

1196

2009-2010 Regular Sessions

I N S E N A T E

January 27, 2009

Introduced by Sen. ROBACH -- read twice and ordered printed, and when printed to be committed 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
12 poisoning is prevented, elevated blood lead levels will result in
13 impairment of the ability to think, concentrate, and learn.
14 (b) Medical research indicates that children can suffer permanent,
15 irreparable damage at blood levels even lower than 10 micrograms per
16 deciliter, and that there is no level of lead ingestion which is without
17 adverse impact. Medical research also indicates that fetal injuries from
18 lead paint can occur if women have elevated blood levels during pregnan-
19 cy. Because of this, intervention measures that wait until children have
20 been exposed have limited benefits, and the pursuit of primary

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

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1 prevention, which means eliminating lead hazards before children are
2 exposed, has been recommended by the United States centers for disease
3 control and prevention and promoted by leading experts in the field as a
4 critical course of action to protect the health of young children.

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

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

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

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

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

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

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

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

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

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

45 (b) to ensure that New York's response to lead-based paint hazards
46 focuses on primary prevention as the essential tool to combat childhood
47 lead poisoning, and thus to substantially reduce, and eventually elimi-
48 nate, the incidence of childhood lead poisoning in the state of New
49 York;

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

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

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

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

8 9. "DWELLING UNIT" MEANS A:

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

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

15 10. "ENCAPSULATION" MEANS THE APPLICATION OF A COVERING OR COATING
16 THAT ACTS AS A BARRIER BETWEEN THE LEAD-BASED PAINT AND THE ENVIRONMENT
17 AND THAT RELIES FOR ITS DURABILITY ON ADHESION BETWEEN THE ENCAPSULATE
18 AND THE PAINTED SURFACE, AND ON THE INTEGRITY OF THE EXISTING BONDS
19 BETWEEN PAINT LAYERS AND BETWEEN THE PAINT AND THE SUBSTRATE. ENCAPSULA-
20 TION MAY BE USED AS A METHOD OF ABATEMENT IF IT IS DESIGNED AND
21 PERFORMED SO AS TO BE PERMANENT.

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

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

29 13. "HIGH EFFICIENCY PARTICLE AIR VACUUM" OR "HEPA-VACUUM" MEANS A
30 DEVICE CAPABLE OF FILTERING OUT PARTICLES OF 0.3 MICRONS OR GREATER FROM
31 A BODY OF AIR AT AN EFFICIENCY OF 99.97% OR GREATER; "HEPA-VACUUM"
32 INCLUDES USE OF A HEPA-VACUUM.

33 14. "LEAD-BASED PAINT HAZARD" MEANS ANY CONDITION IN, OR PROXIMATE TO,
34 A DWELLING UNIT THAT CAUSES EXPOSURE TO LEAD FROM LEAD-CONTAMINATED
35 DUST, FROM LEAD-BASED PAINT THAT IS DETERIORATED, OR FROM LEAD-BASED
36 PAINT THAT IS PRESENT ON CHEWABLE SURFACES, DETERIORATED SUBSURFACES,
37 FRICTION SURFACES, OR IMPACT SURFACES, OR IN SOIL, THAT WOULD RESULT IN
38 ADVERSE HUMAN HEALTH EFFECTS.

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

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

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

53 18. "CHEWABLE SURFACE" MEANS AN INTERIOR OR EXTERIOR SURFACE PAINTED
54 WITH LEAD-BASED PAINT THAT A YOUNG CHILD CAN MOUTH OR CHEW. A CHEWABLE
55 SURFACE IS THE SAME AS AN "ACCESSIBLE SURFACE" AS DEFINED IN 42 U.S.C.

4851B(2). HARD METAL SUBSTRATES AND OTHER MATERIALS THAT CANNOT BE DENT-
ED BY THE BITE OF A YOUNG CHILD ARE NOT CONSIDERED CHEWABLE.

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

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

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

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

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

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

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

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

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

4. EACH HEALTH INSURER OR HEALTH MAINTENANCE ORGANIZATION SHALL REPORT
ANNUALLY TO THE DEPARTMENT ITS AGGREGATE DATA REGARDING COMPLIANCE WITH
THE SCREENING REQUIREMENTS PURSUANT TO THIS SECTION. SUCH DATA SHALL
DETAIL THE NUMBER AND PERCENTAGE OF CHILDREN SEEN WHO WERE AGES ONE AND
TWO, THE NUMBER AND PERCENTAGE WHO WERE SCREENED AT AGE ONE, AND THE
NUMBER AND PERCENTAGE WHO WERE SCREENED AT AGE TWO, SEPARATELY ORGANIZED
BY ZIP CODE. THIS REPORT ON SCREENING COMPLIANCE SHALL BE PROVIDED TO
THE DEPARTMENT BY FEBRUARY FIRST FOLLOWING THE END OF THE CALENDAR YEAR.

5. THE DEPARTMENT SHALL INCLUDE THE SCREENING AND REPORTING REQUIRE-
MENTS IN ITS CONTRACTS FOR SERVICES UNDER THE MEDICAID AND CHILD HEALTH
PLUS PROGRAMS OR ANY OTHER PROGRAMS FUNDED IN WHOLE OR IN PART WITH
STATE OR LOCAL FUNDS AND PROVIDING HEALTH SERVICES TO CHILDREN UNDER AGE
SIX AND PREGNANT WOMEN, AND SHALL IMPOSE COMPLIANCE TARGETS AND APPRO-

1 PRIATE PENALTIES OR SANCTIONS IN THE EVENT SUCH TARGETS ARE NOT
2 ACHIEVED.

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

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

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

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

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

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

46 S 1378. CHILDHOOD LEAD POISONING PRIMARY PREVENTION AND SAFE HOUSING
47 PLAN. 1. THE DEPARTMENT IS HEREBY AUTHORIZED AND REQUIRED TO DEVELOP AND
48 IMPLEMENT, WITHIN NINE MONTHS FOLLOWING THE EFFECTIVE DATE OF THIS
49 SECTION, THE CHILDHOOD LEAD POISONING PRIMARY PREVENTION AND SAFE HOUS-
50 ING PLAN WHICH PURPOSE IS THE ELIMINATION OF CHILDHOOD LEAD POISONING.
51 THE PLAN SHALL ALSO INCLUDE PUBLIC AWARENESS CAMPAIGNS AND COMMUNITY
52 OUTREACH EFFORTS. SUCH PLAN SHALL ALSO INCLUDE LOCAL PRIMARY PREVENTION
53 PLANS FOR COMMUNITIES OF CONCERN IN ACCORDANCE WITH THE PROVISIONS OF
54 THIS SECTION. SUCH PLAN MAY BE AMENDED BY THE DEPARTMENT IN ACCORDANCE
55 WITH THE PROVISIONS OF THIS SECTION. BY MARCH FIFTH OF EACH YEAR BEGIN-
56 NING THE FIRST YEAR AFTER THIS SECTION BECOMES LAW, THE DEPARTMENT SHALL

1 SUBMIT TO THE HEALTH AND FISCAL COMMITTEES OF THE LEGISLATURE AND THE
2 ADVISORY COUNCIL ESTABLISHED IN SECTION THIRTEEN HUNDRED SEVENTY-B OF
3 THIS TITLE A REPORT ON THE CHILDHOOD LEAD POISONING PRIMARY PREVENTION
4 AND SAFE HOUSING PLAN.

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

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

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

48 C. IF A MUNICIPALITY HAS DEVELOPED A PLAN SUBSTANTIALLY SIMILAR TO THE
49 REQUIREMENTS FOR A LOCAL PRIMARY PREVENTION PLAN IN ACCORDANCE WITH THIS
50 SECTION OR PASSED AN ORDINANCE OR LOCAL LAW OR SET OF ORDINANCES OR
51 LOCAL LAWS THAT CONSTITUTE A SUBSTANTIALLY SIMILAR PLAN SUCH PLAN OR
52 ORDINANCE OR LOCAL LAW OR SET OF ORDINANCES OR LOCAL LAWS MAY BE
53 ACCEPTED AS THE LOCAL PRIMARY PREVENTION PLAN FOR THE MUNICIPALITY. AN
54 ORDINANCE OR LOCAL LAW OR SET OF ORDINANCES OR LOCAL LAWS THAT WAS IN
55 EFFECT ON JULY FIRST, TWO THOUSAND SIX IN THE CITY OF ROCHESTER WHICH
56 POLICY AND INTENT IS TO PREVENT HUMAN EXPOSURE TO LEAD-BASED PAINT

HAZARDS IS A SUBSTANTIALLY SIMILAR PLAN FOR PURPOSES OF THIS SECTION AND NO PUBLIC HEARING AND PUBLIC COMMENT PERIOD SHALL BE CONSIDERED TO HAVE BEEN REQUIRED FOR ITS IMPLEMENTATION.

4. A. FUNDING FOR THE CHILDHOOD LEAD POISONING PRIMARY PREVENTION AND SAFE HOUSING PLAN AND ANY LOCAL PRIMARY PREVENTION PLANS INCLUDED THEREIN SHALL BE SUBJECT TO APPROPRIATION BY THE STATE LEGISLATURE.

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

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

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

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

C. THE DEPARTMENT MAY ESTABLISH BY REGULATION A SCHEDULE OF FEES FOR THE ACCREDITATION AND REGISTRATION OF PERSONS ENGAGING IN LEAD-BASED PAINT ACTIVITIES OR CONDUCTING INSPECTIONS FOR CONDITIONS CONDUCIVE TO LEAD POISONING OR LEAD-BASED PAINT ACTIVITIES. SUCH FEES SHALL BE REQUIRED TO BE PAID AT THE TIME OF INITIAL REGISTRATION AND AT THE TIME OF SUBSEQUENT RENEWAL OF REGISTRATION AND SHALL BE DEPOSITED INTO THE

1 CHILDHOOD LEAD POISONING PRIMARY PREVENTION AND SAFE HOUSING FUND ESTAB-
2 LISHED PURSUANT TO SECTION NINETY-NINE-T OF THE STATE FINANCE LAW.

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

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

15 9. THE COMMISSIONER SHALL DESIGNATE A DEPUTY COMMISSIONER OF HEALTH
16 RESPONSIBLE FOR FULFILLING THE REQUIREMENTS OF THIS SECTION WHEN SUCH
17 REQUIREMENTS INVOLVE THE RESPONSIBILITIES OF THE DEPARTMENT.

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

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

38 (A) ANY SET OF MEASURES WHICH WOULD RESULT IN THE PERMANENT ELIMI-
39 NATION OF LEAD-BASED PAINT OR LEAD-BASED PAINT HAZARDS, INCLUDING THE
40 REMOVAL OF LEAD-BASED PAINT, THE PERMANENT ENCLOSURE OR ENCAPSULATION OF
41 LEAD-BASED PAINT, THE REPLACEMENT OF COMPONENTS OR FIXTURES PAINTED WITH
42 LEAD-BASED PAINT, AND THE REMOVAL OR PERMANENT COVERING OF SOIL-BASED
43 HAZARDS;

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

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

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

54 (2) AMOUNT OF CREDIT. THE TAX CREDIT SHALL BE EQUAL TO FIFTY PERCENT
55 OF THE TOTAL EXPENSES ACTUALLY INCURRED FOR QUALIFIED ACTIVITIES
56 DESCRIBED IN THIS SUBSECTION UP TO A MAXIMUM OF ONE THOUSAND FIVE

1 HUNDRED DOLLARS PER DWELLING UNIT. IN NO EVENT SHALL THE TOTAL TAX CRED-
2 IT RECEIVED BY A TAXPAYER PURSUANT TO THIS SUBSECTION EXCEED FIVE THOU-
3 SAND DOLLARS PER TAX YEAR.

4 (3) RESTRICTION OF CREDIT TO QUALIFIED RENTAL HOUSING UNITS; INCOME
5 RESTRICTIONS UPON ELIGIBILITY OF TAXPAYER. IN THE CASE OF A DWELLING
6 UNIT THAT IS RENTED OR LEASED, THE AVAILABILITY OF A TAX CREDIT PURSUANT
7 TO THIS SUBSECTION SHALL BE LIMITED TO SUCH DWELLING UNITS FOR WHICH THE
8 CONTRACT RENT, INCLUDING ANY RENT SUBSIDY OR SHELTER ALLOWANCE THAT HAS
9 BEEN PAID TO THE OWNER ON BEHALF OF THE TENANT, HAS AT NO TIME DURING
10 THE TAX YEAR IN WHICH THE ELIGIBLE COSTS WERE INCURRED EXCEEDED ONE
11 HUNDRED PERCENT OF THE APPLICABLE AREA FAIR MARKET RENT PUBLISHED ANNU-
12 ALLY BY THE FEDERAL DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT PURSUANT
13 TO SECTION 8(C)(1) OF THE UNITED STATES HOUSING ACT OF 1937, AS AMENDED,
14 42 USC 1437F(C)(1).

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

23 (B) WITH RESPECT TO TAXPAYERS CLAIMING THE TAX CREDIT IN CONJUNCTION
24 WITH ACTIVITIES MADE TO A DWELLING UNIT IN WHICH THERE ARE FOUR OR MORE
25 DWELLING UNITS THAT ARE RENTED OR LEASED, THEN ELIGIBILITY FOR THE TAX
26 CREDIT SHALL BE LIMITED TO SUCH DWELLING UNITS IN WHICH THE HOUSEHOLD
27 INCOME OF THE OCCUPANTS IN EACH DWELLING UNIT DID NOT EXCEED EIGHTY
28 PERCENT OF THE AREA MEDIAN FAMILY INCOME ESTABLISHED ANNUALLY BY THE
29 FEDERAL DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT PURSUANT TO SECTION
30 3(B)(2) OF THE UNITED STATES HOUSING ACT OF 1937, AS AMENDED, 42 USC
31 1437C(B)(2).

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

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

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

49 (8) DUPLICATE CREDIT PROHIBITED. NO COST SHALL BE ELIGIBLE FOR A CRED-
50 IT UNDER THIS SUBSECTION IF THE TAXPAYER IS ENTITLED TO CLAIM A CREDIT
51 IN THE SAME AMOUNT UNDER EITHER THE FEDERAL TAX CODE OR OTHER PROVISIONS
52 OF THIS CHAPTER.

53 (9) DOCUMENTATION REQUIRED FOR CREDIT ALLOWANCE. NO CREDIT SHALL BE
54 ALLOWED UNDER THIS SUBSECTION UNLESS THE TAXPAYER PROVIDES TO THE
55 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 SUBSECTION.

(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 SUBSECTION.

(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.

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

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

21		The corporation's credit base under
22		section two hundred ten or section
23	With respect to the following	fourteen hundred fifty-six of this
24	credit under this section:	chapter is:

25	(I) Investment tax credit	Investment credit base
26	under subsection (a)	or qualified
27		rehabilitation
28		expenditures under
29		subdivision twelve of
30		section two hundred ten

31	(II) Empire zone	Cost or other basis
32	investment tax credit	under subdivision
33	under subsection (j)	twelve-B
34		of section two hundred
35		ten

36	(III) Empire zone	Eligible wages under
37	wage tax credit	subdivision nineteen of
38	under subsection (k)	section two hundred ten
39		or subsection (e) of
40		section fourteen hundred
41		fifty-six

42	(IV) Empire zone	Qualified investments
43	capital tax credit	and contributions under
44	under subsection (l)	subdivision twenty of
45		section two hundred ten
46		or subsection (d) of
47		section fourteen hundred
48		fifty-six

49	(V) Agricultural property tax	Allowable school
50	credit under subsection (n)	district property taxes under

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

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

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

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

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

19 (A) ANY SET OF MEASURES WHICH WOULD RESULT IN THE PERMANENT ELIMI-
20 NATION OF LEAD-BASED PAINT OR LEAD-BASED PAINT HAZARDS, INCLUDING THE
21 REMOVAL OF LEAD-BASED PAINT, THE PERMANENT ENCLOSURE OR ENCAPSULATION OF
22 LEAD-BASED PAINT, THE REPLACEMENT OF COMPONENTS OR FIXTURES PAINTED WITH
23 LEAD-BASED PAINT, AND THE REMOVAL OR PERMANENT COVERING OF SOIL-BASED
24 HAZARDS;

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

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

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

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

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

52 (4) RESTRICTION UPON THE INCOME LEVEL OF TAXPAYERS ELIGIBLE FOR CRED-
53 IT. (A) WITH RESPECT TO TAXPAYERS CLAIMING THE TAX CREDIT IN CONJUNC-
54 TION WITH ACTIVITIES MADE TO AN OWNER-OCCUPIED UNIT, THE ELIGIBILITY FOR
55 THE TAX CREDIT SHALL BE LIMITED TO TAXPAYERS WHOSE INCOME DOES NOT
56 EXCEED ONE HUNDRED PERCENT OF THE AREA MEDIAN FAMILY INCOME ESTABLISHED

1 ANNUALLY BY THE FEDERAL DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
2 PURSUANT TO SECTION 3(B)(2) OF THE UNITED STATES HOUSING ACT OF 1937, AS
3 AMENDED, 42 USC 1437C(B)(2); AND

4 (B) WITH RESPECT TO TAXPAYERS CLAIMING THE TAX CREDIT IN CONJUNCTION
5 WITH ACTIVITIES MADE TO A DWELLING UNIT IN WHICH THERE ARE FOUR OR MORE
6 DWELLING UNITS THAT ARE RENTED OR LEASED, THEN ELIGIBILITY FOR THE TAX
7 CREDIT SHALL BE LIMITED TO SUCH DWELLING UNITS IN WHICH THE HOUSEHOLD
8 INCOME OF THE OCCUPANTS IN EACH DWELLING UNIT DID NOT EXCEED EIGHTY
9 PERCENT OF THE AREA MEDIAN FAMILY INCOME ESTABLISHED ANNUALLY BY THE
10 FEDERAL DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT PURSUANT TO SECTION
11 3(B)(2) OF THE UNITED STATES HOUSING ACT OF 1937, AS AMENDED, 42 USC
12 1437C(B)(2).

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

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

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

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

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

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

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

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

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

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

52 S 99-T. CHILDHOOD LEAD POISONING PRIMARY PREVENTION AND SAFE HOUSING
53 FUND. 1. THERE IS HEREBY ESTABLISHED IN THE JOINT CUSTODY OF THE COMMIS-
54 SIONER OF HEALTH AND THE COMPTROLLER, A SPECIAL FUND TO BE KNOWN AS THE
55 CHILDHOOD LEAD POISONING PRIMARY PREVENTION AND SAFE HOUSING FUND. SUCH

FUND SHALL CONSIST OF THE LEAD-BASED PAINT HAZARD ABATEMENT REVOLVING LOAN ACCOUNT AND THE PRIMARY PREVENTION AND SAFE HOUSING ACCOUNT.

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

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

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

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

(D) THE PROCEEDS FROM THE REPAYMENT OF ANY LOANS MADE PURSUANT TO THIS SECTION OR FROM FUNDS IN THE RESIDENTIAL PROPERTY LEAD ABATEMENT REVOLVING LOAN ACCOUNT SHALL BE DEPOSITED IN AND RETURNED TO THE RESIDENTIAL PROPERTY LEAD ABATEMENT REVOLVING LOAN ACCOUNT TO CONSTITUTE A CONTINUING REVOLVING FUND FOR THE PURPOSES PROVIDED IN THIS SECTION.

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

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

4. THE PRIMARY PREVENTION AND SAFE HOUSING ACCOUNT SHALL CONSIST OF MONEYS RECEIVED BY THE STATE PURSUANT TO SECTIONS THIRTEEN HUNDRED SEVENTY-EIGHT AND THIRTEEN HUNDRED SEVENTY-NINE OF THE PUBLIC HEALTH LAW AS WELL AS ANY MONEYS FROM GRANTS, GIFTS, DONATIONS, BEQUESTS AND ALL OTHER MONEYS APPROPRIATED, CREDITED OR TRANSFERRED THERETO FROM ANY OTHER FUND OR SOURCE PURSUANT TO LAW. MONEYS IN THE ACCOUNT, FOLLOWING 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 STATUS OF SUCH DWELLING UNITS SHALL BE CERTIFIED AS "INTERIM CONTROLS IMPLEMENTED."

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

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

(VI) ALL CLEARANCE EXAMINATIONS SHALL BE PERFORMED BY PERSONS OR ENTITIES INDEPENDENT OF THOSE PERFORMING HAZARD REDUCTION OR MAINTENANCE ACTIVITIES.

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

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

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

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

(4) TEMPORARY RELOCATION FOR THE OCCUPANTS OF A DWELLING UNIT TO APPROPRIATE HOUSING WHEN WORK CANNOT BE PERFORMED SAFELY AND OTHER OCCUPANT PROTECTIONS;

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

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

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

(8) DUST WIPE TESTING AND OTHER CLEARANCE ACTIVITIES;

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

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

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

1 LEAD-BASED PAINT, THE REPLACEMENT OF COMPONENTS OR FIXTURES PAINTED WITH
2 LEAD-BASED PAINT, AND THE REMOVAL OR PERMANENT COVERING OF SOIL-BASED
3 HAZARDS;

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

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

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

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

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

19 (B) DOCUMENTATION THAT THE TAXPAYER HAS INCURRED THE EXPENSES SUBMIT-
20 TED FOR CREDIT FOR THE QUALIFIED ACTIVITIES; AND

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

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

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

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

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

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

53 3. THE COMMISSIONER, IN CONSULTATION WITH THE COMMISSIONER OF TAXATION
54 AND FINANCE, THE SECRETARY OF STATE AND THE COMMISSIONER OF HOUSING AND
55 COMMUNITY RENEWAL SHALL PROMULGATE REGULATIONS NECESSARY TO IMPLEMENT
56 THE PROVISIONS OF THIS SECTION.

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

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

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

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

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

38 9. WHENEVER THE DEPARTMENT SHALL ISSUE A CERTIFICATE OF LEAD HAZARD
39 REDUCTION ACTIVITIES FOR PURPOSES OF A TAX CREDIT THE DEPARTMENT SHALL
40 NOTIFY THE DEPARTMENT OF TAXATION AND FINANCE AND SHALL COOPERATE WITH
41 THE DEPARTMENT OF TAXATION AND FINANCE TO CARRY OUT THE PROVISIONS OF
42 SUBSECTION (QQ) OF SECTION SIX HUNDRED SIX OF THE TAX LAW AND THE
43 PROVISIONS OF THIS SECTION.

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

46 S 13. The department of health may request and shall be provided with
47 such cooperation, assistance and services from any agency, department,
48 division, board, commission, authority or public officer of the state
49 and its political subdivisions as may be necessary to carry out the
50 provisions of this act, and with such cooperation, assistance or
51 services, any rules or regulations necessary for the timely implementa-
52 tion of the provisions of this act shall be promulgated immediately.

53 S 14. This act shall take effect immediately; provided, however, that
54 section seven of this act shall take effect on the first of April next
55 succeeding the date on which it shall have become a law; and provided
56 further that sections eight, nine and ten of this act shall take effect

1 January 1, 2011 and shall expire and be deemed repealed after December
2 31, 2013; and provided further that section twelve of this act shall
3 take effect January 1, 2011 and shall be deemed repealed after March 31,
4 2013; and provided, further that the empire state film production credit
5 under subsection (gg), the empire state commercial production credit
6 under subsection (jj) and the credit for companies who provide transpor-
7 tation to individuals with disabilities under subsection (oo) of section
8 606 of the tax law contained in section nine of this act shall expire on
9 the same date as provided in section 9 of part P of chapter 60 of the
10 laws of 2004, as amended, section 10 of part V of chapter 62 of the laws
11 of 2006, as amended and section 5 of chapter 522 of the laws of 2006, as
12 amended, respectively.