

STATE OF NEW YORK

5032

2017-2018 Regular Sessions

IN SENATE

March 6, 2017

Introduced by Sen. HOYLMAN -- read twice and ordered printed, and when printed to be committed 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 multiple dwelling law, the multiple residence law, the social services law and the insurance law, in relation to enacting the "childhood lead poisoning prevention and safe housing act of 2017"; and to repeal certain provisions of the public health law relating thereto

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. This act shall be known and may be cited as the "childhood
2 lead poisoning prevention and safe housing act of 2017".
3 § 2. Legislative findings and purposes. 1. (a) Lead poisoning of
4 children persists as one of the most prevalent and preventable environ-
5 mental diseases in New York. At least 10,000 children were newly iden-
6 tified with levels of lead in their blood at 10 micrograms per deciliter
7 (ug/dl) in New York state in 2001. Moreover, only about one-third of
8 children are receiving the lead screenings that are required by law and
9 therefore, the actual number of children affected by the ingestion of
10 lead is undoubtedly significantly greater than reported. Prevention is
11 the only effective way to protect children from irreversible damage.
12 Unless lead poisoning is prevented, elevated blood lead levels will
13 result in impairment of the ability to think, concentrate, and learn.
14 (b) Medical research indicates that children can suffer permanent,
15 irreparable damage at blood levels even lower than 10 ug/dl, and that
16 there is no level of lead ingestion which is without adverse impact.
17 Medical research also indicates that fetal injuries from lead paint can
18 occur if women have elevated blood levels during pregnancy. Because of
19 this, intervention measures that wait until children have been exposed
20 have limited benefits, and the pursuit of primary prevention, which
21 means eliminating lead hazards before children are exposed, has been

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

LBD08197-01-7

1 recommended by the United States centers for disease control and
2 prevention and promoted by leading experts in the field as a critical
3 course of action to protect the health of young children.

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

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

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

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

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

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

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

36 (j) The financial incentives currently in place have not proven suffi-
37 cient to motivate landlords and other property owners to undertake wide-
38 spread and effective lead-based paint hazard abatement, mitigation, and
39 control; moreover low and moderate income property owners may not have
40 access to the resources to eliminate or reduce substantially lead
41 hazards.

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

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

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

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

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

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

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

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

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

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

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

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

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

42 13. "Dwelling unit" means a:
43 (a) single-family dwelling, including attached structures such as
44 porches and stoops; or

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

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

54 15. "Encapsulation" means the application of a covering or coating
55 that acts as a barrier between the lead-based paint and the environment
56 and that relies for its durability on adhesion between the encapsulant

1 and the painted surface, and on the integrity of the existing bonds
2 between paint layers and between the paint and the substrate. Encapsula-
3 tion may be used as a method of abatement if it is designed and
4 performed so as to be permanent.

5 16. "Exterior surfaces" means:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 lease. "Owner" includes any authorized agent of the owner, including a
2 property manager or leasing agent.

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

5 36. "Person" means any natural person.

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

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

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

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

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

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

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

42 2. The department shall:

43 (a) identify and designate as communities of concern the thirty muni-
44 icipalities in the state having the greatest numbers of children identi-
45 fied with elevated blood lead levels, and, in cooperation with local
46 health officials and municipal officials, develop a local primary
47 prevention plan for each community of concern to prevent exposure to
48 lead consistent with this title. The commissioner is authorized to
49 enter into and shall enter into agreements or memoranda of understanding
50 with, and provide technical and other resources to, communities of
51 concern and shall ensure that the primary prevention plan targets
52 persons at risk living in the highest risk affected housing in the
53 community. Municipalities identified by the commissioner shall cooper-
54 ate fully with the department in the formulation and implementation of
55 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

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

4 5. Within three months after the close of the fiscal year, the commis-
5 sioner shall report to the advisory council established in section thir-
6 teen hundred seventy-b of this title on the department's implementation
7 of this section during the preceding period. Such report shall be
8 publicly available and shall include, at a minimum, a detailed statement
9 of revenue and expenditures and statement of the department's program,
10 supported by a statistical section with geographic indexing designed to
11 provide a detailed explanation of the department's enforcement, includ-
12 ing but not limited to the following:

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

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

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

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

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

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

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

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

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

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

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

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

54 (c) In fiscal year two thousand fourteen, the rate of children who
55 obtain blood-lead testing in compliance with section thirteen hundred
56 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

1 complete diagnostic evaluation; medical treatment, if necessary; and
2 referral to the appropriate local or state health unit for environmental
3 management. A complete diagnostic evaluation shall include at a minimum:
4 a detailed lead exposure assessment, a nutritional assessment, including
5 iron status, and, as appropriate, development screening.

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

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

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

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

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

49 (a) notice to tenants;

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

1 (c) precautions to prevent entry into the work area by occupants until
2 clean-up is completed and for temporary relocation provided by the owner
3 for the occupants of a dwelling or dwelling unit to appropriate housing
4 when work cannot be performed safely;

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

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

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

11 (g) dust wipe clearance testing;

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

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

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

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

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

37 § 1375. Accreditation of inspectors and contractors performing work.
38 1. No person shall act as a contractor or supervisor to perform the
39 work necessary for lead-based paint hazard abatement as defined in this
40 title unless that person is accredited pursuant to one of the following:

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

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

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

52 The commissioner shall, by regulation, create exceptions to the
53 accreditation requirement for instances where the disturbance of lead-
54 based paint is small and incidental, such as work that disturbs surfaces
55 of less than either two square feet of peeling lead-based paint per room

1 or ten percent of the total surface area of peeling paint on a type of
2 component with a small surface area, such as a windowsill or door frame.

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

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

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

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

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

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

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

39 4. Any violation of the provisions of this section shall be a misde-
40 meanor.

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

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

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

55 (a) All exterior and interior painted surfaces have been visually
56 reviewed; and all chipping, peeling, or flaking lead-based paint or

1 paint of unknown lead content on exterior and interior painted surfaces
2 has been removed and repainted, or stabilized and repainted, and any
3 structural defect that is causing or likely to cause lead-based paint or
4 paint of unknown lead content to chip, peel, or flake that the owner of
5 the affected property has knowledge of, or with the exercise of reason-
6 able care should have knowledge of, has been repaired; and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

55 (ii) Where an occupant has responded to the notice provided by the
56 owner pursuant to subparagraph (i) of this paragraph by indicating that

1 no person at risk resides therein, during the period between the date of
2 such response and the delivery of the notice provided by the owner
3 pursuant to paragraph (d) of this subdivision during the immediately
4 following year the occupant shall have the responsibility to inform the
5 owner of any person at risk that comes to reside therein during such
6 period.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

54 (a) assure that a sufficient number of qualified inspection personnel
55 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

1 quoted in subdivision eight of this section, in both English and Span-
2 ish, and in prominently displayed and easily readable type or printing.

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

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

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

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

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

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

1 7. Nothing contained in this title shall be construed to alter or
2 abridge any duties and powers now or hereafter existing in the deputy
3 commissioner, county boards of health, city and county commissioners of
4 health, the New York city department of housing preservation and devel-
5 opment and the department of health, local boards of health or other
6 public agencies or public officials, or any private party, including the
7 power to impose more stringent measures to protect public health.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

31 (a) A refusal to renew a lease;

32 (b) Termination of a tenancy;

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

35 (d) Any form of constructive eviction.

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

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

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

55 2. (a) Where discriminatory conduct prohibited by this section has
56 occurred, an aggrieved individual shall have a cause of action in any

1 court of competent jurisdiction for damages, declaratory and injunctive
2 relief.

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

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

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

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

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

44 § 9. Section 210-B of the tax law is amended by adding a new subdivi-
45 sion 49 to read as follows:

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

54 (b) Tax credit for multiple dwelling units located within munici-
55 palities of more than one million inhabitants. A taxpayer also shall be
56 eligible for the tax credit under paragraph (a) of this subdivision if a

1 dwelling unit that satisfies all the requirements for an affected prop-
2 erty contained in subdivision two of section thirteen hundred seventy of
3 the public health law but such dwelling unit is located in a city with a
4 population of one million or more. In such case, the taxpayer must
5 comply with equivalent standards in local laws concerning lead hazards
6 that apply to multiple dwellings.

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

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

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

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

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

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

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

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

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

51 (f) Carry-over of credit. Any amount of tax credit not used in the
52 taxable year of certification may be carried forward and applied to the
53 corporation's tax liability for any one or more of the succeeding five
54 taxable years. The credit may not be applied until all other credits
55 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

1 commissioner of health as activities necessary to achieve lead-stabi-
2 lized status with an expected useful life of more than ten years.

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

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

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

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

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

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

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

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

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

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

52 4. Funds placed in the residential property lead-based paint hazard
53 abatement revolving loan fund shall be made available, at the discretion
54 of the deputy commissioner of health, to the owners of affected proper-
55 ties including those located within municipalities of more than one
56 million inhabitants, and to non-profit organizations for the purpose of

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

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

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

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

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

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

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

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

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

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

1 units using lead safe work practices. This supplemental shelter allow-
2 ance for lead-safe housing shall be paid for a period of twelve months
3 following the submission of the most recent certification of compliance
4 and shall be renewed for subsequent twelve month periods upon the
5 submission of further certifications of compliance based upon more
6 recent inspections.

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

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

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

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

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

51 § 17. The insurance law is amended by adding a new section 3455 to
52 read as follows:

53 § 3455. Insurance coverage for lead poisoning. (a) For the purpose of
54 this section, the term "affected property" shall mean a room or group of
55 rooms within a property constructed before nineteen hundred seventy, or
56 constructed before nineteen hundred sixty in cities with a population of

1 one million or more, that form a single independent habitable dwelling
2 unit for occupation by one or more individuals that has living facili-
3 ties with permanent provisions for living, sleeping, eating, cooking,
4 and sanitation. "Affected property" shall not include:

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

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

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

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

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

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

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

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

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

41 (1) Such rates must not be excessive, inadequate, or unfairly discri-
42 minatory; and

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

44 (A) Past and prospective loss experience;

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

46 (C) Past and prospective expenses;

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

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

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

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

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

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

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

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

20 § 18. This act shall take effect immediately.