWELLING
48 UNIT THAT IS RENTED OR LEASED, THE AVAILABILITY OF A TAX CREDIT PURSUANT
49 TO THIS SUBDIVISION SHALL BE LIMITED TO SUCH DWELLING UNITS FOR WHICH
50 THE CONTRACT RENT, INCLUDING ANY RENT SUBSIDY OR SHELTER ALLOWANCE THAT
51 HAS BEEN PAID TO THE OWNER ON BEHALF OF THE TENANT, HAS AT NO TIME
52 DURING THE TAX YEAR IN WHICH THE ELIGIBLE COSTS WERE INCURRED EXCEEDED
53 ONE HUNDRED PERCENT OF THE APPLICABLE AREA FAIR MARKET RENT PUBLISHED
54 ANNUALLY BY THE FEDERAL DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

PURSUANT TO SECTION 8(C)(1) OF THE UNITED STATES HOUSING ACT OF 1937, AS AMENDED, 42 USC 1437F(C)(1).

(4) RESTRICTION UPON THE INCOME LEVEL OF TAXPAYERS ELIGIBLE FOR CREDIT. (A) WITH RESPECT TO TAXPAYERS CLAIMING THE TAX CREDIT IN CONJUNCTION WITH ACTIVITIES MADE TO AN OWNER-OCCUPIED UNIT, THE ELIGIBILITY FOR THE TAX CREDIT SHALL BE LIMITED TO TAXPAYERS WHOSE INCOME DOES NOT EXCEED ONE HUNDRED PERCENT OF THE AREA MEDIAN FAMILY INCOME ESTABLISHED ANNUALLY BY THE FEDERAL DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT PURSUANT TO SECTION 3(B)(2) OF THE UNITED STATES HOUSING ACT OF 1937, AS AMENDED, 42 USC 1437C(B)(2); AND

(B) WITH RESPECT TO TAXPAYERS CLAIMING THE TAX CREDIT IN CONJUNCTION WITH ACTIVITIES MADE TO A DWELLING UNIT IN WHICH THERE ARE FOUR OR MORE DWELLING UNITS THAT ARE RENTED OR LEASED, THEN ELIGIBILITY FOR THE TAX CREDIT SHALL BE LIMITED TO SUCH DWELLING UNITS IN WHICH THE HOUSEHOLD INCOME OF THE OCCUPANTS IN EACH DWELLING UNIT DID NOT EXCEED EIGHTY PERCENT OF THE AREA MEDIAN FAMILY INCOME ESTABLISHED ANNUALLY BY THE FEDERAL DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT PURSUANT TO SECTION 3(B)(2) OF THE UNITED STATES HOUSING ACT OF 1937, AS AMENDED, 42 USC 1437C(B)(2).

(5) MULTIPLE TAXPAYERS. IF THE DWELLING UNIT IS OWNED BY TWO OR MORE TAXPAYERS, THE AMOUNT OF THE CREDIT ALLOWED UNDER THIS SUBDIVISION FOR EACH SUCH ELIGIBLE TAXPAYER SHALL BE PRORATED ACCORDING TO THE PERCENTAGE OF THE TOTAL EXPENDITURE FOR ELIGIBLE ACTIVITIES INCURRED BY EACH TAXPAYER AND SHALL NOT EXCEED FIVE THOUSAND DOLLARS.

(6) EXPENSES TO BE PAID BY TAXPAYER. THE AMOUNT OF ANY CREDIT ALLOWED UNDER THIS SUBDIVISION SHALL BE RESTRICTED TO EXPENSES ACTUALLY INCURRED AND SHALL NOT INCLUDE ANY COST TO THE EXTENT SUCH COST IS FUNDED BY ANY GRANT, CONTRACT, OR OTHERWISE BY ANOTHER PERSON OR BY ANY GOVERNMENTAL ENTITY, INCLUDING A LOAN FROM MONEYS IN THE CHILDHOOD LEAD POISONING PRIMARY PREVENTION AND SAFE HOUSING FUND.

(7) APPLICATION OF CREDIT. IF THE AMOUNT OF THE CREDIT ALLOWED UNDER THIS SUBDIVISION FOR ANY TAXABLE YEAR SHALL EXCEED THE TAXPAYER'S TAX FOR SUCH YEAR, THE EXCESS SHALL BE TREATED AS AN OVERPAYMENT OF TAX TO BE CREDITED OR REFUNDED IN ACCORDANCE WITH THE PROVISIONS OF SECTION ONE THOUSAND EIGHTY-SIX OF THIS CHAPTER, PROVIDED, HOWEVER, THAT NO INTEREST SHALL BE PAID THEREON.

(8) DUPLICATE CREDIT PROHIBITED. NO COST SHALL BE ELIGIBLE FOR A CREDIT UNDER THIS SUBDIVISION IF THE TAXPAYER IS ENTITLED TO CLAIM A CREDIT IN THE SAME AMOUNT UNDER EITHER THE FEDERAL TAX CODE OR OTHER PROVISIONS OF THIS CHAPTER.

(9) DOCUMENTATION REQUIRED FOR CREDIT ALLOWANCE. NO CREDIT SHALL BE ALLOWED UNDER THIS SUBDIVISION UNLESS THE TAXPAYER PROVIDES TO THE COMMISSIONER:

(A) A CERTIFICATE OF LEAD HAZARD REDUCTION ACTIVITIES FOR PURPOSES OF A TAX CREDIT PURSUANT TO SECTION THIRTEEN HUNDRED SEVENTY-NINE OF THE PUBLIC HEALTH LAW; AND

(B) ANY OTHER DOCUMENTS THE DEPARTMENT DEEMS NECESSARY TO DETERMINE ELIGIBILITY FOR THE TAX CREDIT PURSUANT TO THIS SUBDIVISION.

(10) PROMULGATION OF REGULATIONS. THE COMMISSIONER, IN CONSULTATION WITH THE COMMISSIONER OF HEALTH, THE SECRETARY OF STATE AND THE COMMISSIONER OF HOUSING AND COMMUNITY RENEWAL SHALL PROMULGATE REGULATIONS NECESSARY TO IMPLEMENT THE PROVISIONS OF THIS SUBDIVISION.

(11) MAXIMUM AGGREGATE. PURSUANT TO SECTION THIRTEEN HUNDRED SEVENTY-NINE OF THE PUBLIC HEALTH LAW, THE MAXIMUM AMOUNT OF CREDIT ALLOWED, IN THE AGGREGATE, FOR ALL TAX CREDITS SHALL NOT EXCEED FIFTEEN MILLION DOLLARS AND FUNDING FOR SUCH TAX CREDITS IS SUBJECT TO APPROPRIATION.

1 S 11. The state finance law is amended by adding a new section 99-t to
2 read as follows:

3 S 99-T. CHILDHOOD LEAD POISONING PRIMARY PREVENTION AND SAFE HOUSING
4 FUND. 1. THERE IS HEREBY ESTABLISHED IN THE JOINT CUSTODY OF THE COMMIS-
5 SIONER OF HEALTH AND THE COMPTROLLER, A SPECIAL FUND TO BE KNOWN AS THE
6 CHILDHOOD LEAD POISONING PRIMARY PREVENTION AND SAFE HOUSING FUND. SUCH
7 FUND SHALL CONSIST OF THE LEAD-BASED PAINT HAZARD ABATEMENT REVOLVING
8 LOAN ACCOUNT AND THE PRIMARY PREVENTION AND SAFE HOUSING ACCOUNT.

9 2. THE LEAD-BASED PAINT HAZARD ABATEMENT REVOLVING LOAN ACCOUNT SHALL
10 CONSIST OF MONEYS APPROPRIATED TO IT AS WELL AS ANY MONEYS FROM GRANTS,
11 GIFTS, DONATIONS, BEQUESTS AND ALL OTHER MONEYS CREDITED OR TRANSFERRED
12 THERETO FROM ANY OTHER FUND OR SOURCE PURSUANT TO LAW, WHICH ARE
13 INTENDED TO ASSIST OWNERS OF RESIDENTIAL PROPERTIES IN MEETING THE STAN-
14 DARDS FOR "ABATED" OR "INTERIM CONTROLS IMPLEMENTED" CERTIFICATION
15 PURSUANT TO SECTION THIRTEEN HUNDRED SEVENTY-NINE OF THE PUBLIC HEALTH
16 LAW.

17 3. (A) THE COMMISSIONER OF HEALTH SHALL PROMULGATE RULES AND REGU-
18 LATIONS WHICH PROVIDE FOR THE ORDERLY AND EQUITABLE DISBURSEMENT AND
19 REPAYMENT OF FUNDS OF THE LEAD-BASED PAINT HAZARD ABATEMENT REVOLVING
20 LOAN ACCOUNT.

21 (B) FOLLOWING APPROPRIATION BY THE LEGISLATURE, FUNDS PLACED IN THE
22 LEAD-BASED PAINT HAZARD ABATEMENT REVOLVING LOAN ACCOUNT SHALL BE MADE
23 AVAILABLE, UPON APPLICATION DULY MADE, PURSUANT TO RULES AND REGULATIONS
24 PROMULGATED BY THE COMMISSIONER OF HEALTH, TO THE OWNERS OF RESIDENTIAL
25 PROPERTIES, AND TO NON-PROFIT ORGANIZATIONS FOR THE PURPOSE OF BRINGING
26 RESIDENTIAL PROPERTIES INTO COMPLIANCE WITH THE STANDARDS FOR "ABATED"
27 AND "INTERIM CONTROLS IMPLEMENTED" CERTIFICATION STATUS IN ACCORDANCE
28 WITH SECTION THIRTEEN HUNDRED SEVENTY-NINE OF THE PUBLIC HEALTH LAW.

29 (C) LOANS MADE AVAILABLE UNDER THE PROVISIONS OF THIS SECTION MAY BE
30 MADE DIRECTLY, OR IN COOPERATION WITH OTHER PUBLIC AND PRIVATE LENDERS,
31 OR ANY AGENCY, DEPARTMENT, OR BUREAU OF THE FEDERAL GOVERNMENT OR THE
32 STATE.

33 (D) THE PROCEEDS FROM THE REPAYMENT OF ANY LOANS MADE PURSUANT TO THIS
34 SECTION OR FROM FUNDS IN THE RESIDENTIAL PROPERTY LEAD ABATEMENT REVOLV-
35 ING LOAN ACCOUNT SHALL BE DEPOSITED IN AND RETURNED TO THE RESIDENTIAL
36 PROPERTY LEAD ABATEMENT REVOLVING LOAN ACCOUNT TO CONSTITUTE A CONTINU-
37 ING REVOLVING FUND FOR THE PURPOSES PROVIDED IN THIS SECTION.

38 (E) THE COMMISSIONER OF HEALTH MAY REQUEST AND SHALL BE PROVIDED WITH
39 SUCH COOPERATION, ASSISTANCE AND SERVICES FROM ANY AGENCY, DEPARTMENT,
40 DIVISION, BOARD, COMMISSION OR AUTHORITY OF THE STATE HAVING JURISDIC-
41 TION OVER MATTERS RELATED TO THE PROVISIONS OF THIS SUBDIVISION, AS
42 DEEMED REASONABLY NECESSARY. THE COMMISSIONER OF HEALTH IN CONJUNCTION
43 WITH THE COMMISSIONER OF THE DIVISION OF HOUSING AND COMMUNITY RENEWAL
44 SHALL TAKE ANY ACTION NECESSARY TO OBTAIN FEDERAL ASSISTANCE FOR LEAD
45 HAZARD REDUCTION TO BE USED IN CONJUNCTION WITH THE RESIDENTIAL PROPERTY
46 LEAD ABATEMENT REVOLVING LOAN ACCOUNT.

47 (F) UNLESS OTHERWISE STATED, MONEYS DEPOSITED INTO THE CHILDHOOD LEAD
48 POISONING PRIMARY PREVENTION AND SAFE HOUSING FUND SHALL BE CREDITED TO
49 THE PRIMARY PREVENTION AND SAFE HOUSING ACCOUNT.

50 4. THE PRIMARY PREVENTION AND SAFE HOUSING ACCOUNT SHALL CONSIST OF
51 MONEYS RECEIVED BY THE STATE PURSUANT TO SECTIONS THIRTEEN HUNDRED
52 SEVENTY-EIGHT AND THIRTEEN HUNDRED SEVENTY-NINE OF THE PUBLIC HEALTH LAW
53 AS WELL AS ANY MONEYS FROM GRANTS, GIFTS, DONATIONS, BEQUESTS AND ALL
54 OTHER MONEYS APPROPRIATED, CREDITED OR TRANSFERRED THERETO FROM ANY
55 OTHER FUND OR SOURCE PURSUANT TO LAW. MONEYS IN THE ACCOUNT, FOLLOWING
56 APPROPRIATION BY THE LEGISLATURE, SHALL BE USED FOR ACTIVITIES AND

EXPENSES OF THE DEPARTMENT OF HEALTH, THE DEPARTMENT OF STATE OR THE DEPARTMENT OF TAXATION AND FINANCE UNDERTAKEN PURSUANT TO THE CHILDHOOD LEAD POISONING PRIMARY PREVENTION AND SAFE HOUSING ACT.

5. MONEYS IN THE FUND AND IN EACH OF THE ACCOUNTS SHALL BE KEPT SEPARATE AND SHALL NOT BE COMMINGLED WITH ANY OTHER MONEYS IN THE CUSTODY OF THE COMPTROLLER.

6. MONEYS OF THE FUND SHALL BE PAID OUT ON THE AUDIT AND WARRANT OF THE COMPTROLLER ON VOUCHERS CERTIFIED OR APPROVED BY THE COMMISSIONER OF HEALTH. AT THE END OF EACH YEAR ANY MONEYS REMAINING IN THE FUND SHALL BE RETAINED IN THE FUND AND SHALL NOT REVERT OR OTHERWISE BE TRANSFERRED TO THE GENERAL FUND OR TO ANY OTHER SPECIAL FUND. THE INTEREST AND INCOME EARNED ON MONEY IN THE FUND, AFTER DEDUCTING ANY APPLICABLE CHARGES, SHALL BE CREDITED TO THE FUND.

S 12. The public health law is amended by adding a new section 1379 to read as follows:

S 1379. CERTIFICATE OF LEAD HAZARD REDUCTION ACTIVITIES FOR PURPOSES OF A TAX CREDIT. 1. UPON APPLICATION OF A TAXPAYER, THE DEPARTMENT IS AUTHORIZED TO ISSUE A CERTIFICATE OF LEAD HAZARD REDUCTION ACTIVITIES FOR PURPOSES OF A TAX CREDIT PURSUANT TO SUBDIVISION FORTY-ONE OF SECTION TWO HUNDRED TEN AND SUBSECTION (QQ) OF SECTION SIX HUNDRED SIX OF THE TAX LAW EQUAL TO FIFTY PERCENT OF THE COST OF THE QUALIFIED ACTIVITIES COMPLETED WHICH BROUGHT ANY HABITABLE DWELLING UNIT LOCATED IN THIS STATE INTO COMPLIANCE WITH THE STANDARDS FOR EITHER "ABATED" OR "INTERIM CONTROLS IMPLEMENTED" CERTIFICATION STATUS, PROVIDED THE TAXPAYER COMPLIES WITH THE DOCUMENTATION REQUIREMENTS OF SUBDIVISION TWO OF THIS SECTION.

A. SUCH DWELLING UNIT MUST BE CERTIFIED AS EITHER "ABATED" OR "INTERIM CONTROLS IMPLEMENTED" IN ORDER FOR ANY CERTIFICATE TO BE ISSUED UNDER THIS SECTION. A DWELLING UNIT MAY BE CERTIFIED "ABATED" OR "INTERIM CONTROLS IMPLEMENTED" IF LEAD-BASED PAINT HAZARDS OR CONDITIONS CONDUCIVE TO LEAD POISONING HAVE BEEN ELIMINATED OR CONTROLLED AS FOLLOWS:

(I) LEAD-BASED PAINT OR LEAD-BASED PAINT HAZARDS HAVE BEEN PERMANENTLY ELIMINATED USING MEASURES WHICH MAY INCLUDE THE REMOVAL OF LEAD-BASED PAINT, THE PERMANENT ENCLOSURE OR ENCAPSULATION OF LEAD-BASED PAINT, THE REPLACEMENT OF COMPONENTS OR FIXTURES PAINTED WITH LEAD-BASED PAINT, AND THE REMOVAL OR PERMANENT COVERING OF SOIL-BASED HAZARDS. FOR CERTIFICATION PURPOSES, THE LEAD STATUS OF SUCH DWELLING UNITS SHALL BE CERTIFIED AS "ABATED."

(II) ALL CHIPPING, PEELING, OR FLAKING LEAD-BASED PAINT OR PAINT OF UNKNOWN LEAD CONTENT ON PAINTED SURFACES HAS BEEN REMOVED AND REPAINTED, OR STABILIZED AND REPAINTED, AND ANY STRUCTURAL DEFECT THAT IS CAUSING OR LIKELY TO CAUSE LEAD-BASED PAINT OR PAINT OF UNKNOWN LEAD CONTENT TO CHIP, PEEL, OR FLAKE HAS BEEN REPAIRED; AND ALL WINDOW FRICTION SURFACES WITH LEAD-BASED PAINT OR PAINT OF UNKNOWN LEAD CONTENT HAVE HAD SUCH PAINT REMOVED OR PERMANENTLY COVERED, SUCH AS VIA THE INSTALLATION OF REPLACEMENT WINDOW CHANNELS OR SLIDES, AND INTERIOR WINDOW TROUGHS AND WINDOWSILLS HAVE BEEN EITHER STRIPPED AND REPAINTED, REPLACED, OR ENCAPSULATED WITH VINYL, METAL, OR ANY OTHER DURABLE MATERIALS WHICH RENDER THE SURFACE SMOOTH AND CLEANABLE; AND ALL DOORS AND DOORWAYS HAVE BEEN ADJUSTED OR RE-HUNG AS NECESSARY TO PREVENT THE RUBBING TOGETHER OF ANY SURFACE WITH LEAD-BASED PAINT OR PAINT OF UNKNOWN LEAD CONTENT WITH ANOTHER SURFACE; AND ALL BARE FLOORS HAVE BEEN MADE SMOOTH AND CLEANABLE. FOR CERTIFICATION PURPOSES, THE LEAD STATUS OF SUCH DWELLING UNITS SHALL BE CERTIFIED AS "INTERIM CONTROLS IMPLEMENTED."

(III) FOR THE AREA WITHIN THREE FEET SURROUNDING THE PERIMETER OF A BUILDING, NO BARE SOIL IS PRESENT. FOR CERTIFICATION PURPOSES, THE LEAD

1 STATUS OF SUCH DWELLING UNITS SHALL BE CERTIFIED AS "INTERIM CONTROLS
2 IMPLEMENTED."

3 (IV) FOR SOIL LEAD HAZARDS, THE REMOVAL OR PERMANENT COVERING OF SUCH
4 HAZARDS. FOR CERTIFICATION PURPOSES, THE LEAD STATUS OF SUCH DWELLING
5 UNITS SHALL BE CERTIFIED AS "ABATED."

6 (V) ALL WORK HAS BEEN COMPLETED IN ACCORDANCE WITH THE SAFE WORK PRAC-
7 TICE REGULATIONS PROMULGATED PURSUANT TO THIS SECTION; AND AT THE
8 COMPLETION OF ANY ACTIVITIES DESCRIBED IN THIS SUBDIVISION THAT DISTURB
9 LEAD-BASED PAINT OR PAINT OF UNKNOWN LEAD CONTENT, EXCEPT IF THOSE
10 ACTIVITIES WOULD BE CONSIDERED SMALL JOBS PURSUANT TO CLAUSE TEN OF
11 SUBPARAGRAPH (VII) OF THIS PARAGRAPH, THE INTERIOR OF THE AFFECTED AREAS
12 OF THE DWELLING UNIT HAS BEEN HEPA VACUUMED AND WASHED WITH HIGH PHOSP-
13 HATE DETERGENT OR ITS EQUIVALENT; AND CLEARANCE FOR DUST LEAD HAZARDS
14 HAS BEEN ACHIEVED AS DETERMINED BY A CLEARANCE EXAMINATION THAT INCLUDES
15 WIPE SAMPLES.

16 (VI) ALL CLEARANCE EXAMINATIONS SHALL BE PERFORMED BY PERSONS OR ENTI-
17 TIES INDEPENDENT OF THOSE PERFORMING HAZARD REDUCTION OR MAINTENANCE
18 ACTIVITIES.

19 (VII) ALL ACTIVITIES UNDERTAKEN PURSUANT TO THIS SECTION BY AN OWNER
20 OR THE OWNER'S AGENTS OR CONTRACTORS THAT DISTURBS LEAD-BASED PAINT OR
21 PAINT OF UNDETERMINED LEAD CONTENT SHALL BE PERFORMED IN ACCORDANCE WITH
22 SAFE WORK REGULATIONS PROMULGATED THAT THE DEPARTMENT IS HEREBY AUTHOR-
23 IZED AND DIRECTED TO PROMULGATE. SUCH REGULATIONS SHALL PROVIDE FOR BUT
24 NOT BE LIMITED TO:

25 (1) PRE-RENOVATION NOTIFICATION TO TENANTS, OWNERS AND OTHER PERSONS;

26 (2) TRAINING REQUIREMENTS, WHICH SHALL REQUIRE THAT SUCH WORK BE
27 PERFORMED BY PERSONS WHO HAVE, AT A MINIMUM, SUCCESSFULLY COMPLETED A
28 COURSE ON LEAD-SAFE WORK PRACTICES GIVEN BY OR ON BEHALF OF THE DEPART-
29 MENT, OR THE DIVISION OF HOUSING AND COMMUNITY RENEWAL, BY THE UNITED
30 STATES ENVIRONMENTAL PROTECTION AGENCY OR AN ENTITY AUTHORIZED BY IT TO
31 GIVE SUCH COURSE, OR BY THE UNITED STATES DEPARTMENT OF HOUSING AND
32 URBAN DEVELOPMENT OR AN ENTITY AUTHORIZED BY IT TO GIVE SUCH COURSE;

33 (3) PRECAUTIONS TO PREVENT ENTRY INTO THE WORK AREA BY OCCUPANTS UNTIL
34 CLEAN-UP IS COMPLETED AND OTHER WORKSITE PREPARATIONS;

35 (4) TEMPORARY RELOCATION FOR THE OCCUPANTS OF A DWELLING UNIT TO
36 APPROPRIATE HOUSING WHEN WORK CANNOT BE PERFORMED SAFELY AND OTHER OCCU-
37 PANT PROTECTIONS;

38 (5) PRECAUTIONS TO PREVENT THE DISPERSION OF LEAD DUST AND DEBRIS
39 DURING THE WORK;

40 (6) PROHIBITED PRACTICES OF LEAD PAINT REMOVAL, INCLUDING DRY SCRAPING
41 AND SANDING, USE OF POWER TOOLS WITHOUT PROPER ENVIRONMENTAL CONTROLS,
42 THE USE OF TOXIC SUBSTANCES AND OTHER SAFE WORK PRACTICES;

43 (7) PROPER DAILY AND FINAL CLEAN-UP REQUIREMENTS;

44 (8) DUST WIPE TESTING AND OTHER CLEARANCE ACTIVITIES;

45 (9) PRE-RENOVATION NOTIFICATION OF LOCAL MUNICIPAL CODE ENFORCEMENT
46 AGENCIES OR HEALTH DEPARTMENTS, WHERE APPROPRIATE; AND

47 (10) EXCEPTIONS FOR SMALL JOBS THAT INVOLVE DISTURBING LESS THAN TWO
48 SQUARE FEET OF LEAD-BASED PAINT OR PAINT OF UNDETERMINED LEAD CONTENT OR
49 LESS THAN TEN PERCENT OF THE TOTAL SURFACE AREA OF PEELING PAINT ON A
50 TYPE OF COMPONENT WITH A SMALL SURFACE AREA, SUCH AS A WINDOWSILL OR
51 DOOR FRAME.

52 B. A CERTIFICATE MAY BE ISSUED FOR THE FOLLOWING QUALIFIED ACTIVITIES
53 PROVIDED THE EXPECTED USEFUL LIFE OF SUCH ACTIVITIES IS TEN YEARS OR
54 MORE, AS DETERMINED BY REGULATIONS PROMULGATED BY THE DEPARTMENT OF
55 TAXATION AND FINANCE IN CONSULTATION WITH THE DEPARTMENT OF STATE, THE
56 DEPARTMENT AND THE DIVISION OF HOUSING AND COMMUNITY RENEWAL, AND THE

TAXPAYER COMPLIES WITH THE DOCUMENTATION REQUIREMENTS OF SUBDIVISION TWO OF THIS SECTION:

(I) ANY SET OF MEASURES WHICH WOULD RESULT IN THE PERMANENT ELIMINATION OF LEAD-BASED PAINT OR LEAD-BASED PAINT HAZARDS, INCLUDING THE REMOVAL OF LEAD-BASED PAINT, THE PERMANENT ENCLOSURE OR ENCAPSULATION OF LEAD-BASED PAINT, THE REPLACEMENT OF COMPONENTS OR FIXTURES PAINTED WITH LEAD-BASED PAINT, AND THE REMOVAL OR PERMANENT COVERING OF SOIL-BASED HAZARDS;

(II) THE REPLACEMENT OF ANY SURFACES, WINDOWS, OR FIXTURES PAINTED WITH LEAD-BASED PAINT;

(III) THE ENCAPSULATION OR ENCLOSURE OF LEAD-BASED PAINT; AND

(IV) THE REMOVAL OR ENCAPSULATION OR ENCLOSURE OF LEAD-BASED PAINT, OR PAINT OF UNKNOWN LEAD CONTENT, FROM FRICTION SURFACES, SUCH AS THE INSTALLATION OF REPLACEMENT WINDOW CHANNELS OR SLIDES, THE STRIPPING AND REPAINTING OF INTERIOR WINDOW TROUGHS AND WINDOWSILLS OR THEIR REPLACEMENT OR ENCAPSULATION WITH VINYL, METAL, OR ANY OTHER DURABLE MATERIALS WHICH RENDER THE SURFACE SMOOTH AND CLEANABLE, OR THE STRIPPING AND RE-HANGING OF DOORS.

2. NO CERTIFICATE SHALL BE ISSUED UNLESS THE TAXPAYER PROVIDES TO THE COMMISSIONER:

(A) DOCUMENTATION THAT THE DWELLING UNIT WAS CONSTRUCTED PRIOR TO NINETEEN HUNDRED SEVENTY-EIGHT, THE ADDRESS OF THE DWELLING UNIT, PROOF OF OWNERSHIP OF OR RESIDENCY IN SUCH DWELLING UNIT; AND

(B) DOCUMENTATION THAT THE TAXPAYER HAS INCURRED THE EXPENSES SUBMITTED FOR CREDIT FOR THE QUALIFIED ACTIVITIES; AND

(C) DOCUMENTATION THAT THE DWELLING UNIT FOR WHICH THE TAXPAYER IS APPLYING FOR A CERTIFICATE MEETS THE STANDARDS FOR "ABATED" OR "INTERIM CONTROLS IMPLEMENTED" LEAD CERTIFICATION; AND

(D) DOCUMENTATION THAT THE DWELLING UNIT DID NOT OR WOULD NOT HAVE BEEN LIKELY TO MEET THE STANDARDS FOR "ABATED" OR "INTERIM CONTROLS IMPLEMENTED" LEAD CERTIFICATION STATUS PRIOR TO UNDERTAKING THE QUALIFIED ACTIVITIES, SUCH DOCUMENTATION MAY INCLUDE BUT NOT BE LIMITED TO A VERIFIED REPORT OF AN INSPECTION FOR CONDITIONS CONDUCIVE TO LEAD POISONING OR LEAD-BASED PAINT HAZARDS; AND

(E) IN THE CASE OF A DWELLING UNIT THAT IS RENTED OR LEASED, THAT AT NO TIME DURING THE TAX YEAR IN WHICH THE QUALIFIED ACTIVITIES WERE COMPLETED DID THE CONTRACT RENT FOR THE UNIT, INCLUDING ANY RENT SUBSIDY OR SHELTER ALLOWANCE THAT HAS BEEN PAID TO THE OWNER ON BEHALF OF THE TENANT, EXCEED ONE HUNDRED PERCENT OF THE APPLICABLE AREA FAIR MARKET RENT PUBLISHED ANNUALLY BY THE FEDERAL DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT PURSUANT TO SECTION 8 (C)(1) OF THE UNITED STATES HOUSING ACT OF 1937, AS AMENDED, OR, IN THE CASE OF AN OWNER-OCCUPIED DWELLING UNIT, THAT THE HOUSEHOLD INCOME OF THE OCCUPANTS DID NOT EXCEED ONE HUNDRED PERCENT OF THE AREA MEDIAN FAMILY INCOME ESTABLISHED ANNUALLY BY THE FEDERAL DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT PURSUANT TO SECTION 3(B)(2) OF THE UNITED STATES HOUSING ACT OF 1937, AS AMENDED, 42 USC 1437C(B)(2); AND

(F) IN THE CASE OF A DWELLING UNIT IN WHICH THERE ARE FOUR OR MORE DWELLING UNITS THAT ARE RENTED OR LEASED, THAT THE HOUSEHOLD INCOME OF THE OCCUPANTS DID NOT EXCEED EIGHTY PERCENT OF THE AREA MEDIAN FAMILY INCOME ESTABLISHED ANNUALLY BY THE FEDERAL DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT PURSUANT TO SECTION 3(B)(2) OF THE UNITED STATES HOUSING ACT OF 1937, AS AMENDED, 42 USC 1437C(B)(2); AND

(G) DOCUMENTATION THAT THE DWELLING UNIT IS HABITABLE AT THE TIME THE APPLICATION FOR THE CERTIFICATE IS FILED WITH THE DEPARTMENT; AND

1 (H) ANY OTHER DOCUMENTS THE DEPARTMENT DEEMS NECESSARY TO DETERMINE
2 ELIGIBILITY FOR THE CERTIFICATE PURSUANT TO THIS SECTION.

3 3. THE COMMISSIONER, IN CONSULTATION WITH THE COMMISSIONER OF TAXATION
4 AND FINANCE, THE SECRETARY OF STATE AND THE COMMISSIONER OF HOUSING AND
5 COMMUNITY RENEWAL SHALL PROMULGATE REGULATIONS NECESSARY TO IMPLEMENT
6 THE PROVISIONS OF THIS SECTION.

7 4. A CERTIFICATE SHALL BE ISSUED WITHIN FORTY-FIVE DAYS AFTER WRITTEN
8 APPLICATION THEREFOR IF A DWELLING UNIT SHALL BE ENTITLED THERETO.

9 5. THE DEPARTMENT IS AUTHORIZED TO REFUSE, REVOKE OR CANCEL ANY
10 CERTIFICATE IN CASE OF ANY FAILURE TO COMPLY WITH ANY OF THE ELIGIBILITY
11 REQUIREMENTS, OR IN CASE ANY FALSE ALLEGATION OR REPRESENTATION IS MADE
12 IN ANY APPLICATIONS FILED FOR SUCH CERTIFICATE. THE DEPARTMENT MAY ISSUE
13 ONE CERTIFICATE THAT IS APPLICABLE TO MORE THAN ONE DWELLING UNIT WITHIN
14 A DWELLING PROVIDED EACH UNIT FOR WHICH THE CERTIFICATE IS ISSUED WOULD
15 OTHERWISE BE ENTITLED TO A CERTIFICATE AND PROVIDED FURTHER THAT SUCH
16 CERTIFICATE CLEARLY STATES TO WHICH DWELLING UNITS SUCH CERTIFICATE
17 APPLIES.

18 6. THE DEPARTMENT IS AUTHORIZED TO SET AND COLLECT NOMINAL FEES FOR
19 APPLICATIONS FILED AND FOR CERTIFICATES ISSUED. THE FEES SHALL BE
20 DEPOSITED INTO THE CHILDHOOD LEAD POISONING PRIMARY PREVENTION AND SAFE
21 HOUSING FUND ESTABLISHED PURSUANT TO SECTION NINETY-NINE-T OF THE STATE
22 FINANCE LAW.

23 7. EACH CERTIFICATE SHALL STATE THE LEAD STATUS OF THE INTERIOR, EXTE-
24 RIOR AND EXTERIOR SOIL OF THE DWELLING UNIT. EACH CERTIFICATE ALSO
25 SHALL STATE THE MAXIMUM AMOUNT OF CREDIT ALLOWABLE FOR EACH DWELLING
26 UNIT FOR WHICH IT IS ISSUED, IN ACCORDANCE WITH THIS SECTION AND
27 SUBSECTION (QQ) OF SECTION SIX HUNDRED SIX OF THE TAX LAW. EACH CERTIF-
28 ICATE SHALL ALSO STATE, AT A MINIMUM, THE NAME, ADDRESS AND TAXPAYER
29 IDENTIFICATION NUMBER OR SOCIAL SECURITY NUMBER OF THE TAXPAYER, THE
30 ADDRESS OF THE DWELLING UNIT, THE DATE OF ISSUANCE, THE TAX YEAR IN
31 WHICH THE CREDIT MAY APPLY AND THE SIGNATURE OF THE COMMISSIONER OR THE
32 COMMISSIONER'S DESIGNEE.

33 8. CERTIFICATES SHALL NOT BE ISSUED, IN THE AGGREGATE, FOR MORE THAN
34 TEN MILLION DOLLARS OF ALLOWABLE TAX CREDIT PER STATE FISCAL YEAR FOR
35 THE FIRST STATE YEAR AND FOR MORE THAN FIVE MILLION DOLLARS OF ALLOWABLE
36 TAX CREDIT PER STATE FISCAL YEAR FOR THE SECOND SUCH FISCAL YEAR.
37 PROVIDED, HOWEVER, THAT IF, AS OF THE END OF THE STATE FISCAL YEAR,
38 CERTIFICATES FOR ALLOWABLE TAX CREDIT AMOUNTS TOTALING LESS THAN THE
39 AMOUNT PERMITTED IN SUCH FISCAL YEAR HAVE BEEN ISSUED, THEN THE AMOUNT
40 PERMITTED FOR THE SUBSEQUENT STATE FISCAL YEAR SHALL BE AUGMENTED BY THE
41 AMOUNT OF SUCH SHORTFALL AND PROVIDED FURTHER THAT FUNDING FOR TAX CRED-
42 ITS PURSUANT TO THE CHILDHOOD LEAD POISONING PRIMARY PREVENTION AND SAFE
43 HOUSING ACT IS SUBJECT TO APPROPRIATION.

44 9. WHENEVER THE DEPARTMENT SHALL ISSUE A CERTIFICATE OF LEAD HAZARD
45 REDUCTION ACTIVITIES FOR PURPOSES OF A TAX CREDIT THE DEPARTMENT SHALL
46 NOTIFY THE DEPARTMENT OF TAXATION AND FINANCE AND SHALL COOPERATE WITH
47 THE DEPARTMENT OF TAXATION AND FINANCE TO CARRY OUT THE PROVISIONS OF
48 SUBSECTION (QQ) OF SECTION SIX HUNDRED SIX OF THE TAX LAW AND THE
49 PROVISIONS OF THIS SECTION.

50 10. THIS CERTIFICATE IS FOR TAX PURPOSES ONLY AND SHALL NOT BE VALID
51 FOR ANY OTHER PURPOSE OR REASON.

52 S 13. The department of health may request and shall be provided with
53 such cooperation, assistance and services from any agency, department,
54 division, board, commission, authority or public officer of the state
55 and its political subdivisions as may be necessary to carry out the
56 provisions of this act, and with such cooperation, assistance or

1 services, any rules or regulations necessary for the timely implementa-
2 tion of the provisions of this act shall be promulgated immediately.

3 S 14. This act shall take effect immediately; provided, however, that
4 section seven of this act shall take effect on the first of April next
5 succeeding the date on which it shall have become a law; and provided
6 further that sections eight, nine and ten of this act shall take effect
7 January 1, 2011 and shall expire and be deemed repealed after December
8 31, 2013; and provided further that section twelve of this act shall
9 take effect January 1, 2011 and shall be deemed repealed after March 31,
10 2013; and provided, further that the empire state film production credit
11 under subsection (gg), the empire state commercial production credit
12 under subsection (jj) and the credit for companies who provide transpor-
13 tation to individuals with disabilities under subsection (oo) of section
14 606 of the tax law contained in section nine of this act shall expire on
15 the same date as provided in section 9 of part P of chapter 60 of the
16 laws of 2004, as amended, section 10 of part V of chapter 62 of the laws
17 of 2006, as amended and section 5 of chapter 522 of the laws of 2006, as
18 amended, respectively.