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:

Section 1. This act shall be known and may be cited as the "childhood lead poisoning prevention and safe housing act of 2018".

§ 2. Legislative findings and purposes. 1. (a) Lead poisoning of children persists as one of the most prevalent and preventable environmental diseases in New York. At least 10,000 children were newly identified with levels of lead in their blood at 10 micrograms per deciliter (ug/dl) in New York state in 2001. Moreover, only about one-third of children are receiving the lead screenings that are required by law and therefore, the actual number of children affected by the ingestion of lead is undoubtedly significantly greater than reported. Prevention is the only effective way to protect children from irreversible damage. Unless lead poisoning is prevented, elevated blood lead levels will result in impairment of the ability to think, concentrate, and learn.

(b) Medical research indicates that children can suffer permanent, irreparable damage at blood levels even lower than 10 ug/dl, and that there is no level of lead ingestion which is without adverse impact. Medical research also indicates that fetal injuries from lead paint can occur if women have elevated blood levels during pregnancy. Because of this, intervention measures that wait until children have been exposed have limited benefits, and the pursuit of primary prevention, which means eliminating lead hazards before children are exposed, has been recommended by the United States centers for disease control and prevention and promoted by leading experts in the field as a critical 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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(c) The predominant cause of lead poisoning in children is the ingestion of lead particles from deteriorating or abraded lead-based paint from older and poorly maintained residences.

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

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

(f) The dangers posed by lead-based paint can be substantially reduced, although not eliminated, by taking measures to prevent paint deterioration and limiting children's exposure to paint chips and lead dust.

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

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

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

(j) The financial incentives currently in place have not proven sufficient to motivate landlords and other property owners to undertake widespread and effective lead-based paint hazard abatement, mitigation, and control; moreover low and moderate income property owners may not have access to the resources to eliminate or reduce substantially lead hazards.

(k) Insurance companies are reluctant to provide coverage to property owners in the absence of evidence that lead hazards have been appropriately addressed.

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

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

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

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

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

(e) to provide access to the resources for property owners and landlords who commit to undertake specified lead hazard reduction measures; and

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

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

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

2. "Affected property" means a room or group of rooms within a property constructed before nineteen hundred seventy that form a single independent habitable dwelling unit for occupation by one or more individuals that has living facilities with permanent provisions for living, sleeping, eating, cooking, and sanitation. "Affected property" does not include:

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

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

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

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

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

(f) an unoccupied dwelling unit or residential property that is to be demolished, provided the dwelling unit or property will remain unoccupied until demolition; or

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

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

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

4. "Change in occupancy" means a change of tenant in an affected property in which the property is vacated and possession is either surrendered to the owner or abandoned.

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

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

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

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

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

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

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

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

13. "Dwelling unit" means a:

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

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

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

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

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

16. "Exterior surfaces" means:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

29. "Lead-contaminated dust" means surface dust that contains a mass per area concentration of lead equal to or exceeding 40 micrograms per square foot ("ug/ft2") on floors, or 250 ug/ft2 on interior windowsills based on wipe sample, or 400 ug/ft2 on window wells, or such more stringent standards as may be adopted by the department.

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

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

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

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

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

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

36. "Person" means any natural person.

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

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

39. "Relocation expenses" means all expenses necessitated by the relocation of a tenant's household to housing free of lead hazards, including, but not limited to, moving and hauling expenses, the hepa-vacuuming of all upholstered furniture, laundering of clothes and linens, payment of a security deposit for the relocation housing, and installation and connection of utilities and appliances.

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

41. "Tenant" means the individual named as the lessee in a lease, rental agreement or other form of occupancy agreement, whether written or oral, for a dwelling unit, and includes tenancies incident to employment. Where applicable, the term "tenant" shall also include any occupant of the tenant's household.

42. "Wipe sample" means a sample collected by an appropriately accredited person wiping a representative surface of known area, as determined by American Society for Testing Materials (ASTM) e1728 ("standard practice for the field collection of settled dust samples using wipe sampling methods for lead determination by atomic spectrometry techniques"), with lead determination conducted by an accredited laboratory participating in the environmental lead laboratory accreditation program (nlap).

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

2. The department shall:

(a) identify and designate as communities of concern the thirty municipalities in the state having the greatest numbers of children identified with elevated blood lead levels, and, in cooperation with local health officials and municipal officials, develop a local primary prevention plan for each community of concern to prevent exposure to lead consistent with this title. The commissioner is authorized to enter into and shall enter into agreements or memoranda of understanding with, and provide technical and other resources to, communities of concern and shall ensure that the primary prevention plan targets persons at risk living in the highest risk affected housing in the community. Municipalities identified by the commissioner shall cooperate fully with the department in the formulation and implementation of the primary prevention plan for the designated community of concern;

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

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

(c) promulgate and enforce regulations [~~for screening children and pregnant women, including requirements for blood lead testing, for lead poisoning, and for follow up of children and pregnant women who have elevated blood lead levels~~] necessary for the implementation of all portions of this title, except where responsibility for implementing specific portions of this title is specifically assigned to the commissioner of housing and community renewal or to the commissioner of taxation and finance;

[~~(b)~~] (d) enter into interagency agreements to coordinate lead poisoning prevention, exposure reduction, identification and treatment activities and lead reduction activities with other federal, state and local agencies and programs;

[~~(c)~~] (e) establish a statewide registry of lead levels of children provided such information is maintained as confidential except for (i) disclosure for medical treatment purposes; (ii) disclosure of non-identifying epidemiological data; and (iii) disclosure of information from such registry to the statewide immunization information system established by section twenty-one hundred sixty-eight of this chapter; and

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

4. The commissioner or the commissioner's designee shall develop culturally and linguistically appropriate information pamphlets regarding childhood lead poisoning, the importance of testing for elevated blood lead levels, prevention of childhood lead poisoning, treatment of childhood lead poisoning, and tenants' and owners' rights and responsibilities under this title. These information pamphlets shall be distributed as follows:

(a) by the owner of any affected property or his or her agents or employees at the time of the initiation and renewal of a rental agreement to the tenant;

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

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

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

(e) by the provider of the women, infants and children program to each person enrolled in such program and upon enrollment and annually thereafter.

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

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

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

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

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

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

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

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

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

6. The commissioner shall designate a deputy commissioner of health responsible for fulfilling the objectives of this title when such objectives involve the responsibilities of the department.

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

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

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

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

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

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

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

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

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

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

6. The department shall include the screening and reporting requirements in its contracts for services under the medicaid and child health plus programs or any other programs funded in whole or in part with state or local funds and providing health services to persons at risk, and shall impose compliance targets and appropriate penalties or sanctions in the event such targets are not achieved.

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

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

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

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

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

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

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

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

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

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

(a) notice to tenants;

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

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

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

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

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

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

(g) dust wipe clearance testing;

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

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

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

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

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

§ 1375. Accreditation of inspectors and contractors performing work. 1. No person shall act as a contractor or supervisor to perform the work necessary for lead-based paint hazard abatement as defined in this title unless that person is accredited pursuant to one of the following:

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

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

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

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

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

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

(b) certification to conduct inspections by the United States environmental protection agency pursuant to 40 C.F.R. 745.226(b) or successor regulation; or

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

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

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

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

4. Any violation of the provisions of this section shall be a misdemeanor.

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

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

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

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

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

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

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

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

(e) All work has been completed in compliance with the safe work practice regulations promulgated pursuant to section thirteen hundred seventy-three of this title; and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

affected property are authorized to report, and shall report, such conditions to the deputy commissioner's designee, and in such instance, the deputy commissioner's designee shall require an inspection to be made of the affected property. An inspection required under this subdivision shall be completed within ninety days after notification of the deputy commissioner's designee for the jurisdiction in which such property is located. In the event such inspection results in a finding of lead hazards, a report of such findings shall be immediately transmitted by the deputy commissioner or the deputy commissioner's designee for the jurisdiction in which such property is located to the appropriate local social services department pursuant to section one hundred forty-three-b of the social services law.

4. The deputy commissioner, or the deputy commissioner's designee for the jurisdiction in which such property is located, shall order an inspection of an affected property for conditions conducive to lead poisoning, by an inspector accredited pursuant to the provisions of section thirteen hundred seventy-five of this title, at the expense of the owner of the affected property, whenever the deputy commissioner or the deputy commissioner's designee for the jurisdiction in which such property is located is notified that a person at risk who resides in the affected property or spends more than fifteen hours per week in the affected property has an elevated blood lead level. An inspection under this subdivision shall be completed within fifteen days after notification of the deputy commissioner or the deputy commissioner's designee for the jurisdiction in which such property is located. In the event such inspection results in a finding of conditions conducive to lead poisoning, a report of such finding shall be promptly transmitted by the deputy commissioner, or the deputy commissioner's designee for the jurisdiction in which the subject property is located, to the appropriate local social services department pursuant to section one hundred forty-three-b of the social services law.

5. An owner of an affected property at any time after the effective date of this section, may request voluntarily that the deputy commissioner, or the deputy commissioner's designee for the jurisdiction in which such property is located, conduct an inspection by an inspector accredited pursuant to the provisions of section thirteen hundred seventy-five of this title, of an affected property, at the expense of the owner, to determine whether it complies with the requirements for lead-free property, lead-contained property status, or lead-stabilized property status. Such inspection shall be completed within thirty days after the owner's request.

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

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

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

(c) require, at the owner's expense, the inspection of affected properties for conditions conducive to lead poisoning; and

(d) require that such inspected properties attain lead-free, lead-contained, or lead-stabilized status, and elimination of all conditions conducive to lead poisoning in such properties, using lead safe work practices in accordance with the provisions of this title.

In preparing this primary prevention inspection strategy, the responsible officials shall, among other factors, consider reports of persons at risk with elevated blood lead levels in other units in a building; the age and maintenance history of a building; and any available data on the presence of young children from birth certificates issued by the department.

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

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

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

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

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

has not been inspected for lead-based paint hazards. This property may contain lead-based paint hazards dangerous to a child less than seven years of age."

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

§ 1378. Enforcement. 1. Whenever the deputy commissioner or deputy commissioner's designee finds an affected property to not be in compliance with the applicable requirements for either lead-free, or lead-contained, or lead-stabilized property status, the deputy commissioner or deputy commissioner's designee shall give written notice and demand, served as provided herein, for the discontinuance of any condition failing to comply with either the lead-free, lead-contained, or lead-stabilized standards in an affected property within a specified period of time not to exceed thirty days. The deputy commissioner or deputy commissioner's designee shall also immediately notify the appropriate local social services department of the issuance of such written notice and demand pursuant to section one hundred forty-three-b of the social services law.

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

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

4. The deputy commissioner's designee having jurisdiction, county and city commissioners of health, and local housing code enforcement agencies designated by the deputy commissioner's designee having jurisdiction or county or city commissioner of health shall have the same authority, powers and duties within their respective jurisdictions as has the deputy commissioner under the provisions of this title.

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

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

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

commissioner, county boards of health, city and county commissioners of health, the New York city department of housing preservation and development and the department of health, local boards of health or other public agencies or public officials, or any private party, including the power to impose more stringent measures to protect public health.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

2. For purposes of this section, a retaliatory action includes any of the following actions in which the activities protected under subdivision one of this section are a material factor in motivating said action:

(a) A refusal to renew a lease;

(b) Termination of a tenancy;

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

(d) Any form of constructive eviction.

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

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

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

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

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

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

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

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

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

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

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

(b) Tax credit for multiple dwelling units located within municipalities of more than one million inhabitants. A taxpayer also shall be eligible for the tax credit under paragraph (a) of this subdivision if a dwelling unit that satisfies all the requirements for an affected property contained in subdivision two of section thirteen hundred seventy of

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

3. The comptroller shall contract for the administration and disbursement of funding. The deputy commissioner of health shall adopt rules and regulations which provide for the orderly and equitable disbursement and repayment of funds.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(5) an unoccupied dwelling unit or residential property that is to be demolished, provided the dwelling unit or property will remain unoccupied until demolition.

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

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

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

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

(1) Such rates must not be excessive, inadequate, or unfairly discriminatory; and

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

(A) Past and prospective loss experience;

(B) A reasonable margin for profits and contingencies;

(C) Past and prospective expenses;

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

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

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

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

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

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

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

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

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

§ 18. This act shall take effect immediately.