

# STATE OF NEW YORK

10190

## IN ASSEMBLY

March 22, 2018

Introduced by M. of A. BICHOTTE -- read once and referred to the Committee on Health

AN ACT to amend the public health law, the real property law, the tax law, the state finance law, the social services law, the insurance law, the multiple dwelling law and the multiple residence law, in relation to enacting the "childhood lead poisoning prevention and safe housing act of 2018"; and to repeal certain provisions of the public health law relating thereto

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 prevention and safe housing act of 2018".  
3 § 2. Legislative findings and purposes. 1. (a) Lead poisoning of  
4 children persists as one of the most prevalent and preventable environ-  
5 mental diseases in New York. At least 10,000 children were newly iden-  
6 tified with levels of lead in their blood at 10 micrograms per deciliter  
7 (ug/dl) in New York state in 2001. Moreover, only about one-third of  
8 children are receiving the lead screenings that are required by law and  
9 therefore, the actual number of children affected by the ingestion of  
10 lead is undoubtedly significantly greater than reported. Prevention is  
11 the only effective way to protect children from irreversible damage.  
12 Unless lead poisoning is prevented, elevated blood lead levels will  
13 result in 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 ug/dl, and that  
16 there is no level of lead ingestion which is without adverse impact.  
17 Medical research also indicates that fetal injuries from lead paint can  
18 occur if women have elevated blood levels during pregnancy. Because of  
19 this, intervention measures that wait until children have been exposed  
20 have limited benefits, and the pursuit of primary prevention, which  
21 means eliminating lead hazards before children are exposed, has been  
22 recommended by the United States centers for disease control and  
23 prevention and promoted by leading experts in the field as a critical  
24 course of action to protect the health of young children.

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

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

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

10 (e) Although New York state banned the sale of lead paint in 1970,  
11 (l.1970, ch. 338) seventy-four percent of New York's housing stock was  
12 constructed prior to 1970. At least ninety percent of lead-based paint  
13 still remaining in occupied housing exists in units built before 1960.  
14 New York state has both the largest percentage and the largest absolute  
15 number of older housing units with lead paint in the nation.

16 (f) The dangers posed by lead-based paint can be substantially  
17 reduced, although not eliminated, by taking measures to prevent paint  
18 deterioration and limiting children's exposure to paint chips and lead  
19 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 landlords and other property owners to undertake wide-  
35 spread and effective lead-based paint hazard abatement, mitigation, and  
36 control; moreover low and moderate income property owners may not have  
37 access to the resources to eliminate or reduce substantially lead  
38 hazards.

39 (k) Insurance companies are reluctant to provide coverage to property  
40 owners in the absence of evidence that lead hazards have been appropri-  
41 ately addressed.

42 (l) Knowledge of lead-based paint hazards, their control, mitigation,  
43 abatement, and risk avoidance is not sufficiently widespread, especially  
44 outside urban areas.

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

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

54 (c) to establish and make enforcement of lead hazard control standards  
55 in the state of New York more certain and more effective;

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

4 (e) to provide access to the resources for property owners and land-  
5 lords who commit to undertake specified lead hazard reduction measures;  
6 and

7 (f) to facilitate the availability and affordability of liability  
8 insurance protection to those landlords and other owners who undertake  
9 specified lead hazard reduction measures.

10 § 3. Section 1370 of the public health law is REPEALED and a new  
11 section 1370 is added to read as follows:

12 § 1370. Definitions. 1. "Abatement" means any set of measures  
13 designed to permanently eliminate lead-based paint or lead-based paint  
14 hazards. Abatement includes the removal of lead-based paint, the perma-  
15 nent enclosure or encapsulation of lead-based paint, the replacement of  
16 components or fixtures painted with lead-based paint, and the removal or  
17 permanent covering of soil-based hazards.

18 2. "Affected property" means a room or group of rooms within a proper-  
19 ty constructed before nineteen hundred seventy that form a single inde-  
20 pendent habitable dwelling unit for occupation by one or more individ-  
21 uals that has living facilities with permanent provisions for living,  
22 sleeping, eating, cooking, and sanitation. "Affected property" does not  
23 include:

24 (a) an area not used for living, sleeping, eating, cooking, or sanita-  
25 tion, such as an unfinished basement, that is not readily accessible to  
26 children under seven years of age;

27 (b) a unit within a hotel, motel, or similar seasonal or transient  
28 facility unless such unit is occupied by one or more persons at risk for  
29 a period exceeding thirty days;

30 (c) an area which is secured and inaccessible to occupants;

31 (d) a unit which is not offered for rent or incident to employment;

32 (e) housing for the elderly, or a residential property designated  
33 exclusively for persons with disabilities; except this exemption shall  
34 not apply if a person at risk resides or is expected to reside in the  
35 dwelling unit or visits the dwelling unit on a regular basis;

36 (f) an unoccupied dwelling unit or residential property that is to be  
37 demolished, provided the dwelling unit or property will remain unoccu-  
38 pied until demolition; or

39 (g) in cities of more than one million population, a multiple dwell-  
40 ing, as defined in section four of the multiple dwelling law.

41 "Affected property" also excludes any property owned or operated by a  
42 unit of federal, state, or local government, or any public, quasi-publ-  
43 ic, or municipal corporation, if the property is subject to lead stand-  
44 ards that are equal to, or more stringent than, the requirements for  
45 lead-stabilized status under subdivision three of section thirteen  
46 hundred seventy-six of this title, but does include privately-owned  
47 properties that receive governmental rental assistance.

48 3. "Area of high risk" means an area designated as such by the  
49 commissioner or his or her representative and consisting of one or more  
50 dwellings in which a condition conducive to lead poisoning of children  
51 is present or, additionally, any census tract or block group within the  
52 state where, during any single year, more than twenty-five children have  
53 been identified with elevated blood lead levels.

54 4. "Change in occupancy" means a change of tenant in an affected prop-  
55 erty in which the property is vacated and possession is either surren-  
56 dered to the owner or abandoned.

1 5. "Chewable surface" shall mean a protruding interior windowsill in  
2 a dwelling unit in an affected property that is readily accessible to a  
3 child under age seven. "Chewable surface" shall also mean any other type  
4 of interior edge or protrusion in a dwelling unit in an affected proper-  
5 ty, such as a rail or stair, where there is evidence that such other  
6 edge or protrusion has been chewed or where an occupant has notified the  
7 owner that a child under age seven residing in that affected property  
8 has mouthed or chewed such edge or protrusion.

9 6. "Communities of concern" means those thirty municipalities in the  
10 state that have the greatest numbers of children identified with  
11 elevated blood lead levels in the prior calendar year within the meaning  
12 of subdivision fourteen of this section.

13 7. "Condition conducive to lead poisoning" means: (a) a lead-based  
14 paint hazard; and/or (b) other environmental conditions which may result  
15 in significant lead exposure, including soil-lead hazards.

16 8. "Containment" means the physical measures taken to ensure that dust  
17 and debris created or released during lead-based paint hazard reduction  
18 are not spread, blown, or tracked from inside to outside of the work-  
19 site.

20 9. "Council" means the advisory council on lead poisoning prevention  
21 established pursuant to section thirteen hundred seventy-b of this  
22 title.

23 10. "Deteriorated paint" means any interior or exterior paint or  
24 other coating that is curling, scaling, flaking, blistering, peeling,  
25 chipping, chalking, cracking, or loose in any manner, such that a space  
26 or pocket of air is behind a portion thereof or such that the paint is  
27 not completely adhered to the underlying subsurface, or is otherwise  
28 damaged or separated from the substrate.

29 11. "Deteriorated subsurface" shall mean an unstable or unsound paint-  
30 ed subsurface, an indication of which can be observed through a visual  
31 inspection, including, but not limited to, rotted or decayed wood, or  
32 wood or plaster that has been subject to moisture or disturbance.

33 12. "Dwelling" means a building or structure or portion thereof,  
34 including the property occupied by and appurtenant to such dwelling,  
35 which is occupied in whole or in part as the home, residence or sleeping  
36 place of one or more human beings and shall, without limiting the fore-  
37 going, include child care facilities for children under seven years of  
38 age, kindergartens and nursery schools.

39 13. "Dwelling unit" means a:

40 (a) single-family dwelling, including attached structures such as  
41 porches and stoops; or

42 (b) housing unit in a structure that contains more than one separate  
43 housing unit, and in which each such unit is used or occupied, or  
44 intended to be used or occupied, in whole or in part, as the home or  
45 separate living quarters of one or more persons.

46 14. "Elevated blood lead level" means a quantity of lead in whole  
47 venous blood, expressed in micrograms per deciliter (ug/dl), of 10 ug/dl  
48 or greater, or such other more stringent level as may be specifically  
49 provided in this title or adopted in regulation by the department pursu-  
50 ant to rule or regulation.

51 15. "Encapsulation" means the application of a covering or coating  
52 that acts as a barrier between the lead-based paint and the environment  
53 and that relies for its durability on adhesion between the encapsulant  
54 and the painted surface, and on the integrity of the existing bonds  
55 between paint layers and between the paint and the substrate. Encapsula-

1 tion may be used as a method of abatement if it is designed and  
2 performed so as to be permanent.

3 16. "Exterior surfaces" means:

4 (a) all fences and porches that are part of a dwelling that is or  
5 contains an affected property;

6 (b) all outside surfaces of a dwelling that is or contains an affected  
7 property that are accessible to a child under the age of seven and that:

8 (1) are attached to the outside of such dwelling; or

9 (2) consist of other buildings that are appurtenant to such dwelling,  
10 such as a garage or shed; and

11 (c) all painted surfaces in stairways, hallways, entrance areas,  
12 recreation areas, laundry areas, and garages within a multifamily dwell-  
13 ing that are common to individual dwelling units, one or more of which  
14 constitutes an affected property, and are accessible to a child under  
15 the age of seven.

16 17. "Friction surface" means an interior or exterior painted surface  
17 that touches or is in contact with another surface, such that the two  
18 surfaces are capable of relative motion and abrade, scrape, or bind when  
19 in relative motion. Friction surfaces shall include, but not be limited  
20 to, window frames and jambs, doors, and hinges.

21 18. "g" means gram, "mg" means milligram (thousandth of a gram), and  
22 "ug" means microgram (millionth of a gram).

23 19. "Hazard reduction" means measures designed to reduce or eliminate  
24 human exposure to lead-based hazards.

25 20. "Health care provider" means any health care practitioner author-  
26 ized to order a blood lead test and any facility licensed pursuant to  
27 article twenty-eight of this chapter.

28 21. "High efficiency particle air vacuum" or "hepa-vacuum" means a  
29 device capable of filtering out particles of 0.3 microns or greater from  
30 a body of air at an efficiency of 99.97% or greater; "hepa-vacuum"  
31 includes use of a hepa-vacuum.

32 22. "Impact surface" means an interior or exterior painted surface  
33 that shows evidence, such as marking, denting, or chipping, that it is  
34 subject to damage by repeated sudden force, such as certain parts of  
35 door frames, moldings, or baseboards.

36 23. "Inspection" means a comprehensive survey by a properly accredited  
37 person to determine the presence of lead-based paint and lead-based  
38 paint hazards and the provision of a report explaining the results of  
39 the inspection.

40 24. "Interior windowsill" means a portion of the horizontal window  
41 ledge that is protruding into the interior of a room.

42 25. "Investigation" means an examination conducted by the owner of an  
43 affected property, the owner's agent or employee, or someone retained by  
44 the owner, in accordance with the requirements established by the deputy  
45 commissioner, to determine whether the affected property meets the stan-  
46 dards of lead-stabilized status as defined in subdivision three of  
47 section thirteen hundred seventy-six of this title.

48 26. "Lead-based paint" means paint or other similar surface coating  
49 material containing 1.0 milligrams of lead per square centimeter or  
50 greater, as determined by laboratory analysis, or by an x-ray fluores-  
51 cence analyzer. If an x-ray fluorescence analyzer is used, readings  
52 shall be corrected for substrate bias when necessary as specified by the  
53 performance characteristic sheets released by the United States environ-  
54 mental protection agency and the United States department of housing and  
55 urban development for the specific x-ray fluorescence analyzer used.  
56 X-ray fluorescence readings shall be classified as positive, negative or

1 inconclusive in accordance with the United States department of housing  
2 and urban development guidelines for the evaluation and control of lead-  
3 based paint hazards in housing (June 1995, revised 1997) and the  
4 performance characteristic sheets released by the United States environ-  
5 mental protection agency and the United States department of housing and  
6 urban development for the specific x-ray fluorescence analyzer used.  
7 X-ray fluorescence readings that fall within the inconclusive zone, as  
8 determined by the performance characteristic sheets, shall be confirmed  
9 by laboratory analysis of paint chips, results shall be reported in  
10 milligrams of lead per square centimeter and the measure of such labora-  
11 tory analysis shall be definitive. If laboratory analysis is used to  
12 determine lead content, results shall be reported in milligrams of lead  
13 per square centimeter. Where the surface area of a paint chip sample  
14 cannot be accurately measured or if an accurately measured paint chip  
15 sample cannot be removed, a laboratory analysis may be reported in  
16 percent by weight. In such case, lead-based paint shall mean any paint  
17 or other similar surface-coating material containing more than 0.5% of  
18 metallic lead, based on the non-volatile content of the paint or other  
19 similar surface-coating material.

20 27. "Lead-based paint hazard" means any condition in, or proximate to,  
21 a dwelling or dwelling unit occupied by a person at risk that causes  
22 exposure to lead from lead-contaminated dust, from lead-based paint that  
23 is deteriorated, or from lead-based paint that is present on chewable  
24 surfaces, deteriorated subsurfaces, friction surfaces, or impact  
25 surfaces, or in soil, that would result in adverse human health effects.

26 28. "Lead-contained" means property that has attained lead-contained  
27 property status within the meaning of subdivision six of section thir-  
28 teen hundred seventy-six of this title.

29 29. "Lead-contaminated dust" means surface dust that contains a mass  
30 per area concentration of lead equal to or exceeding 40 micrograms per  
31 square foot ("ug/ft<sup>2</sup>") on floors, or 250 ug/ft<sup>2</sup> on interior windowsills  
32 based on wipe sample, or 400 ug/ft<sup>2</sup> on window wells, or such more strin-  
33 gent standards as may be adopted by the department.

34 30. "Lead-free" means property that has attained lead-free property  
35 status within the meaning of subdivision five of section thirteen  
36 hundred seventy-six of this title.

37 31. "Lead-stabilized" means property that has attained lead-stabilized  
38 property status within the meaning of subdivision four of section thir-  
39 teen hundred seventy-six of this title.

40 32. "Local designee" means a municipal, county, or other official  
41 designated by the deputy commissioner of public health as responsible  
42 for assisting the designating authority, relevant state agencies, and  
43 relevant county and municipal authorities, in implementing the activ-  
44 ities specified by this article for the localities.

45 33. "Occupant" means any individual living or sleeping in a building,  
46 or having possession of a space within a building.

47 34. "Owner" means a person, firm, corporation, nonprofit organization,  
48 partnership, government, guardian, conservator, receiver, trustee, exec-  
49 utor, or other judicial officer, or other entity which, alone or with  
50 others, owns, holds, or controls the freehold or leasehold title or part  
51 of the title to property, with or without actually possessing it. Such  
52 term includes a vendee who possesses the title, but does not include a  
53 mortgagee or an owner of a reversionary interest under a ground rent  
54 lease. "Owner" includes any authorized agent of the owner, including a  
55 property manager or leasing agent.

1 35. "Permanent" means an expected design life of at least twenty  
2 years.

3 36. "Person" means any natural person.

4 37. "Person at risk" means a child under the age of seven years or a  
5 pregnant woman who resides in an affected property.

6 38. "Program" means the lead poisoning prevention program in the  
7 department established pursuant to section thirteen hundred seventy-a of  
8 this title.

9 39. "Relocation expenses" means all expenses necessitated by the relo-  
10 cation of a tenant's household to housing free of lead hazards, includ-  
11 ing, but not limited to, moving and hauling expenses, the hepa-vacuumping  
12 of all upholstered furniture, laundering of clothes and linens, payment  
13 of a security deposit for the relocation housing, and installation and  
14 connection of utilities and appliances.

15 40. "Soil-lead hazard" means soil in a play area where the soil-lead  
16 concentration from a composite play area sample of bare soil is equal to  
17 or greater than 400 parts per million; or in the rest of the yard when  
18 the arithmetic mean lead concentration from a composite sample (or  
19 arithmetic mean of composite samples) of bare soil from the rest of the  
20 yard (i.e., non-play areas) is equal to or greater than 1,200 parts per  
21 million.

22 41. "Tenant" means the individual named as the lessee in a lease,  
23 rental agreement or other form of occupancy agreement, whether written  
24 or oral, for a dwelling unit, and includes tenancies incident to employ-  
25 ment. Where applicable, the term "tenant" shall also include any occu-  
26 pant of the tenant's household.

27 42. "Wipe sample" means a sample collected by an appropriately accred-  
28 ited person wiping a representative surface of known area, as determined  
29 by American Society for Testing Materials (ASTM) e1728 ("standard prac-  
30 tice for the field collection of settled dust samples using wipe sampl-  
31 ing methods for lead determination by atomic spectrometry techniques"),  
32 with lead determination conducted by an accredited laboratory partic-  
33 ipating in the environmental lead laboratory accreditation program  
34 (nlap).

35 § 4. Subdivision 2 of section 1370-a of the public health law, as  
36 added by chapter 485 of the laws of 1992, paragraphs (a) and (c) as  
37 amended by section 4 of part A of chapter 58 of the laws of 2009, is  
38 amended and three new subdivisions 4, 5 and 6 are added to read as  
39 follows:

40 2. The department shall:

41 (a) identify and designate as communities of concern the thirty muni-  
42 icipalities in the state having the greatest numbers of children identi-  
43 fied with elevated blood lead levels, and, in cooperation with local  
44 health officials and municipal officials, develop a local primary  
45 prevention plan for each community of concern to prevent exposure to  
46 lead consistent with this title. The commissioner is authorized to  
47 enter into and shall enter into agreements or memoranda of understanding  
48 with, and provide technical and other resources to, communities of  
49 concern and shall ensure that the primary prevention plan targets  
50 persons at risk living in the highest risk affected housing in the  
51 community. Municipalities identified by the commissioner shall cooper-  
52 ate fully with the department in the formulation and implementation of  
53 the primary prevention plan for the designated community of concern;

54 (b) identify and designate as areas of high risk any census tract or  
55 block group in the state in which during any single year, more than  
56 twenty-five children have been identified with elevated blood lead

1 levels. In such areas of high risk, the department shall further require  
2 that the county commissioner of health, in cooperation with appropriate  
3 local municipal officials, prioritize and implement the inspection of  
4 affected properties with persons at risk, and require the abatement of  
5 lead-based paint hazards, or the stabilization of all conditions condu-  
6 cive to lead poisoning in these inspected units using lead safe work  
7 practices, in accordance with the definitions and provisions of this  
8 title;

9 (c) promulgate and enforce regulations [~~for screening children and~~  
10 ~~pregnant women, including requirements for blood lead testing, for lead~~  
11 ~~poisoning, and for follow up of children and pregnant women who have~~  
12 ~~elevated blood lead levels]~~ necessary for the implementation of all  
13 portions of this title, except where responsibility for implementing  
14 specific portions of this title is specifically assigned to the commis-  
15 sioner of housing and community renewal or to the commissioner of taxa-  
16 tion and finance;

17 [~~(b)~~] (d) enter into interagency agreements to coordinate lead poison-  
18 ing prevention, exposure reduction, identification and treatment activ-  
19 ities and lead reduction activities with other federal, state and local  
20 agencies and programs;

21 [~~(e)~~] (e) establish a statewide registry of lead levels of children  
22 provided such information is maintained as confidential except for (i)  
23 disclosure for medical treatment purposes; (ii) disclosure of non-iden-  
24 tifying epidemiological data; and (iii) disclosure of information from  
25 such registry to the statewide immunization information system estab-  
26 lished by section twenty-one hundred sixty-eight of this chapter; and

27 [~~(d)~~] (f) develop and implement public education and community  
28 outreach programs on lead exposure, detection and risk reduction.

29 4. The commissioner or the commissioner's designee shall develop  
30 culturally and linguistically appropriate information pamphlets regard-  
31 ing childhood lead poisoning, the importance of testing for elevated  
32 blood lead levels, prevention of childhood lead poisoning, treatment of  
33 childhood lead poisoning, and tenants' and owners' rights and responsi-  
34 bilities under this title. These information pamphlets shall be  
35 distributed as follows:

36 (a) by the owner of any affected property or his or her agents or  
37 employees at the time of the initiation and renewal of a rental agree-  
38 ment to the tenant;

39 (b) by the health care provider to the parent or guardian of a child  
40 at the time of a child's birth and at the time of any childhood immuni-  
41 zation or vaccine unless it is established that such information  
42 pamphlet has been provided previously to the parent or legal guardian by  
43 the health care provider within the prior twelve months. Health care  
44 providers shall also revise their patient forms to include a reminder to  
45 check the lead screening status of each child under six years of age;

46 (c) by the owner or operator of any child care facility, pre-school,  
47 or kindergarten class on or before October fifteenth of each calendar  
48 year, to the parent or guardian of a child enrolled in such facility;

49 (d) by an obstetrician or gynecologist to each patient of child-bear-  
50 ing age at the patient's first visit and at each pregnancy of the  
51 patient; and

52 (e) by the provider of the women, infants and children program to each  
53 person enrolled in such program and upon enrollment and annually there-  
54 after.

55 5. Within three months after the close of the fiscal year, the commis-  
56 sioner shall report to the advisory council established in section thir-



1 teen hundred seventy-b of this title on the department's implementation  
2 of this section during the preceding period. Such report shall be  
3 publicly available and shall include, at a minimum, a detailed statement  
4 of revenue and expenditures and statement of the department's program,  
5 supported by a statistical section with geographic indexing designed to  
6 provide a detailed explanation of the department's enforcement, includ-  
7 ing but not limited to the following:

8 (a) a statistical profile of dwellings in which violations have been  
9 placed pursuant to this title, indicating the ages of the dwellings and  
10 other factors relevant to the prevalence of lead-based paint hazards,  
11 which may include the prior lead poisoning of a person at risk in the  
12 dwelling, outstanding violations, emergency repair charges, tax arrears  
13 and mortgage debt;

14 (b) the number of dwelling units inspected by the department or other  
15 state or local agency pursuant to this title, the number of such units  
16 where a person at risk resided, and the number of inspectors assigned to  
17 conduct such inspections;

18 (c) the number of dwelling units in which the occupant complained of  
19 peeling paint or a deteriorated subsurface and the number of pre-nine-  
20 teen hundred seventy dwelling units in which the existence of such  
21 conditions were confirmed by the department or other state or local  
22 agency;

23 (d) the number of dwelling units where a person at risk resides in  
24 which a violation was placed pursuant to this title, whether the  
25 violation was placed in response to an occupant's complaint or other-  
26 wise;

27 (e) an evaluation of the department's capability to timely inspect,  
28 serve a notice of violation, and enforce the correction of violations;

29 (f) an evaluation of the department's implementation of a program of  
30 inspection pursuant to subdivision six of section thirteen hundred  
31 seventy-seven of this title; and

32 (g) a tabulation of all municipalities, census tracts, or census block  
33 groups which have in any year more than twenty-five children with  
34 elevated blood lead levels, including totals of the number of children  
35 with such elevated blood lead levels by five point increments.

36 6. The commissioner shall designate a deputy commissioner of health  
37 responsible for fulfilling the objectives of this title when such objec-  
38 tives involve the responsibilities of the department.

39 § 5. Section 1370-b of the public health law is amended by adding a  
40 new subdivision 4 to read as follows:

41 4. The department shall make recommendations to amend this title if  
42 any of the following conditions occur:

43 (a) In fiscal year two thousand thirteen, the rate of children who  
44 obtain blood-lead testing in compliance with section thirteen hundred  
45 seventy-c of this title is less than seventy-five percent;

46 (b) In fiscal year two thousand thirteen, the number of children in  
47 this state whose blood-lead level is equal to or exceeds 10 micrograms  
48 per deciliter is greater than four thousand;

49 (c) In fiscal year two thousand fourteen, the rate of children who  
50 obtain blood-lead testing in compliance with section thirteen hundred  
51 seventy-c of this title is less than ninety percent; or

52 (d) In fiscal year two thousand fourteen, the number of children in  
53 this state whose blood-lead level is equal to or exceeds 10 micrograms  
54 per deciliter is greater than two thousand.

1 Such recommendations shall be submitted to the advisory council within  
2 six months after the close of the fiscal year in which the condition  
3 occurs.

4 § 6. Subdivision 1 of section 1370-c of the public health law, as  
5 added by chapter 485 of the laws of 1992, is amended and four new subdivi-  
6 sions 5, 6, 7 and 8 are added to read as follows:

7 1. The department [~~is authorized to~~] shall promulgate and enforce  
8 regulations establishing the means by which and the intervals at which  
9 [~~children and pregnant women~~] persons at risk shall be screened for  
10 elevated blood lead levels and for follow up of persons at risk who have  
11 elevated blood lead levels. The department is also authorized to  
12 require screening for lead poisoning in other high risk groups. At a  
13 minimum, the department shall ensure that all children at both age one  
14 year and at age two years and pregnant women shall be screened and that  
15 all children who are considered at risk up to six years of age shall be  
16 screened at least once each year.

17 5. Each health insurer or health maintenance organization shall report  
18 annually to the department its aggregate data regarding compliance with  
19 the screening requirements pursuant to this section. Such data shall  
20 detail the number and percentage of children seen who were ages one and  
21 two, the number and percentage who were screened at age one, and the  
22 number and percentage who were screened at age two, separately organized  
23 by zip code. This report on screening compliance shall be provided to  
24 the department by March first following the end of the calendar year.  
25 The comptroller shall include a review of compliance with this section  
26 in any audit it performs.

27 6. The department shall include the screening and reporting require-  
28 ments in its contracts for services under the medicaid and child health  
29 plus programs or any other programs funded in whole or in part with  
30 state or local funds and providing health services to persons at risk,  
31 and shall impose compliance targets and appropriate penalties or sanc-  
32 tions in the event such targets are not achieved.

33 7. By April fifteenth of each year the department shall report to the  
34 health committees of the senate and assembly and make publicly available  
35 a report on screening rates of the preceding year pursuant to this  
36 section, including the actual number and estimated percentage of one  
37 year old children and the actual number and estimated percentage of two  
38 year old children screened for blood lead, the actual number and esti-  
39 imated percentage of children screened at both one year of age and two  
40 years of age, the performance of medicaid and child health plus programs  
41 or any other programs funded in whole or in part with state and local  
42 funds and providing health services to persons at risk, and its actions  
43 to publicize and enforce the obligations on health care providers pursu-  
44 ant to this section.

45 8. The department shall promulgate regulations establishing penalties  
46 for knowing violations of subdivision two of this section.

47 § 7. Sections 1373 and 1375 of the public health law are REPEALED and  
48 eight new sections 1370-f, 1373, 1375, 1376, 1377, 1378, 1379 and 1379-a  
49 are added to read as follows:

50 § 1370-f. Response to a child with elevated blood lead levels and  
51 conditions conducive to lead poisoning. 1. For each person at risk who  
52 has a confirmed elevated blood lead level, primary health care providers  
53 shall provide or make reasonable efforts to ensure the provision of a  
54 complete diagnostic evaluation; medical treatment, if necessary; and  
55 referral to the appropriate local or state health unit for environmental  
56 management. A complete diagnostic evaluation shall include at a minimum:

1 a detailed lead exposure assessment, a nutritional assessment, including  
2 iron status, and, as appropriate, development screening.

3 2. The commissioner or the commissioner's designated representative,  
4 as the appropriate local or state health unit for environmental manage-  
5 ment, shall conduct an environmental assessment, which shall include an  
6 emergency inspection in accordance with subdivision three of section  
7 thirteen hundred seventy-seven of this title, to determine the source of  
8 exposure to lead for any person at risk referred pursuant to subdivision  
9 one of this section.

10 3. For each person at risk who is referred for environmental manage-  
11 ment pursuant to this section, whenever the commissioner or his or her  
12 designated representative determines that a condition conducive to lead  
13 poisoning exists in a dwelling, a written notice and demand for discon-  
14 tinuance shall be issued in accordance with section thirteen hundred  
15 seventy-eight of this title. The commissioner or the commissioner's  
16 designated representative shall also immediately notify the appropriate  
17 public welfare department of the issuance of such written notice and  
18 demand pursuant to section one hundred forty-three-b of the social  
19 services law.

20 4. Whenever the commissioner or his or her representative shall  
21 designate an area of high risk, other than a census tract or block group  
22 so designated pursuant to section thirteen hundred seventy-a of this  
23 title he or she may give written notice and demand, served as provided  
24 in section thirteen hundred seventy-eight of this title for the discon-  
25 tinuance of a paint condition conducive to lead poisoning in any desig-  
26 nated dwelling in such area within a specified period of time.

27 5. Whenever the commissioner or his or her designated representative  
28 has issued a written notice and demand for a discontinuance of a condi-  
29 tion conducive to lead poisoning, prior to clearing such condition as  
30 meeting the requirements of this title, the commissioner or his or her  
31 designated representative shall complete a clearance examination to  
32 confirm the safety of the location. Such clearance examinations shall  
33 include a visual assessment, dust sampling, submission of samples for  
34 analysis for lead, interpretation of sampling results, and preparation  
35 of a report. Clearance examinations shall be performed in accordance  
36 with federal guidelines in 24 C.F.R. section 35.1340 or successor regu-  
37 lation.

38 § 1373. Safe work practices for activities disturbing lead-based paint  
39 or paint of unknown lead content in affected properties with persons at  
40 risk. 1. All work performed by an owner or the owner's agents or  
41 contractors, in affected property occupied by a person or persons at  
42 risk, that disturbs lead-based paint or paint of undetermined lead  
43 content shall be performed in accordance with safe work regulations  
44 promulgated by the commissioner. Such regulations shall provide for,  
45 among other things:

46 (a) notice to tenants;

47 (b) training requirements, which shall require that such work be  
48 performed by persons who have, at a minimum, successfully completed a  
49 course on lead-safe work practices given by or on behalf of the depart-  
50 ment, or the division of housing and community renewal, by the United  
51 States environmental protection agency or an entity authorized by it to  
52 give such course, or by the United States department of housing and  
53 urban development or an entity authorized by it to give such course;

54 (c) precautions to prevent entry into the work area by occupants until  
55 clean-up is completed and for temporary relocation provided by the owner

1 for the occupants of a dwelling or dwelling unit to appropriate housing  
2 when work cannot be performed safely;

3 (d) precautions to prevent the dispersion of lead dust and debris  
4 during the work;

5 (e) prohibited practices of lead paint removal, including dry scraping  
6 and sanding, use of power tools without proper environmental controls,  
7 and the use of toxic substances;

8 (f) proper daily and final clean-up requirements;

9 (g) dust wipe clearance testing;

10 (h) pre-notification of local municipal code enforcement agencies or  
11 health departments, where appropriate; and

12 (i) exceptions for small jobs that involve disturbing less than two  
13 square feet of lead-based paint or paint of undetermined lead content or  
14 less than ten percent of the total surface area of peeling paint on a  
15 type of component with a small surface area, such as a windowsill or  
16 door frame.

17 2. A tenant shall allow access to an affected property, at reasonable  
18 times, to the owner to perform any work required under this title.

19 3. If a tenant must vacate an affected property for a period of twenty-  
20 four hours or more in order to allow an owner to perform work that  
21 will disturb the paint on interior surfaces, the owner shall pay to the  
22 tenant in advance the reasonable relocation expenses that the tenant  
23 incurs directly related to the required relocation.

24 4. The deputy commissioner or the deputy commissioner's designee,  
25 within one hundred twenty days following the effective date of this  
26 section, shall establish guidelines and a trainer's manual for a "lead-  
27 safe housing awareness seminar" with a total class time of three hours  
28 or less. Such guidelines and materials shall be made available so that  
29 such courses may be offered by professional associations and community  
30 organizations with a training capacity, existing accredited educational  
31 institutions, and for-profit educational providers. All such offering  
32 proposals shall be reviewed and approved, based on seminar content and  
33 qualifications of instructors, by the deputy commissioner of housing and  
34 community renewal or the deputy commissioner's designee.

35 § 1375. Accreditation of inspectors and contractors performing work.

36 1. No person shall act as a contractor or supervisor to perform the  
37 work necessary for lead-based paint hazard abatement as defined in this  
38 title unless that person is accredited pursuant to one of the following:

39 (a) Regulations that may be adopted by the commissioner pursuant to  
40 this section governing the accreditation of individuals to engage in  
41 lead-based paint activities sufficient to satisfy the requirements of 40  
42 C.F.R. 745.325 or successor regulations;

43 (b) Certification by the United States environmental protection agency  
44 to engage in lead-based paint activities pursuant to 40 C.F.R. 745.226  
45 or successor regulation; or

46 (c) Certification by a state or tribal program authorized by the  
47 United States environmental protection agency to certify individuals  
48 engaged in lead-based paint activities pursuant to 40 C.F.R. 745.325 or  
49 successor regulation.

50 The commissioner shall, by regulation, create exceptions to the  
51 accreditation requirement for instances where the disturbance of lead-  
52 based paint is small and incidental, such as work that disturbs surfaces  
53 of less than either two square feet of peeling lead-based paint per room  
54 or ten percent of the total surface area of peeling paint on a type of  
55 component with a small surface area, such as a windowsill or door frame.

1 2. No person shall conduct an inspection required by sections thirteen  
2 hundred seventy-six and thirteen hundred seventy-seven of this title,  
3 unless that person is accredited pursuant to one of the following:

4 (a) regulations that may be adopted by the commissioner pursuant to  
5 this section governing the accreditation of individuals eligible to  
6 conduct the inspections required by this title sufficient to satisfy the  
7 requirements of 40 C.F.R. 745.325 or successor regulation; or

8 (b) certification to conduct inspections by the United States environ-  
9 mental protection agency pursuant to 40 C.F.R. 745.226(b) or successor  
10 regulation; or

11 (c) certification by a state or tribal program authorized by the  
12 United States environmental protection agency to certify individuals  
13 engaged in lead-based paint activities pursuant to 40 C.F.R. 745.325 or  
14 successor regulation.

15 3. The commissioner may adopt regulations, sufficient to satisfy the  
16 requirements of 40 C.F.R. 745.325 or successor regulation, governing the  
17 accreditation of individuals engaging in lead-based paint activities  
18 under this title or eligible to conduct the inspections required by this  
19 title. The accreditation of such persons pursuant to such regulations  
20 shall extend for a period of three years unless the deputy commissioner  
21 has probable cause to believe a person accredited under this section has  
22 violated the terms of the accreditation or engaged in illegal or uneth-  
23 ical conduct related to inspections required by this title in which case  
24 the accreditation to perform inspections shall be suspended pending a  
25 hearing in accordance with the provisions of the state administrative  
26 procedure act. The commissioner shall establish by regulation a schedule  
27 of fees for the accreditation and registration of such persons. Such  
28 fees shall be required to be paid at the time of initial registration  
29 and at the time of subsequent renewal of registration, and shall be  
30 sufficient to cover all costs, including the costs of state personnel,  
31 attributable to accreditation activities conducted under this section.

32 (a) Fees collected pursuant to this subdivision will be held in a  
33 continuing, non-lapsing special fund to be used for accreditation  
34 purposes under this section.

35 (b) The fund established under this subdivision shall be invested and  
36 reinvested and any investment earnings shall be paid into the fund.

37 4. Any violation of the provisions of this section shall be a misde-  
38 meanor.

39 § 1376. Requirements for affected properties occupied by persons at  
40 risk. 1. All affected properties occupied by persons at risk shall be  
41 maintained free of conditions conducive to lead paint poisoning.

42 2. Within two years following the effective date of this section the  
43 owner of any affected property that is occupied by a person at risk must  
44 certify, through a sworn statement in a form prescribed by the commis-  
45 sioner, that the property meets "lead stabilized" status as defined by  
46 subdivision three of this section and the owner is complying with subdivi-  
47 sion two of section thirteen hundred seventy-seven of this title,  
48 unless a report has been submitted by a certified inspector stating that  
49 the property is either "lead free" or is "lead contained" as provided  
50 for in subdivision five or six of this section.

51 3. An affected property will be considered to be "lead stabilized"  
52 when:

53 (a) All exterior and interior painted surfaces have been visually  
54 reviewed; and all chipping, peeling, or flaking lead-based paint or  
55 paint of unknown lead content on exterior and interior painted surfaces  
56 has been removed and repainted, or stabilized and repainted, and any

1 structural defect that is causing or likely to cause lead-based paint or  
2 paint of unknown lead content to chip, peel, or flake that the owner of  
3 the affected property has knowledge of, or with the exercise of reason-  
4 able care should have knowledge of, has been repaired; and

5 (b) All window friction surfaces with lead-based paint or paint of  
6 unknown lead content have had such paint removed or permanently covered,  
7 such as via the installation of replacement window channels or slides,  
8 and interior window troughs and windowsills have been either stripped  
9 and repainted, replaced, or encapsulated with vinyl, metal, or any other  
10 durable materials which render the surface smooth and cleanable; and

11 (c) All doors and doorways have been adjusted or re-hung as necessary  
12 to prevent the rubbing together of any surface with lead-based paint or  
13 paint of unknown lead content with another surface; and

14 (d) All bare floors have been made smooth and cleanable; and

15 (e) All work has been completed in compliance with the safe work prac-  
16 tice regulations promulgated pursuant to section thirteen hundred seven-  
17 ty-three of this title; and

18 (f) At the completion of any activities described in this subdivision  
19 that disturb lead-based paint or paint of unknown lead content:

20 (i) the interior of the affected property has been HEPA vacuumed and  
21 washed with high phosphate detergent or its equivalent; and

22 (ii) clearance for lead dust hazards has been achieved as determined  
23 by wipe samples in all areas accessible to persons at risk, taken by  
24 properly accredited independent personnel after completion of all activ-  
25 ities undertaken pursuant to subdivision two of this section.

26 4. An owner certifying that an affected property meets "lead stabi-  
27 lized" status under subdivision two of this section shall retain the  
28 sworn certification, which shall be valid for three years, and make it  
29 available for inspection by department or local officials, including the  
30 results of wipe tests when conducted, and shall provide a copy of the  
31 certification and wipe test results to the tenant.

32 5. An affected property will be considered to be "lead-free" for the  
33 purposes of this section if the owner of the affected property submits  
34 to the deputy commissioner's designee for the jurisdiction in which such  
35 property is located an inspection report which indicates that the  
36 affected property has been tested by an inspector, accredited pursuant  
37 to the provisions of section thirteen hundred seventy-five of this  
38 title, for the presence of lead in accordance with standards and proce-  
39 dures established by the regulations promulgated by the commissioner and  
40 states under penalties of perjury that there is no lead-based paint or  
41 lead-contaminated dust present on the interior surfaces of the dwelling  
42 unit, no lead-based paint on the interior surfaces of the common areas  
43 of the property, and no lead-based paint present on any of the exterior  
44 surfaces of the property. A copy of the most recent inspection report  
45 shall be provided to the tenant.

46 6. An affected property will be considered to be "lead contained" for  
47 the purposes of this section if the owner of the affected property  
48 submits a report by a certified inspector, accredited pursuant to the  
49 provisions of section thirteen hundred seventy-five of this title, which  
50 indicates that the affected property has been tested for the presence of  
51 lead-based paint and lead-contaminated dust in accordance with the stan-  
52 dards and procedures established by regulations promulgated by the  
53 commissioner and states under penalties of perjury that:

54 (a) All interior surfaces in the affected property either do not  
55 contain lead-based paint or have been permanently abated; and

1 (b)(i) All exterior painted surfaces of the affected property that  
2 were chipping, peeling, or flaking have been restored with non-lead  
3 based paint and no exterior painted surfaces of the affected property  
4 are chipping, peeling, or flaking; or

5 (ii) All exterior painted surfaces of the affected property have been  
6 covered with vinyl siding or similar siding and sealed in a manner that  
7 prevents exposure to chipping, peeling, or flaking paint; and

8 (c) Clearance for lead dust hazards has been achieved as determined by  
9 wipe samples in all areas accessible to persons at risk, taken by prop-  
10 erly accredited independent personnel. A copy of the inspection report  
11 shall be provided to the tenant.

12 7. In order to maintain "lead contained" status the owner of an  
13 affected property with lead-based paint on any exterior surface which  
14 has been certified as "lead contained" pursuant to subdivision six of  
15 this section shall submit to the deputy commissioner's designee for the  
16 jurisdiction in which such property is located every three years a  
17 certification by an inspector, stating under penalties of perjury that  
18 no exterior painted surface of the affected property is chipping, peel-  
19 ing, or flaking, and that there has been no compromise of any interior  
20 abatement system that relies upon the enclosure or encapsulation for  
21 lead-based paint. A copy of such certification shall be retained by the  
22 owner and made available for inspection by department or local officials  
23 and shall be provided to the tenant.

24 § 1377. Due diligence inquiries; investigation and inspection of  
25 affected properties. 1. Beginning two years after the effective date of  
26 this section, unless the owner of an affected property has previously  
27 documented in the manner required by the deputy commissioner that a  
28 property has been determined to have achieved "lead-free" property  
29 status or "lead-contained" property status, the owner of an affected  
30 property shall make a due diligence inquiry to ascertain whether a  
31 person at risk resides in an affected property.

32 (a) No occupant in a dwelling unit in such affected property shall  
33 refuse or unreasonably fail to provide accurate and truthful information  
34 regarding the residency of a person at risk.

35 (b) All leases offered to tenants or prospective tenants in affected  
36 properties must contain a notice, conspicuously set forth therein, which  
37 advises tenants of the obligations of the owner and tenant as set forth  
38 in this section. Such notice must be in a manner approved by the deputy  
39 commissioner, the content of which shall, at a minimum, be in English  
40 and Spanish. The owner of an affected property shall provide the occu-  
41 phant of such dwelling unit with a pamphlet developed pursuant to subdivi-  
42 sion four of section thirteen hundred seventy-a of this title.

43 (c)(i) The owner of such affected property shall provide to an occu-  
44 phant of a dwelling unit at the signing of a lease, including a renewal  
45 lease, if any, or upon any agreement to lease, or at the commencement of  
46 occupancy if there is no lease, a notice in English and Spanish, the  
47 form and content of which shall be approved by the department, inquiring  
48 whether a person at risk resides or will reside therein. If there is a  
49 lease, such notice shall be included in such lease or be attached as a  
50 rider to such lease. Such notice shall be completed by the occupant at  
51 the time of such signing of a lease, including a renewal lease, if any,  
52 or such agreement to lease, or at such commencement of occupancy.

53 (ii) Where an occupant has responded to the notice provided by the  
54 owner pursuant to subparagraph (i) of this paragraph by indicating that  
55 no person at risk resides therein, during the period between the date of  
56 such response and the delivery of the notice provided by the owner

1 pursuant to paragraph (d) of this subdivision during the immediately  
2 following year the occupant shall have the responsibility to inform the  
3 owner of any person at risk that comes to reside therein during such  
4 period.

5 (d)(i) Each year, an owner of an affected property shall, no earlier  
6 than January first and no later than January sixteenth, except as  
7 provided for in subparagraph (ii) of paragraph (c) of this subdivision,  
8 present to the occupant of each dwelling unit in such affected property  
9 a notice inquiring as to whether a person at risk resides therein. Such  
10 notice, the form and content of which shall be approved by the deputy  
11 commissioner, shall be presented as provided for in subparagraph (ii) of  
12 paragraph (c) of this subdivision, and shall be in English and Spanish.

13 (ii) The owner may present the notice required by subparagraph (i) of  
14 this paragraph by delivering said notice by any one of the following  
15 methods:

16 (1) by first class mail, addressed to the occupant of the dwelling  
17 unit;

18 (2) by hand delivery to the occupant of the dwelling unit; or

19 (3) by enclosure with the January rent bill, if such rent bill is  
20 delivered after December fifteenth but no later than January sixteenth.

21 (iii) (1) Upon receipt of such notice the occupant shall have the  
22 responsibility to deliver by February fifteenth of that year, a written  
23 response to the owner indicating whether or not a person at risk resides  
24 therein. If, subsequent to delivery of such notice, the owner does not  
25 receive such written response by February fifteenth, and does not other-  
26 wise have actual knowledge as to whether a person at risk resides there-  
27 in, then the owner shall at reasonable times and upon reasonable notice  
28 inspect that occupant's dwelling unit to ascertain the residency of a  
29 person at risk and, when necessary, conduct an investigation in order to  
30 make that determination. Where, between February sixteenth and March  
31 first of that year, the owner has made reasonable attempts to gain  
32 access to a dwelling unit to determine if a person at risk resides in  
33 that dwelling unit and was unable to gain access, the owner shall notify  
34 the deputy commissioner or the deputy commissioner's local designee of  
35 that circumstance.

36 (2) Where an occupant has responded to the notice provided by the  
37 owner pursuant to subparagraph (i) of this paragraph by indicating that  
38 no person at risk resides therein, during the period between the date of  
39 such response and the delivery of the notice provided by the owner  
40 pursuant to this subdivision during the immediately following year the  
41 occupant shall have the responsibility to inform the owner of any person  
42 at risk that comes to reside therein during such period.

43 (e) The owner shall make and maintain a record of all due diligence  
44 inquiries, in electronic or hard-copy format, for a period of six years.  
45 Copies of such records shall be made available upon request to the depu-  
46 ty commissioner or his or her local designee.

47 2. Beginning two years after the effective date of this section, when  
48 the owner determines that a person at risk resides at an affected prop-  
49 erty as provided in subdivision one of this section, and the owner of an  
50 affected property has not previously documented in the manner required  
51 by the deputy commissioner that a property has been determined to have  
52 achieved either "lead-free" property status or "lead-contained" property  
53 status, notwithstanding any certification completed pursuant to subdivi-  
54 sion two of section thirteen hundred seventy-six of this title, the  
55 owner shall then cause an investigation to be made, either directly by  
56 the owner, the owner's agent or employee, or by any other person author-



1 ized by the deputy commissioner, to determine whether such property  
2 complies, at a minimum, with "lead-stabilized" property status. Alterna-  
3 tively, the owner may cause an inspection to be made by a person trained  
4 and accredited for such inspections as described in section thirteen  
5 hundred seventy-five of this title for the purpose of determining wheth-  
6 er the affected property complies with either "lead-free" property  
7 status or "lead-contained" property status.

8 (a) The investigation to ascertain whether a property complies with  
9 "lead-stabilized" property status shall occur at least once a year and  
10 more often if necessary, such as when the owner knows or should reason-  
11 ably be aware that a person at risk has become an occupant of the  
12 affected property.

13 (b) An inspection or investigation shall, in addition, be conducted  
14 when, in the exercise of reasonable care, an owner knows or should know  
15 of a condition that is reasonably foreseeable to be conducive to lead  
16 poisoning, or when an occupant specifically requests that an inspection  
17 or investigation be made based upon his or her reasonable belief that  
18 such a condition exists, or when an occupant makes a complaint to the  
19 owner concerning a condition that the owner knows or should know is  
20 reasonably foreseeable to be conducive to lead poisoning.

21 (c) In addition to any investigations or inspections required under  
22 paragraphs (a) or (b) of this subdivision, the owner shall cause such an  
23 investigation or inspection to be made within the thirty days prior to  
24 the leasing, rental, or other turnover of an affected property, and  
25 shall report the findings of that investigation or inspection to  
26 prospective tenants in accordance with Title X of the federal residen-  
27 tial lead poisoning prevention act and this title.

28 (d) The owner shall make and maintain a record of all investigations  
29 or inspections conducted under this subdivision in a form prescribed by  
30 the deputy commissioner. The owner shall maintain such record, in elec-  
31 tronic or hard-copy format, for a period of six years. Copies of such  
32 records shall be made available upon request to the deputy commissioner,  
33 his or her local designee, tenants and occupants of the affected proper-  
34 ty, and any prospective tenants or occupants of the affected property.

35 (e) The owner shall cause a summary of such investigation or  
36 inspection report, in a form prescribed by the deputy commissioner, to  
37 be conspicuously posted in a common area of the dwelling in or adjacent  
38 to main entrances. Where there is more than one affected property in the  
39 dwelling, the summary shall be posted in a common area of the dwelling  
40 in, or adjacent to, the main entrance or entrances. In cases where it is  
41 not feasible to post such reports in a common area, the owner or agent  
42 shall deliver individual copies of such summary to each affected unit.  
43 Said summary shall indicate that the full report of such investigation  
44 or inspection is available to tenants upon request.

45 3. Beginning two years after the effective date of this section, the  
46 deputy commissioner's designee for the jurisdiction in which such prop-  
47 erty is located shall order an inspection of an affected property by an  
48 inspector accredited pursuant to the provisions of section thirteen  
49 hundred seventy-five of this title, at the expense of the owner of the  
50 affected property, whenever the deputy commissioner's designee for the  
51 jurisdiction in which such property is located, receives notification  
52 that the affected property does not reasonably appear to comply with  
53 either the lead-free, lead-contained, or lead-stabilized property status  
54 and that a person at risk resides in the affected property. Any state or  
55 local agency employees who have occasion to observe deteriorated paint  
56 or any other condition believed to be conducive to lead poisoning at an

1 affected property are authorized to report, and shall report, such  
2 conditions to the deputy commissioner's designee, and in such instance,  
3 the deputy commissioner's designee shall require an inspection to be  
4 made of the affected property. An inspection required under this subdivi-  
5 sion shall be completed within ninety days after notification of the  
6 deputy commissioner's designee for the jurisdiction in which such prop-  
7 erty is located. In the event such inspection results in a finding of  
8 lead hazards, a report of such findings shall be immediately transmitted  
9 by the deputy commissioner or the deputy commissioner's designee for the  
10 jurisdiction in which such property is located to the appropriate local  
11 social services department pursuant to section one hundred forty-three-b  
12 of the social services law.

13 4. The deputy commissioner, or the deputy commissioner's designee for  
14 the jurisdiction in which such property is located, shall order an  
15 inspection of an affected property for conditions conducive to lead  
16 poisoning, by an inspector accredited pursuant to the provisions of  
17 section thirteen hundred seventy-five of this title, at the expense of  
18 the owner of the affected property, whenever the deputy commissioner or  
19 the deputy commissioner's designee for the jurisdiction in which such  
20 property is located is notified that a person at risk who resides in the  
21 affected property or spends more than fifteen hours per week in the  
22 affected property has an elevated blood lead level. An inspection under  
23 this subdivision shall be completed within fifteen days after notifica-  
24 tion of the deputy commissioner or the deputy commissioner's designee  
25 for the jurisdiction in which such property is located. In the event  
26 such inspection results in a finding of conditions conducive to lead  
27 poisoning, a report of such finding shall be promptly transmitted by the  
28 deputy commissioner, or the deputy commissioner's designee for the  
29 jurisdiction in which the subject property is located, to the appropri-  
30 ate local social services department pursuant to section one hundred  
31 forty-three-b of the social services law.

32 5. An owner of an affected property at any time after the effective  
33 date of this section, may request voluntarily that the deputy commis-  
34 sioner, or the deputy commissioner's designee for the jurisdiction in  
35 which such property is located, conduct an inspection by an inspector  
36 accredited pursuant to the provisions of section thirteen hundred seven-  
37 ty-five of this title, of an affected property, at the expense of the  
38 owner, to determine whether it complies with the requirements for lead-  
39 free property, lead-contained property status, or lead-stabilized prop-  
40 erty status. Such inspection shall be completed within thirty days after  
41 the owner's request.

42 6. The deputy commissioner shall establish a primary prevention  
43 inspection program in areas of high risk to identify and target affected  
44 properties where there are persons who may be exposed to lead-based  
45 paint hazards in order that inspections may be conducted without the  
46 receipt of a complaint or other such event triggering an inspection, and  
47 require for each such area of high risk that the county commissioner of  
48 health or his or her other local designee, and such local municipal  
49 building or property maintenance code enforcement officials having  
50 jurisdiction over such area as the deputy commissioner shall designate,  
51 prepare and implement a strategy to:

52 (a) assure that a sufficient number of qualified inspection personnel  
53 are available;

54 (b) identify the affected properties with persons at risk in that  
55 municipality, census tract or census block group that are most likely to  
56 contain conditions conducive to lead poisoning;

1 (c) require, at the owner's expense, the inspection of affected prop-  
2 erties for conditions conducive to lead poisoning; and

3 (d) require that such inspected properties attain lead-free, lead-con-  
4 tained, or lead-stabilized status, and elimination of all conditions  
5 conductive to lead poisoning in such properties, using lead safe work  
6 practices in accordance with the provisions of this title.

7 In preparing this primary prevention inspection strategy, the responsi-  
8 ble officials shall, among other factors, consider reports of persons at  
9 risk with elevated blood lead levels in other units in a building; the  
10 age and maintenance history of a building; and any available data on the  
11 presence of young children from birth certificates issued by the depart-  
12 ment.

13 7. An inspector shall submit a verified report of the result of the  
14 inspection conducted pursuant to subdivision two, three, four, five or  
15 six of this section to the deputy commissioner or the deputy commis-  
16 sioner's designee for the jurisdiction in which such property is located,  
17 the owner, and the tenant, if any, of the affected property. Such report  
18 shall be completed subject to penalties for perjury and include the  
19 inspector's state registration number and date of certification to  
20 perform such inspections. In the event such inspection results in a  
21 finding of lead-based paint hazards or conditions conducive to lead  
22 poisoning, a report of such findings shall be promptly transmitted by  
23 the deputy commissioner or the deputy commissioner's designee for the  
24 jurisdiction in which such property is located and to the appropriate  
25 local social services department pursuant to section one hundred forty-  
26 three-b of the social services law.

27 8. Unless an affected property has been certified as "lead-free prop-  
28 erty status" as provided in subdivision two of section thirteen hundred  
29 seventy of this title, any written or printed lease for the lease or  
30 renting of an affected property for a term beginning at a date more than  
31 one year following the effective date of this title shall include the  
32 following provisions, in both English and Spanish, in prominently  
33 displayed and easily readable type or printing:

34 "This property, constructed before January 1, 1970, may contain lead-  
35 based paint. Lead-based paint, if it is not properly removed or main-  
36 tained, may cause brain damage or other serious health impacts in chil-  
37 drren less than seven years of age and fetal injury in pregnant women.  
38 New York state law requires the landlord to comply with maintenance  
39 standards to avoid lead-based paint hazards. This property (owner or  
40 agent to check appropriate box):

41 \_\_\_\_\_ has been inspected by an independent inspector certified under  
42 New York state law within the past sixty days and found not to contain  
43 lead-based paint hazards.

44 \_\_\_\_\_ has been investigated by the owner, manager, or his/her agent  
45 within the past thirty days and observable lead-based paint hazards have  
46 been stabilized.

47 \_\_\_\_\_ has not been inspected for lead-based paint hazards. This prop-  
48 erty may contain lead-based paint hazards dangerous to a child less than  
49 seven years of age."

50 9. At the time of the lease or renting of an affected property without  
51 a written or printed lease at a date more than one year following the  
52 effective date of this section, the front entranceway or door of the  
53 affected property shall be posted with a sign containing the language  
54 quoted in subdivision eight of this section, in both English and Span-  
55 ish, and in prominently displayed and easily readable type or printing.

1 § 1378. Enforcement. 1. Whenever the deputy commissioner or deputy  
2 commissioner's designee finds an affected property to not be in compli-  
3 ance with the applicable requirements for either lead-free, or lead-con-  
4 tained, or lead-stabilized property status, the deputy commissioner or  
5 deputy commissioner's designee shall give written notice and demand,  
6 served as provided herein, for the discontinuance of any condition fail-  
7 ing to comply with either the lead-free, lead-contained, or lead-stabi-  
8 lized standards in an affected property within a specified period of  
9 time not to exceed thirty days. The deputy commissioner or deputy  
10 commissioner's designee shall also immediately notify the appropriate  
11 local social services department of the issuance of such written notice  
12 and demand pursuant to section one hundred forty-three-b of the social  
13 services law.

14 2. In the event of failure to comply with a notice and demand, the  
15 deputy commissioner or the deputy commissioner's designee shall conduct  
16 a formal hearing upon due notice in accordance with the provisions of  
17 this section and on proof of violation of such notice and demand shall  
18 order the owner of an affected property to take specified corrective  
19 actions to have the affected property satisfy the requirements, at a  
20 minimum, of lead-contained or lead-stabilized property and may assess a  
21 penalty not to exceed two thousand five hundred dollars for each  
22 affected property. In the event that such failure to comply concerns a  
23 notice and demand issued in response to an environmental assessment  
24 undertaken pursuant to subdivision three of section thirteen hundred  
25 seventy-seven of this title, the deputy commissioner or the deputy  
26 commissioner's designee, shall cause the condition to be remediated  
27 within the next thirty days, and may place a lien on such property and  
28 commence such legal actions as are necessary to recover from the owner  
29 of such property the deputy commissioner's expenditures in connection  
30 therewith, including legal fees.

31 3. A notice required by this section may be served upon an owner or  
32 occupant of the dwelling or agent of the owner in the same manner as a  
33 summons in a civil action or by registered or certified mail to his or  
34 her last known address or place of residence.

35 4. The deputy commissioner's designee having jurisdiction, county and  
36 city commissioners of health, and local housing code enforcement agen-  
37 cies designated by the deputy commissioner's designee having jurisdic-  
38 tion or county or city commissioner of health shall have the same  
39 authority, powers and duties within their respective jurisdictions as  
40 has the deputy commissioner under the provisions of this title.

41 5. The deputy commissioner or deputy commissioner's representative and  
42 an official or agency specified in subdivision one of this section may  
43 request and shall receive from all public officers, departments and  
44 agencies of the state and its political subdivisions such cooperation  
45 and assistance as may be necessary or proper in the enforcement of the  
46 provisions of this title.

47 6. Any violation of the requirements of section thirteen hundred  
48 seventy-six of this title shall also constitute a violation of any  
49 municipal or other local housing code and shall subject the owner of an  
50 affected property to all orders, criminal penalties, and other civil  
51 forfeitures or penalties that are possible under such municipal or local  
52 housing code, and shall also constitute a rent impairing violation with-  
53 in the meaning of section three hundred two-a of the multiple dwelling  
54 law and section three hundred five-a of the multiple residence law.

55 7. Nothing contained in this title shall be construed to alter or  
56 abridge any duties and powers now or hereafter existing in the deputy

1 commissioner, county boards of health, city and county commissioners of  
2 health, the New York city department of housing preservation and devel-  
3 opment and the department of health, local boards of health or other  
4 public agencies or public officials, or any private party, including the  
5 power to impose more stringent measures to protect public health.

6 8. The office of the attorney general and all local authorities  
7 responsible for the enforcement of state, municipal, and other local  
8 housing codes are hereby empowered to and shall vigorously enforce civil  
9 remedies and/or criminal penalties provided for by law arising out of  
10 the failure to comply with the requirements of this section, sections  
11 thirteen hundred seventy-five or thirteen hundred seventy-six of this  
12 title and may seek injunctive relief where appropriate.

13 9. (a) Any administrative proceeding or civil or criminal action by  
14 state or local officials to enforce the provisions of this section shall  
15 be reported to the deputy commissioner.

16 (b) The deputy commissioner shall issue an annual report outlining  
17 specifically the enforcement actions brought pursuant to this section,  
18 the identity of the owners of the affected properties, the authority  
19 bringing the enforcement action, the nature of the action, and describ-  
20 ing the criminal penalties and/or civil relief.

21 10. The removal of a tenant from or the surrender by the tenant of a  
22 dwelling with respect to which the deputy commissioner or his or her  
23 representative, pursuant to subdivision one of this section, has given  
24 written notice and demand for the discontinuance of a condition condu-  
25 cive to lead poisoning shall not absolve, relieve or discharge any  
26 persons chargeable therewith from the obligation and responsibility to  
27 discontinue such condition conducive to lead poisoning in accordance  
28 with the method of discontinuance prescribed therefor in such notice and  
29 demand.

30 § 1379. Injunctive relief. 1. If an owner of an affected property  
31 fails to comply with the requirements of section thirteen hundred seven-  
32 ty-six of this title, a person at risk or the parent or legal guardian  
33 of a person at risk or other interested persons may seek injunctive  
34 relief from a court of competent jurisdiction against the owner of the  
35 affected property in the form of a court order to compel compliance.

36 2. A court shall not grant the injunctive relief requested pursuant to  
37 subdivision one of this section, unless, at least thirty days prior to  
38 the filing requesting the injunction, the owner of the affected property  
39 has received written notice of the violation of standards contained in  
40 section thirteen hundred seventy-six of this title and has failed to  
41 bring the affected property into compliance with the applicable stand-  
42 ards. This notice to the owner of the affected property is satisfied  
43 when any of the following has occurred:

44 (a) A person at risk, his or her parent or legal guardian, or attor-  
45 ney, has notified the owner of an affected property that the property  
46 fails to meet the requirements for either lead-contained property status  
47 or lead-stabilized property status;

48 (b) The deputy commissioner, the commissioner of housing and community  
49 renewal, or the designee of either of these such officials, a municipal  
50 or other local authority with responsibility for enforcing any local  
51 housing code or codes, or a local or municipal department of health has  
52 notified the owner of the affected property of violations of the  
53 provisions of this title occurring within an affected property or of the  
54 failure to register and file reports as required by this title; or

55 (c) A criminal or civil action pursuant to this title has been brought  
56 by either state or local enforcement officials to enforce this title.

1 3. The notice requirement of subdivision two of this section shall not  
2 apply with respect to applications for preliminary injunctive relief.

3 4. A person who prevails in an action to enforce the provisions of  
4 this title is entitled to an award of the costs of the litigation and to  
5 an award of reasonable attorneys' fees in an amount to be fixed by the  
6 court.

7 5. Cases brought before the court under this section shall be granted  
8 an accelerated hearing.

9 6. The legal remedies created under this section shall be in addition  
10 to any other common law or statutory remedies, which may be pursued in  
11 the same or separate action or proceeding.

12 § 1379-a. Retaliatory evictions prohibited. 1. An owner of an  
13 affected property may not evict or take any other retaliatory action  
14 against a person at risk or his or her parent or legal guardian in  
15 response to the actions of the person at risk, his or her parent or  
16 legal guardian in:

17 (a) providing information to the owner of the affected property, the  
18 deputy commissioner, the commissioner of housing and community renewal,  
19 or the designee of either of these officials, a local or municipal  
20 department of health, or a municipal or other local authority with  
21 responsibility for enforcing any local housing code or codes concerning  
22 lead-based paint hazards within an affected property or elevated blood  
23 lead levels of a person at risk; or

24 (b) enforcing any of his or her rights under this title.

25 2. For purposes of this section, a retaliatory action includes any of  
26 the following actions in which the activities protected under subdivi-  
27 sion one of this section are a material factor in motivating said  
28 action:

29 (a) A refusal to renew a lease;

30 (b) Termination of a tenancy;

31 (c) An arbitrary rent increase or decrease in services to which the  
32 person at risk or his or her parent or legal guardian is entitled; or

33 (d) Any form of constructive eviction.

34 3. A person at risk or his or her parent or legal guardian subject to  
35 an eviction or retaliatory action under this section is entitled to the  
36 relief as may be provided by statute and/or any further relief deemed  
37 just and equitable by the court, and is eligible for reasonable attor-  
38 neys' fees and costs.

39 § 8. The real property law is amended by adding two new sections 236-a  
40 and 242-a to read as follows:

41 § 236-a. Discrimination against persons and families receiving public  
42 assistance or governmental housing subsidies prohibited. 1. Any person,  
43 firm or corporation owning or having in charge any apartment house,  
44 tenement house or other building or manufactured home park used for  
45 dwelling purposes who shall refuse to rent any or part of any such  
46 building or manufactured home park to any person or family, or who  
47 discriminates in the terms, conditions, or privileges of any such  
48 rental, on the ground that such person or family receives public assist-  
49 ance or any other government subsidy for payment of rent shall be guilty  
50 of a misdemeanor and on conviction thereof shall be punished by a fine  
51 of not less than five hundred nor more than one thousand dollars for  
52 each offense.

53 2. (a) Where discriminatory conduct prohibited by this section has  
54 occurred, an aggrieved individual shall have a cause of action in any  
55 court of competent jurisdiction for damages, declaratory and injunctive  
56 relief.

1 (b) In all actions brought under this section, the court shall allow  
2 the prevailing plaintiff reasonable attorney's fees and, upon a finding  
3 that defendant's discriminatory conduct was willful, an additional  
4 amount as liquidated damages equal to two thousand five hundred dollars  
5 shall be awarded.

6 § 242-a. Inspection of residential real property for lead-based paint  
7 prior to transfer. 1. (a) Effective January first, two thousand nine-  
8 teen, the transferor or grantor of any residential real property erected  
9 prior to the year nineteen hundred seventy, or in cities with a popu-  
10 lation of one million or more a dwelling erected prior to the year nine-  
11 teen hundred sixty, shall provide to the transferee or grantee a certifi-  
12 cate that such property has been tested for the presence of lead-based  
13 paint, as defined in subdivision twenty-six of section thirteen hundred  
14 seventy of the public health law, and a report of such test indicating  
15 the locations where lead-based paint has been detected, if any. Such  
16 testing shall not be valid unless performed by a person accredited  
17 pursuant to section thirteen hundred seventy-five of the public health  
18 law. A copy of such certificate shall be filed with the department of  
19 health.

20 (b) The presentation of a certificate of such testing by a prior owner  
21 of said property and evidence of filing such certificate and report with  
22 the department of health shall be deemed to be in compliance with the  
23 provisions of this subdivision.

24 (c) In the event the transferor or grantor has not received from a  
25 prior owner a certification and report of such tests as set forth in  
26 this subdivision, the costs of testing for lead-based paint and the  
27 preparation of a certificate and report thereof as provided in this  
28 subdivision shall be deductible by the transferor or grantor, up to the  
29 amount of five hundred dollars, or in a building with more than one  
30 dwelling unit up to four hundred dollars per dwelling unit tested, from  
31 the taxes imposed by sections fourteen hundred two and fourteen hundred  
32 two-a of the tax law.

33 2. Any provision in a purchase offer, contract of sale, lease, offer  
34 to lease, or any other document related to the transfer of an interest  
35 in real property that purports to waive any right created under state or  
36 federal law for the purchaser, tenant, or transferee to conduct a risk  
37 assessment or inspection of the property to determine the presence of  
38 lead-based paint and/or lead-based paint hazards, or any oral agreement  
39 that purports to waive such right, is null and void as against public  
40 policy, notwithstanding that such waivers might otherwise be permitted  
41 by federal law.

42 § 9. Section 210-B of the tax law is amended by adding a new subdivi-  
43 sion 53 to read as follows:

44 53. Lead hazard reduction tax credit. (a) Tax credit for activities  
45 resulting in lead-free or lead-contained status. A taxpayer shall be  
46 allowed a credit against tax imposed by this article for activities  
47 necessary to bring any affected property into lead-free or lead-con-  
48 tained status within the meaning of sections thirteen hundred seventy  
49 and thirteen hundred seventy-six of the public health law, provided that  
50 the taxpayer complies with the documentation requirements of paragraph  
51 (d) of this subdivision.

52 (b) Tax credit for multiple dwelling units located within munici-  
53 palities of more than one million inhabitants. A taxpayer also shall be  
54 eligible for the tax credit under paragraph (a) of this subdivision if a  
55 dwelling unit that satisfies all the requirements for an affected prop-  
56 erty contained in subdivision two of section thirteen hundred seventy of

1 the public health law but such dwelling unit is located in a city with a  
2 population of one million or more. In such case, the taxpayer must  
3 comply with equivalent standards in local laws concerning lead hazards  
4 that apply to multiple dwellings.

5 (c) Tax credits for certain renovations as part of achieving lead-sta-  
6 bilized status. A taxpayer shall be allowed a credit against tax imposed  
7 by this article for the costs of certain activities necessary to bring  
8 any affected property into lead-stabilized status within the meaning of  
9 section thirteen hundred seventy-six of the public health law, provided  
10 that the expected useful life of such renovations is ten years or more  
11 and the taxpayer complies with the documentation requirements of para-  
12 graph (d) of this subdivision. The deputy commissioner of health shall  
13 promulgate regulations defining those activities necessary to achieve  
14 lead-stabilized status with an expected useful life of more than ten  
15 years. Taxpayers who have completed renovations of habitable dwelling  
16 units contained in multiple dwellings, as defined in section four of the  
17 multiple dwelling law in a city of more than one million population also  
18 shall be allowed a credit under this subdivision provided that the  
19 taxpayer complies with similar standards in local laws concerning lead  
20 hazards that apply to multiple dwellings.

21 (d) Documentation required for credit allowance. No credit shall be  
22 allowed under paragraph (a), (b), or (c) of this subdivision unless the  
23 taxpayer provides documentation to the deputy commissioner of health  
24 that:

25 (1) the activities described above have been performed by a contractor  
26 accredited pursuant to section thirteen hundred seventy-five of the  
27 public health law;

28 (2) the affected property was constructed prior to nineteen hundred  
29 seventy;

30 (3) the taxpayer has paid for the activities described above; and

31 (4) includes a written certification obtained by the taxpayer from an  
32 inspector, accredited pursuant to section thirteen hundred seventy-five  
33 of the public health law, that the activities described above have been  
34 completed in accordance with all applicable requirements and that  
35 either:

36 (A) Where applicable, the affected property or property unit can now  
37 be certified as either lead-free or lead-contained under section thir-  
38 teen hundred seventy-six of the public health law; or

39 (B) Where applicable, the affected property has undergone renovations  
40 that satisfy the requirements established by regulation by the deputy  
41 commissioner of health as activities necessary to achieve lead-stabi-  
42 lized status with an expected useful life of more than ten years.

43 (e) Amount of credit. The tax credit shall be equal to the amount  
44 actually paid for the activities described in this subdivision up to a  
45 maximum of three thousand dollars per affected property for a credit  
46 allowed under either paragraph (a) or (b) of this subdivision or a maxi-  
47 mum of one thousand five hundred dollars for a credit allowed under  
48 paragraph (c) of this subdivision.

49 (f) Carry-over of credit. Any amount of tax credit not used in the  
50 taxable year of certification may be carried forward and applied to the  
51 corporation's tax liability for any one or more of the succeeding five  
52 taxable years. The credit may not be applied until all other credits  
53 available to the taxpayer for that taxable year have been applied.

54 § 10. Section 606 of the tax law is amended by adding a new subsection  
55 (ccc) to read as follows:



1 (ccc) Lead-hazard reduction in housing tax credit. (1) Allowance of  
2 credit for activities resulting in lead-free or lead-contained status. A  
3 taxpayer shall be allowed a credit as provided in this subsection for  
4 activities necessary to bring any affected property into lead-free or  
5 lead-contained status within the meaning of sections thirteen hundred  
6 seventy and thirteen hundred seventy-six of the public health law,  
7 provided that the taxpayer complies with the documentation requirements  
8 of paragraph four of this subsection.

9 (2) Tax credit for multiple dwelling units located within municipi-  
10 palities of more than one million inhabitants. A taxpayer also shall be  
11 eligible for the tax credit under paragraph one of this subsection if a  
12 dwelling unit that satisfies all the requirements for an affected prop-  
13 erty contained in subdivision two of section thirteen hundred seventy of  
14 the public health law but such dwelling unit is located in a city with a  
15 population of one million or more. In such case, the taxpayer must  
16 comply with equivalent standards in local laws concerning lead hazards  
17 that apply to multiple dwellings.

18 (3) Tax credits for certain renovations as part of achieving lead-sta-  
19 bilized status. A taxpayer shall be allowed a credit against tax imposed  
20 by this article for the costs of certain activities necessary to bring  
21 any affected property into lead-stabilized status within the meaning of  
22 section thirteen hundred seventy-six of the public health law, provided  
23 that the expected useful life of such renovations is ten years or more  
24 and the taxpayer complies with the documentation requirements of para-  
25 graph four of this subsection. The deputy commissioner of health shall  
26 promulgate regulations defining those activities necessary to achieve  
27 lead-stabilized status with an expected useful life of more than ten  
28 years. Taxpayers who have completed renovations of habitable dwelling  
29 units contained in multiple dwellings, as defined in section four of the  
30 multiple dwelling law in a city of more than one million population also  
31 shall be allowed a credit under this paragraph provided that the taxpay-  
32 er complies with similar standards in local laws concerning lead hazards  
33 that apply to multiple dwellings.

34 (4) Documentation required for credit allowance. No credit shall be  
35 allowed under paragraph one, two or three of this subsection unless the  
36 taxpayer provides documentation to the deputy commissioner of health  
37 that:

38 (A) the activities described above have been performed by a contractor  
39 accredited pursuant to section thirteen hundred seventy-five of the  
40 public health law;

41 (B) the affected property was constructed prior to nineteen hundred  
42 seventy;

43 (C) the taxpayer has paid for the activities described above; and

44 (D) includes a written certification obtained by the taxpayer from an  
45 inspector, accredited pursuant to section thirteen hundred seventy-five  
46 of the public health law, that the activities described above have been  
47 completed in accordance with all applicable requirements and that  
48 either:

49 (i) Where applicable, the affected property can now be certified as  
50 either lead-free or lead-contained under section thirteen hundred seven-  
51 ty-six of the public health law; or

52 (ii) Where applicable, the affected property has undergone renovations  
53 that satisfy the requirements established by regulation by the deputy  
54 commissioner of health as activities necessary to achieve lead-stabi-  
55 lized status with an expected useful life of more than ten years.

1 (5) The tax credit pursuant to this subsection shall be available to  
2 someone who owns and occupies his or her own dwelling unit in the same  
3 manner and to the same extent as it is available to the owner of an  
4 affected property who leases the premises.

5 (6) Amount of credit. The tax credit shall be equal to the amount  
6 actually paid for the activities described in this subsection up to a  
7 maximum of three thousand dollars per affected property for a credit  
8 allowed under either paragraph one or two of this subsection or a maxi-  
9 imum of one thousand five hundred dollars for a credit allowed under  
10 paragraph three of this subsection.

11 (7) Application of credit. Any amount of tax credit not used in the  
12 taxable year of certification may be carried forward and applied to the  
13 individual's tax liability for any one or more of the succeeding five  
14 taxable years. The credit may not be applied until all other credits  
15 available to the taxpayer for that taxable year have been applied.

16 § 11. The state finance law is amended by adding a new section 99-bb  
17 to read as follows:

18 § 99-bb. Residential property lead-based paint hazard abatement  
19 revolving loan fund. 1. There is created, as a separate fund within the  
20 general fund, a fund to be known as the residential property lead-based  
21 paint hazard abatement revolving loan fund. Such fund shall consist of  
22 proceeds received from the sale of bonds pursuant to subdivision two of  
23 this section, and any sums that the state may from time to time deem  
24 appropriate, as well as donations, gifts, bequests, or otherwise from  
25 any public or private source, which money is intended to assist owners  
26 of residential properties in meeting the standards for either lead-free  
27 or lead-contained certification pursuant to section thirteen hundred  
28 seventy-six of the public health law, or, for multiple dwellings in  
29 cities of one million population or more, compliance with local laws  
30 concerning the control of lead-based paint hazards in such multiple  
31 dwellings.

32 2. The state shall issue bonds in an amount specified for the purpose  
33 of funding the residential property lead abatement revolving loan fund.

34 (a) Any bonds issued or to be issued pursuant to this subdivision  
35 shall be subject to all the requirements and conditions established by  
36 the state for the sale of bonds.

37 (b) The interest rate and other terms upon which bonds are issued  
38 pursuant to this subdivision shall not create a prospective obligation  
39 of the state of New York in excess of the amount of revenues that can  
40 reasonably be expected from the loan repayments, interest on such loans,  
41 and fees that the state of New York can reasonably expect to charge  
42 under the provisions of title ten of article thirteen of the public  
43 health law.

44 (c) All money received from the sale of bonds shall be deposited into  
45 the residential property lead abatement revolving loan fund.

46 3. The comptroller shall contract for the administration and disburse-  
47 ment of funding. The deputy commissioner of health shall adopt rules and  
48 regulations which provide for the orderly and equitable disbursement and  
49 repayment of funds.

50 4. Funds placed in the residential property lead-based paint hazard  
51 abatement revolving loan fund shall be made available, at the discretion  
52 of the deputy commissioner of health, to the owners of affected proper-  
53 ties including those located within municipalities of more than one  
54 million inhabitants, and to non-profit organizations for the purpose of  
55 bringing affected properties into compliance with the standards for  
56 lead-free, lead-contained, or lead-stabilized property status as speci-

1 fied by section thirteen hundred seventy-six of the public health law,  
2 or, for multiple dwellings in cities with a population of one million or  
3 more, compliance with local laws concerning the control of lead-based  
4 paint hazards in such multiple dwellings. An owner of a pre-nineteen  
5 hundred seventy property who owns and occupies the dwelling unit shall  
6 be eligible for loans under this section in the same manner, and to the  
7 same extent, as an owner of an affected property.

8 5. Loans made available under the provisions of this section may be  
9 made directly, or in cooperation with other public and private lenders,  
10 or any agency, department, or bureau of the federal government or the  
11 state.

12 6. The proceeds from the repayment of any loans made for that purpose  
13 shall be deposited in and returned to the residential property lead  
14 abatement revolving loan fund to constitute a continuing revolving fund  
15 for the purposes provided in this section.

16 7. The deputy commissioner of housing and community renewal shall take  
17 any action necessary to obtain federal assistance for lead hazard  
18 reduction to be used in conjunction with the residential property lead  
19 abatement revolving loan fund.

20 § 12. Paragraph a of subdivision 2 of section 302-a of the multiple  
21 dwelling law, as added by chapter 911 of the laws of 1965, is amended to  
22 read as follows:

23 a. A "rent impairing" violation within the meaning of this section  
24 shall designate a condition in a multiple dwelling which, in the opinion  
25 of the department, constitutes, or if not promptly corrected, will  
26 constitute, a fire hazard, a lead-based paint hazard within the meaning  
27 of subdivision twenty-seven of section thirteen hundred seventy of the  
28 public health law, or a serious threat to the life, health or safety of  
29 occupants thereof.

30 § 13. Paragraph a of subdivision 2 of section 305-a of the multiple  
31 residence law, as added by chapter 291 of the laws of 1966, is amended  
32 to read as follows:

33 a. A "rent impairing" violation within the meaning of this section  
34 shall designate a condition in a multiple dwelling which, in the opinion  
35 of the state building code council, constitutes, or if not promptly  
36 corrected, will constitute, a fire hazard, a lead-based paint hazard  
37 within the meaning of subdivision twenty-seven of section thirteen  
38 hundred seventy of the public health law, or a serious threat to the  
39 life, health or safety of occupants thereof.

40 § 14. The social services law is amended by adding a new section 131-y  
41 to read as follows:

42 § 131-y. Supplemental shelter allowance. Every public welfare official  
43 shall pay, in addition to the shelter allowance components established  
44 by the department pursuant to section one hundred thirty-one-a of this  
45 title, a supplemental shelter allowance for units for which the owner  
46 has submitted documentation certifying that the dwelling unit is in  
47 compliance with subdivision seven of section one hundred forty-three-b  
48 of this title. This monthly lead-safe housing supplement shall be in the  
49 amount of fifty dollars for efficiency or one-bedroom units; one hundred  
50 dollars for two-bedroom units; one hundred fifty dollars for three-bed-  
51 room units; and two hundred dollars for units with four or more  
52 bedrooms; or such higher amounts as the department may establish by  
53 regulation as appropriate to induce landlords in high risk lead-paint  
54 poisoning areas to voluntarily remove lead-paint hazards from their  
55 units using lead safe work practices. This supplemental shelter allow-  
56 ance for lead-safe housing shall be paid for a period of twelve months

1 following the submission of the most recent certification of compliance  
2 and shall be renewed for subsequent twelve month periods upon the  
3 submission of further certifications of compliance based upon more  
4 recent inspections.

5 § 15. Subdivision 2 of section 143-b of the social services law, as  
6 added by chapter 997 of the laws of 1962, is amended and a new subdivi-  
7 sion 7 is added to read as follows:

8 2. Every public welfare official shall have power to and [~~may~~] shall  
9 withhold the payment of any such rent in any case where he has knowledge  
10 that there exists or there is outstanding any violation of law in  
11 respect to the building containing the housing accommodations occupied  
12 by the person entitled to such assistance which is dangerous, hazardous  
13 or detrimental to life or health. A report of each such violation shall  
14 be made to the appropriate public welfare department by the appropriate  
15 department or agency having jurisdiction over violations.

16 7. No state or local agency shall arrange to place a family consisting  
17 of a person or persons under seven years of age or a known pregnant  
18 woman in any dwelling unit constructed prior to nineteen hundred seven-  
19 ty, or, in cities with a population of one million or more, any dwelling  
20 unit constructed prior to nineteen hundred sixty, for which rent is paid  
21 in any part with state funds unless such dwelling unit has been first  
22 inspected by a person accredited pursuant to section thirteen hundred  
23 seventy-five of the public health law, and determined to be free of  
24 lead-based hazards, as defined by subdivision twenty-seven of section  
25 thirteen hundred seventy of the public health law, and unless such agen-  
26 cy has first obtained appropriate documentation acceptable to the  
27 commissioner that such dwelling unit is in compliance with the require-  
28 ments of section thirteen hundred seventy-six of the public health law,  
29 or, for multiple dwellings in cities with a population of one million or  
30 more, in compliance with local laws concerning the control of lead-based  
31 paint hazards in such multiple dwellings. A written report shall be  
32 prepared of any inspection performed pursuant to this subdivision and  
33 shall be provided to the family.

34 § 16. Section 390-a of the social services law is amended by adding a  
35 new subdivision 6 to read as follows:

36 6. No license or registration shall be issued to a child day care  
37 center, a family day care home, or a group family day care home and no  
38 such registration shall be renewed until it can be demonstrated that  
39 those portions of the facility in which such child day care center,  
40 family day care home, or group family day care home is located and those  
41 portions of such facility that are readily accessible to children in  
42 such child day care center, family day care home, or group family day  
43 care home, meet the standards for lead-free property status, lead-con-  
44 tained property status, or lead-stabilized property status set forth in  
45 section thirteen hundred seventy-six of the public health law, or, for  
46 multiple dwellings in cities with a population of one million or more,  
47 with all local laws concerning the control of lead-based paint hazards  
48 that apply to multiple dwelling units where children reside.

49 § 17. The insurance law is amended by adding a new section 3441 to  
50 read as follows:

51 § 3441. Insurance coverage for lead poisoning. (a) For the purpose of  
52 this section, the term "affected property" shall mean a room or group of  
53 rooms within a property constructed before nineteen hundred seventy, or  
54 constructed before nineteen hundred sixty in cities with a population of  
55 one million or more, that form a single independent habitable dwelling  
56 unit for occupation by one or more individuals that has living facili-

1 ties with permanent provisions for living, sleeping, eating, cooking,  
2 and sanitation. "Affected property" shall not include:

3 (1) an area not used for living, sleeping, eating, cooking, or sanita-  
4 tion, such as an unfinished basement, that is not readily accessible to  
5 children under seven years of age;

6 (2) a unit within a hotel, motel, or similar seasonal or transient  
7 facility unless such unit is occupied by one or more persons at risk  
8 for a period exceeding thirty days;

9 (3) an area which is secured and inaccessible to occupants;

10 (4) housing for the elderly, or a residential property designated  
11 exclusively for persons with disabilities; except this exemption shall  
12 not apply if a person at risk resides or is expected to reside in the  
13 dwelling unit or visits the dwelling unit on a regular basis; or

14 (5) an unoccupied dwelling unit or residential property that is to be  
15 demolished, provided the dwelling unit or property will remain unoccu-  
16  pied until demolition.

17 For the purpose of this section, the term "affected property" shall  
18 not mean any property owned or operated by a unit of federal, state, or  
19 local government, or any public, quasi-public, or municipal corporation,  
20 but does include privately-owned properties that receive governmental  
21 rental assistance.

22 (b) After fourteen months following the effective date of this  
23 section, no insurer licensed or permitted by the department to provide  
24 liability coverage to rental property owners shall exclude, except as  
25 otherwise provided by this section, an affected property covered under a  
26 policy coverage for losses or damages caused by exposure to lead-based  
27 paint. The department shall not permit, authorize or approve any exclu-  
28 sion for injury or damage resulting from exposure to lead-based paint,  
29 except as specifically provided for in law, that was not in effect as of  
30 the effective date of this section, and all previously approved exclu-  
31 sions shall terminate on or before fourteen months following the effec-  
32 tive date of this section.

33 (c) All insurers issuing liability insurance policies, including  
34 commercial lines insurance policies, personal lines insurance policies,  
35 and/or any other policies, covering affected properties shall offer  
36 coverage for bodily injury caused by exposure to lead-based paint.

37 (d) Rates for the coverage specified in subsection (c) of this section  
38 shall be approved by the superintendent using the following standards:

39 (1) Such rates must not be excessive, inadequate, or unfairly discrim-  
40 inatory; and

41 (2) In establishing such rates, consideration will be given to:

42 (A) Past and prospective loss experience;

43 (B) A reasonable margin for profits and contingencies;

44 (C) Past and prospective expenses;

45 (D) Such other data as the department may deem necessary;

46 (E) The past history of the owner with regard to lead poisoning or any  
47 other liability or violations of ordinances or statutes relating to the  
48 affected property or similar properties reasonably believed by the  
49 insurer to be relevant; and

50 (F) Compliance with the requirements of either section thirteen  
51 hundred seventy-six of the public health law or, for multiple dwellings  
52 in cities with a population of one million or more, with all local laws  
53 concerning the control of lead-based paint hazards in such multiple  
54 dwellings.

55 (e) The department shall determine within two years following the  
56 effective date of this section the availability in the state of liabil-

1 ity personal injury/bodily injury coverage described in subsection (b)  
2 of this section, and may if such coverage is not generally available,  
3 establish a market assistance plan or take other measures to assure the  
4 availability of such coverage that offers a liability limit which is at  
5 least three hundred thousand dollars or shall require that such coverage  
6 be made available through a joint underwriting plan.

7 (f) An owner may not assign liability nor require a tenant to limit or  
8 waive liability and any such limit or waiver shall be void as contrary  
9 to the public policy of New York state.

10 (g) The superintendent shall, within twelve months after the effective  
11 date of this section:

12 (1) Adopt rules for and issue an advisory bulletin to all state  
13 licensed, admitted insurers providing liability coverage for property  
14 owners regarding their responsibilities under this section; and

15 (2) Adopt rules for and issue an advisory bulletin to all state  
16 licensed insurance agents and brokers outlining the provisions of this  
17 section and the new requirements for state licensed, admitted insurers.

18 § 18. This act shall take effect immediately.