STATE OF NEW YORK

6969

2021-2022 Regular Sessions

IN SENATE

May 20, 2021

Introduced by Sen. KAVANAGH -- 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 tax law, the real property law and the multiple dwelling law, in relation to enacting the "Lead-Free Homes Act"

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

Section 1. Short title. This act shall be known and may be cited as the "Lead-Free Homes Act".

§ 2. Section 1370 of the public health law, as amended by chapter 485 of the laws of 1992, subdivision 6 as amended by section 1 of part P of chapter 57 of the laws of 2019, is amended to read as follows:

§ 1370. Definitions. When used in this title, the following words and phrases shall have the following meanings, unless the context clearly requires otherwise:

1. "Dwelling" means a building or structure or portion thereof, including the property occupied by and appurtenant to such dwelling, which is occupied in whole or in part as the home, residence or sleeping place of one or more human beings [~~and shall, without limiting the foregoing, include~~].

2. "School means any public or private child care [~~facilities for children under six years of age, kindergartens and nursery schools~~] **facility, child caring center, day nursery, day care agency, nursery school, pre-school, pre-kindergarten, kindergarten, or elementary school**.

[~~2.~~] **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 **or schools** in which a condition conducive to lead poisoning of children is present.

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

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[~~3.~~] **4. "Community of concern" means an area designated as such by the commissioner or his or her representative with significant concentrations of children identified with elevated blood lead levels.**

5. "A condition conducive to lead poisoning" means: (i) paint or other similar surface-coating material containing lead in a condition accessible for ingestion or inhalation or where peeling or chipping of the paint or other similar surface-coating material occurs or is likely to occur; [~~and~~] (ii) **plumbing, service pipes or other pipes, fixtures, or other materials containing lead in a condition accessible for ingestion or inhalation that are used to transport water to or within a dwelling or a school; or (iii)** other environmental conditions which may result in significant lead exposure.

[~~4.~~] **6.** "Program" means the lead poisoning prevention program in the department established pursuant to section thirteen hundred seventy-a of this title.

[~~5.~~] **7.** "Council" means the advisory council on lead poisoning prevention established pursuant to section thirteen hundred seventy-b of this title.

[~~6.~~] **8.** "Elevated lead levels" means a blood lead level greater than or equal to five micrograms of lead per deciliter of whole blood or such lower blood lead level as may be established by the department pursuant to rule or regulation.

[~~7.~~] **9.** "Person" means any natural person.

§ 3. Section 1370-a of the public health law, as added by chapter 485 of the laws of 1992, paragraphs (a) and (c) of subdivision 2 and subdivision 3 as amended by section 4 of part A of chapter 58 of the laws of 2009, is amended to read as follows:

§ 1370-a. Lead poisoning prevention program. 1. The department shall establish a lead poisoning prevention program**, in consultation with the advisory council on lead poisoning prevention**. This program shall be responsible for establishing and coordinating activities to prevent lead poisoning and to minimize risk of exposure to lead. The department shall exercise any and all authority which may be deemed necessary and appropriate to effectuate the provisions of this title.

2. The department shall:

(a) 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;

(b) **promulgate and enforce regulations setting forth standards for effectively inspecting dwellings and schools for conditions conducive to lead poisoning, and for remediating and abating such conditions using lead-safe work practices;**

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

3. The department shall identify and designate areas in the state with significant concentrations of children identified with elevated blood lead levels as communities of concern for purposes of implementing a childhood lead poisoning primary prevention program, and may, within amounts appropriated, provide grants to implement approved programs. **The department shall consider the results of tests of drinking water of residential real property conducted and reported to the commissioner pursuant to section two hundred forty-two-a of the real property law and section eighty-five of the multiple dwelling law in considering whether a community shall be designated as a community of concern.** The commissioner of health of a county or part-county health district, a county health director or a public health director and, in the city of New York, the commissioner of the New York city department of health and mental hygiene, shall develop and implement a childhood lead poisoning primary prevention program to prevent exposure to lead-based paint hazards for the communities of concern in their jurisdiction. The department shall provide funding to the New York city department of health and mental hygiene or county health departments to implement the approved work plan for a childhood lead poisoning primary prevention program. The work plan and budget, which shall be subject to the approval of the department, shall include, but not be limited to: (a) identification and designation of an area or areas of high risk within communities of concern; (b) a housing inspection program that includes prioritization and inspection of areas of high risk for lead hazards, correction of identified lead hazards using effective lead-safe work practices and, appropriate oversight of remediation work; (c) partnerships with other county or municipal agencies or community-based organizations to build community awareness of the childhood lead poisoning primary prevention program and activities, coordinate referrals for services, and support remediation of housing that contains lead hazards; (d) a mechanism to provide education and referral for lead testing for children and pregnant women to families who are encountered in the course of conducting primary prevention inspections and other outreach activities; and (e) a mechanism and outreach efforts to provide housing inspections for lead hazards upon request. The commissioner of health of a county or part-county health district, a county health director or a public health director and, in the city of New York, the commissioner of the New York city department of health and mental hygiene, shall also enter into an agreement or subcontract with a municipal government regarding inspection of the [~~paint~~] conditions in dwellings **and schools** built prior to nineteen hundred seventy-eight for the area defined as the community of concern and may, when qualified staff exists, designate the local housing maintenance code enforcement agency in which the community of concern is located as an agency authorized to administer the provisions of this title pursuant to subdivision one of section thirteen hundred seventy-five of this title. A portion of grant funding received to support the local primary prevention plan may be used to reduce barriers to lead testing of children and pregnant women within the communities of concern, including the purchase of lead testing devices and supplies when the need for such resources is identified within the community. The commissioner, the commissioner of health of a county or part-county health district, a county health director or a public health director and, in the city of New York, the commissioner of the New York city department of health and mental hygiene, is authorized to enter into agreements, contracts, subcontracts or memoranda of understanding with, and provide technical and other resources to, local

health officials, local building code officials, real property owners, and community organizations in such areas to create and implement policies, education and other forms of community outreach to address lead exposure, detection and risk reduction. Primary prevention plans shall target children less than six years of age living in the highest risk housing in the communities of concern identified. The plans shall also take into consideration the extent the weatherization assistance program and other such programs can be used in conjunction with lead-based paint hazard risk reduction. Funding provided for this program shall be used for the activities described in this section and shall not be used for other activities required by this title.

§ 4. Subdivision 1 and paragraph (i) of subdivision 4 of section 1370-b of the public health law, subdivision 1 as amended by section 79 of part A of chapter 62 of the laws of 2011, paragraph (i) of subdivision 4 as amended by section 5 of part A of chapter 58 of the laws of 2009 and renumbered by chapter 314 of the laws of 2020, are amended to read as follows:

1. The New York state advisory council on lead poisoning prevention is hereby established in the department, to consist of the following, or their designees: the commissioner; the commissioner of labor; the commissioner of environmental conservation; the commissioner of housing and community renewal; the commissioner of children and family services; the commissioner of temporary and disability assistance; the secretary of state; **two members appointed by the temporary president of the senate; one member appointed by the minority leader of the senate; two members appointed by the speaker of the assembly; one member appointed by the minority leader of the assembly;** and fifteen public members appointed by the governor. The public members shall have a demonstrated expertise or interest in lead poisoning prevention and at least one public member shall be representative of each of the following: local government; community groups; labor unions; real estate; industry; parents; educators; local housing authorities; child health advocates; environmental groups; professional medical organizations and hospitals. The public members of the council shall have fixed terms of three years; except that five of the initial appointments shall be for two years and five shall be for one year. The council shall be chaired by the commissioner or his or her designee.

(i) To report on or before December first of each year to the governor and the legislature concerning the previous year's development and implementation of the statewide plan and operation of the program, together with recommendations it deems necessary and the most currently available lead surveillance measures[~~, including~~]**. Such report shall include:** the actual number and estimated percentage of children tested for lead in accordance with New York state regulations, including age-specific testing requirements[~~, and~~]**;** the actual number and estimated percentage of children identified with elevated blood lead levels**, the geographic boundaries of each community of concern in the state presented with maps or other means; the number of inspections of conditions in dwellings and schools conducted in each community of concern pursuant to subdivision three of section thirteen hundred seventy-a of this title; the amount and purpose of funding the department provided to the New York city department of health and mental hygiene and to each county health department pursuant to subdivision three of section thirteen hundred seventy-a of this title; a description and the total budget for each work plan approved by the department pursuant to subdivision three of section thirteen hundred seventy-a of this title; the number of**

tests of drinking water of residential real property conducted and reported to the commissioner pursuant to section two hundred forty-two-a of the real property law and section eighty-five of the multiple dwelling law, respectively; the results of such tests broken down by the county and the community of concern, if any, in which such real property is located; and the total amount received by the department for fines paid for violations of section eighty-five of the multiple dwelling law, the county and community of concern, if any, of the real property for which such fine was paid, the total amount of fines collected, and the amount distributed to the New York city department of health and mental hygiene and to each county health department. Such report shall be made available on the department's website.

§ 5. Section 1372 of the public health law, as amended by chapter 485 of the laws of 1992, is amended to read as follows:

§ 1372. Use of leaded paint. No person shall apply paint or other similar surface-coating material containing more than .06 of one per centum of metallic lead based on the total weight of the contained solids or dried paint film to any interior surface, window sill, window frame or porch of a dwelling **or school**.

§ 6. Section 1373 of the public health law, as added by chapter 338 of the laws of 1970, subdivision 1 as amended by chapter 411 of the laws of 2017, subdivision 2 as amended by chapter 485 of the laws of 1992, subdivision 3 as amended by chapter 20 of the laws of 2018, subdivision 5 as added by chapter 529 of the laws of 1976, is amended to read as follows:

§ 1373. Abatement of lead poisoning conditions. 1. Whenever the commissioner or his or her representative shall designate an area of high risk, he or she shall give written notice and demand, served as provided by this section, for the discontinuance of a [~~paint~~] condition conducive to lead poisoning in any designated dwelling **or school** in such area within a specified period of time.

2. Such notice and demand shall prescribe the method of discontinuance of a condition conducive to lead poisoning which may include the removal of paint containing more than one-half of one per centum of metallic lead based on the total weight of the contained solids or dried film of the paint or other similar surface-coating material from surfaces specified by the commissioner or his **or her** representative under such safety conditions as may be indicated and the refinishing of such surfaces with a suitable finish which is not in violation of section [~~one thousand three~~] **thirteen** hundred seventy-two of this title or the covering of such surfaces with such material or the removal of lead contaminated soils or lead pipes supplying drinking water as may be deemed necessary to protect the life and health of occupants of the dwelling **or school**.

3. In the event of failure to comply with a notice and demand, the commissioner or his or her representative shall take enforcement action as deemed appropriate by the commissioner or his or her representative, which may include conducting a formal hearing upon due notice in accordance with the provisions of section twelve-a of this chapter and on proof of violation of such notice and demand may order abatement of a paint condition conducive to lead poisoning upon such terms as may be appropriate and may assess a penalty not to exceed two thousand five hundred dollars for such violation; provided, however, that abatement shall not be ordered if the respondent proves by a preponderance of evidence at such hearing that a paint condition conducive to lead poisoning in the designated dwelling **or school** does not exist.

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

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

§ 7. Section 1374 of the public health law, as added by chapter 338 of the laws of 1970, is amended to read as follows:

§ 1374. Receivership. 1. In the event of failure to comply with an order issued pursuant to this title and containing provision for such application, the officer issuing the order may apply to a court of competent jurisdiction in the county wherein the dwelling **or school** is located for an order appointing such officer or his **or her** designee receiver of the rents of such dwelling **or school** for the purpose of effectuating the provisions of such order.

2. An application for appointment of a receiver hereunder shall be on at least ten days' notice to the owner of the dwelling **or school**, effected in the same manner as in an action to foreclose a mortgage. A receiver appointed hereunder shall not have any right superior to those of any mortgagee or lienor of record who has not had at least ten days' notice, by personal service or registered or certified mail, of the application for appointment of a receiver.

3. A receiver appointed hereunder shall have the power to collect the accrued and accruing rents of the dwelling **or school** and shall apply such collected rents to costs and expenses incurred in connection with (a) removing, replacing, repainting and covering surfaces of the dwelling **or school** necessary to effectuate the provisions of the order of abatement, (b) interim operation and management of the dwelling **or school**, (c) administration of the receivership.

4. As soon as practicable after completion of his **or her** duties, the receiver shall render a full accounting to the court and, upon payment over of any surplus moneys to the owner or other persons as the court may approve or direct and upon the order of the court, he **or she** shall be relieved of any further responsibility or liability in connection with his **or her** receivership.

§ 8. The tax law is amended by adding a new section 23-a to read as follows:

§ 23-a. Lead remediation and abatement credit. (a) Lead remediation and abatement credit. A taxpayer who is a class A multiple dwelling owner and has undertaken successful lead remediation or successful lead abatement of such dwelling pursuant to paragraph (b) of subdivision two of section thirteen hundred seventy-a of the public health law and is subject to tax under article nine-A or twenty-two of this chapter, shall be allowed a credit against such tax pursuant to subdivision (e) of this section.

(b) Amount of credit. The amount of the credit shall be one thousand five hundred dollars per dwelling unit for successful lead remediation and five thousand dollars per dwelling unit for successful lead abatement. The credit shall only be allowed for the taxable year such remedi-

ation or abatement was certified and both credits cannot be claimed in the same year. The credit authorized pursuant to this section shall not apply to any remediation or abatement commenced prior to June first, two thousand twenty-one.

(c) Any recipient of a credit pursuant to this section shall not evict, for reason of expired lease or holdover tenancy, a tenant or lawful occupant of any dwelling unit for which such credit is received for a period of one year after the credit is received, except as provided in subdivision (d) of this section.

(d) Nothing in subdivision (c) of this section shall prevent eviction proceedings from being commenced or shall cause eviction proceedings to be stayed if the tenant or lawful occupant is persistently and unreasonably engaging in behavior that substantially infringes on the use and enjoyment of other tenants or occupants or causes a substantial safety hazard to others, provided: (i) if an eviction proceeding is pending on the date a landlord or property owner receives a credit pursuant to this section, but the petitioner has not previously alleged that such tenant or occupant persistently and unreasonably engaged in such behavior, the petitioner shall be required to submit a new petition with such allegations and comply with all notice and service requirements under article seven of the real property actions and proceedings law and this subdivision; (ii) if the court has awarded a judgment against a respondent prior to the date a landlord or property owner receives a credit pursuant to this section on the basis of objectionable or nuisance behavior, the court shall hold a hearing to determine whether the tenant is continuing to persist in engaging in unreasonable behavior that substantially infringes on the use and enjoyment of other tenants or occupants or causes a substantial safety hazard to others; (iii) for the purposes of this subdivision, a mere allegation of the behavior by the petitioner or an agent of the petitioner alleging such behavior shall not be sufficient evidence to establish that the tenant has engaged in such behavior; (iv) if the petitioner fails to establish that the tenant or lawful occupant persistently and unreasonably engaged in such behavior and the landlord or property owner receives a credit pursuant to this section, the court shall stay or continue to stay any further proceedings until the one year period provided for in subdivision (c) of this section has elapsed; and (v) if the petitioner establishes that the tenant persistently and unreasonably engaged in such behavior, the proceeding may continue pursuant to article seven of the real property actions and proceedings law and this subdivision.

(e) Cross-references. For application of the credit provided for in this section, see the following provisions of this chapter:

Article 9-A: Section 210-B, subdivision 55.

Article 22: Section 606, subsections (i) and (nnn).

§ 9. Section 210-B of the tax law is amended by adding a new subdivision 55 to read as follows:

55. Lead remediation and abatement credit. (a) Allowance of credit. A taxpayer who is a class A multiple dwelling owner and has undertaken successful lead remediation or successful lead abatement of such dwelling pursuant to paragraph (b) of subdivision two of section thirteen hundred seventy-a of the public health law and is subject to tax under this article, shall be allowed a credit, to be computed as provided in section twenty-three-a of this chapter, against the tax imposed by this article.

(b) Application of credit. The credit allowed under this subdivision for any taxable year shall not reduce the tax due for such year to less

than the higher amount prescribed in paragraph (d) of subdivision one of this section. However, if the amount of credits allowed under this subdivision for any taxable year reduces the tax to such amount, any amount of credit thus not deductible in such taxable year shall be treated as an overpayment of tax to be credited or refunded in accordance with the provisions of section one thousand eighty-six of this chapter. Provided, however, the provisions of subsection (c) of section one thousand eighty-eight of this chapter notwithstanding, no interest shall be paid thereon.

(c) Any recipient of a credit pursuant to this section shall not evict, for reason of expired lease or holdover tenancy, a tenant or lawful occupant of any dwelling unit for which such credit is received for a period of one year after the credit is received, except as provided in paragraph (d) of this subdivision.

(d) Nothing in paragraph (c) of this subdivision shall prevent eviction proceedings from being commenced or shall cause eviction proceedings to be stayed if the tenant or lawful occupant is persistently and unreasonably engaging in behavior that substantially infringes on the use and enjoyment of other tenants or occupants or causes a substantial safety hazard to others, provided: (i) if an eviction proceeding is pending on the date a landlord or property owner receives a credit pursuant to this section, but the petitioner has not previously alleged that such tenant or occupant persistently and unreasonably engaged in such behavior, the petitioner shall be required to submit a new petition with such allegations and comply with all notice and service requirements under article seven of the real property actions and proceedings law and this paragraph; (ii) if the court has awarded a judgment against a respondent prior to the date a landlord or property owner receives a credit pursuant to this section on the basis of objectionable or nuisance behavior, the court shall hold a hearing to determine whether the tenant is continuing to persist in engaging in unreasonable behavior that substantially infringes on the use and enjoyment of other tenants or occupants or causes a substantial safety hazard to others; (iii) for the purposes of this paragraph, a mere allegation of the behavior by the petitioner or an agent of the petitioner alleging such behavior shall not be sufficient evidence to establish that the tenant has engaged in such behavior; (iv) if the petitioner fails to establish that the tenant or lawful occupant persistently and unreasonably engaged in such behavior and the landlord or property owner receives a credit pursuant to this section, the court shall stay or continue to stay any further proceedings until the one year period provided for in paragraph (c) of this subdivision has elapsed; and (v) if the petitioner establishes that the tenant persistently and unreasonably engaged in such behavior, the proceeding may continue pursuant to article seven of the real property actions and proceedings law and this paragraph.

§ 10. Subparagraph (B) of paragraph 1 of subsection (i) of section 606 of the tax law is amended by adding a new clause (xlix) to read as follows:

(xlix) Lead remediation and abatement credit under subsection (nnn)	Amount of credit under subdivision fifty-five of section two hundred ten-B

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

(nnn) Lead remediation and abatement credit. (1) Allowance of credit. A taxpayer who is a class A multiple dwelling owner and has undertaken successful lead remediation or successful lead abatement of such dwell-

ing pursuant to paragraph (b) of subdivision two of section thirteen hundred seventy-a of the public health law and is subject to tax under this article, shall be allowed a credit, to be computed as provided in section twenty-three-a of this chapter, against the tax imposed by this article.

(2) Application of credit. If the amount of the credit allowed under this subsection for any taxable year shall exceed the taxpayer's tax for such year, the excess shall be treated as an overpayment of tax to be credited or refunded in accordance with the provisions of section six hundred eighty-six of this article, provided, however, that no interest shall be paid thereon.

(3) Any recipient of a credit pursuant to this subsection shall not evict, for reason of expired lease or holdover tenancy, a tenant or lawful occupant of any dwelling unit for which such credit is received for a period of one year after the credit is received, except as provided in paragraph four of this subsection.

(4) Nothing in paragraph three of this subsection shall prevent eviction proceedings from being commenced or shall cause eviction proceedings to be stayed if the tenant or lawful occupant is persistently and unreasonably engaging in behavior that substantially infringes on the use and enjoyment of other tenants or occupants or causes a substantial safety hazard to others, provided: (i) if an eviction proceeding is pending on the date a landlord or property owner receives a credit pursuant to this subsection, but the petitioner has not previously alleged that such tenant or occupant persistently and unreasonably engaged in such behavior, the petitioner shall be required to submit a new petition with such allegations and comply with all notice and service requirements under article seven of the real property actions and proceedings law and this paragraph; (ii) if the court has awarded a judgment against a respondent prior to the date a landlord or property owner receives a credit pursuant to this subsection on the basis of objectionable or nuisance behavior, the court shall hold a hearing to determine whether the tenant is continuing to persist in engaging in unreasonable behavior that substantially infringes on the use and enjoyment of other tenants or occupants or causes a substantial safety hazard to others; (iii) for the purposes of this paragraph, a mere allegation of the behavior by the petitioner or an agent of the petitioner alleging such behavior shall not be sufficient evidence to establish that the tenant has engaged in such behavior; (iv) if the petitioner fails to establish that the tenant or lawful occupant persistently and unreasonably engaged in such behavior and the landlord or property owner receives a credit pursuant to this subsection, the court shall stay or continue to stay any further proceedings until the one year period provided for in paragraph three of this subsection has elapsed; and (v) if the petitioner establishes that the tenant persistently and unreasonably engaged in such behavior, the proceeding may continue pursuant to article seven of the real property actions and proceedings law and this paragraph.

§ 12. The real property law is amended by adding a new section 242-a to read as follows:

§ 242-a. Lead disclosure. 1. Any seller of residential real property on or after July first, two thousand twenty-two, shall be required to provide at least one week before closing the results of a test of the drinking water of the residential property being conveyed for the presence of lead conducted no more than twelve months prior to the closing date. This subdivision shall not apply to the conveyance of residential

real property where the owner remains the same natural person or persons regardless of whether such property is conveyed to a limited liability company or other entity. Any such seller required to provide the results of a test pursuant to this section shall submit the results of such test to the department of health in a manner the department prescribes.

2. The department of health shall promulgate the standards for any tests required to be conducted pursuant to subdivision one of this section and shall collect the results of all such tests. Such tests shall provide for the testing of water from the service lines leading into the property. The commissioner of health shall include a detailed summary of the results of such tests throughout the state in the annual report required pursuant to paragraph (i) of subdivision four of section thirteen hundred seventy-b of the public health law and shall use the data collected pursuant to this section to identify communities of concern pursuant to section thirteen hundred seventy-a of the public health law.

§ 13. The multiple dwelling law is amended by adding a new section 85 to read as follows:

§ 85. Lead testing. 1. As used in this section, the following terms shall have the following meanings:

(a) "Person" means an individual, firm, company, partnership, or corporation, trade group or association; and

(b) "Contractor" means any person, other than a bona fide employee of the owner, who owns, operates, maintains, conducts, controls or transacts a home improvement business and who undertakes or offers to undertake or agrees to perform any home improvement or solicits any contract therefor, whether or not such person is licensed, and whether or not such person is a prime contractor or subcontractor with respect to the owner.

2. The owner of any class A multiple dwelling shall, before the start of a new tenancy after July first, two thousand twenty-two, provide to the tenant prior to lease-signing the results of a test of the drinking water of the residential property that is the subject of the lease for the presence of lead conducted no more than twelve months prior to the commencement of the lease. Any such owner required to provide the results of a test pursuant to this section shall submit the results of such test to the department of health in a manner the department prescribes.

3. (a) The department of health shall promulgate the standards for any such tests conducted pursuant to subdivision two of this section and collect all results of all such tests. Such tests shall provide for the testing of water from the service lines leading into the dwelling. The commissioner of health shall include a detailed summary of the results of such tests throughout the state in the annual report required pursuant to paragraph (i) of subdivision four of section thirteen hundred seventy-b of the public health law and shall use the data collected pursuant to this paragraph to identify communities of concern pursuant to section thirteen hundred seventy-a of the public health law.

(b) (i) In any communities of concern, if any dwelling unit is found pursuant to testing provided for in subdivision two of this section to have drinking water with lead in excess of fifteen parts per billion, the owner shall:

(A) provide immediate and lasting access to safe water for drinking and bathing; and

(B) within three months, provide long-term remediation or abatement lasting at least the duration of the tenancy; or

(C) provide the tenant with reasonable alternative accommodation for the duration of the tenancy at no greater cost, including all moving expenses not to exceed one month's rent.

(ii) Any owner found in violation of subdivision two of this section or this subdivision shall be subject to a fine per dwelling unit of five hundred dollars for the first violation, one thousand dollars for the second violation, and one thousand five hundred dollars for the third and successive violations. Every additional thirty days any violation of such subdivisions is not remedied, starting thirty days after the issuance of the first violation, shall be subject to an additional fine equal to the fine levied by the initial violation. Fifty percent of any fine issued pursuant to such subdivisions shall be paid directly to any tenant or tenants of the affected dwelling units in the form of a credit for future rent or a rebate on rent already paid should the rent due on the duration of the tenancy be less than the amount owed under this subdivision.

(c) If the owner of a dwelling unit subject to this section with drinking water having lead in excess of fifteen parts per billion finds that the source of the lead contaminate is partially or fully owned by a different person or entity, such person or entity shall be responsible for any costs incurred in compliance with this section either through direct reimbursement of the owner of the multiple dwelling or via direct payment to the tenant or tenants, excepting subparagraph (ii) of paragraph (b) of this subdivision. The ownership of the source of contaminate shall be reported to the commissioner of health.

(d) No owner or persons responsible for the source of the contaminate where the source is service pipes providing drinking water to the residential dwelling unit where such water is found to contain more than fifteen parts per billion of lead may partially replace any lead service pipes, even if the owner or persons responsible do not control the entirety of the contaminated service lines. Service lines found to be contributing to the contamination of drinking water to a dwelling unit subject to this subdivision shall be replaced in full.

4. (a) In every town, village, county, and city outside of the city of New York, beginning January first, two thousand twenty-five, for any class A multiple dwelling constructed before nineteen seventy-eight, within five years of such date; or prior to the issuance of a certificate of occupancy; or within one year after the owner or landlord is notified that a child of six years or younger comes to reside in a dwelling unit subject to the requirements of this section; or at the time of inspection for any state or federal affordable housing program or at the time of inspection for any state-funded rental voucher, whichever is sooner, an investigation for the presence of lead-based paint undertaken pursuant to this subdivision shall be performed by a person who (i) is not the owner or the agent of the owner or any contractor hired to perform work related to the remediation of lead-based paint hazards, and (ii) is certified as an inspector or risk assessor pursuant to section 745.226 of title 40 of the code of federal regulations. Such inspection shall consist of the use of an x-ray fluorescence analyzer on all types of surfaces in accordance with the procedures described in chapter 7 of the United States department of housing and urban development guidelines for the evaluation and control of lead-based paint hazards in housing, including on chewable surfaces, friction surfaces, and impact surfaces, to determine whether lead-based paint is present,

and where such paint is located, in such dwelling unit. Provided, however, that the investigation specified by this subdivision shall not be required if an investigation that complies with the requirements of this subdivision was previously completed and the owner retains records of such investigation. The results of any investigation required to be completed pursuant to this section shall be submitted to the department of health in a manner the department prescribes.

(b) (i) The department of health shall promulgate the standards for any investigation required to be conducted pursuant to paragraph (a) of this subdivision and collect all results of all such tests. The commissioner of health shall include a detailed summary of the results of such investigations throughout the state in the annual report required pursuant to paragraph (i) of subdivision four of section thirteen hundred seventy-b of the public health law and shall use the data collected pursuant to paragraph (a) of this subdivision to identify communities of concern pursuant to section thirteen hundred seventy-a of the public health law.

(iii) Any owner found to be in violation of the requirements of this subdivision shall be subject to a fine of five hundred dollars for the first offense, one thousand dollars for the second offense, and up to five thousand dollars for the third and any subsequent offenses. Fifty percent of any fine issued pursuant to this subdivision shall be paid directly to any tenant or tenants of the affected dwelling units in the form of a credit for future rent or a rebate on rent already paid should the rent due on the duration of the tenancy be less than the amount owed under this subdivision.

5. Any class A multiple dwelling constructed before nineteen seventy-eight that has not been previously inspected for and certified for the abatement or remediation of lead based paint shall be presumed to have a high risk for lead based paint. This section shall serve as constructive notice for any class A multiple dwelling constructed prior to nineteen seventy-eight of a high risk of lead based paint.

6. The owner of any dwelling that performs any work or provides any notices pursuant to this section shall retain all records relating to such work or notices for a period of no less than one year from the completion date of such work or notification pursuant to rules promulgated by the commissioner of health. The owner shall keep a record of: (a) the date that such unit turned over whenever such turnover occurs; (b) the name of each inspector, risk assessor or contractor who performed required investigations pursuant to this section; and (c) all testing results performed pursuant to this section and any other lead based paint testing that has occurred in such unit. The owner shall make any such records required to be retained by this section available to the department of health upon the commissioner of health's request, and shall transfer such records to the owner's successor in title.

7. The department of health shall promulgate a notice that includes the risk of lead exposure to children and the risk of lead poisoning in dwellings constructed prior to nineteen seventy-eight. The commissioner of health shall require such notice be appended to every lease for a class A multiple dwelling constructed prior to nineteen seventy-eight. The commissioner of health may maintain a list of class A multiple dwellings exempt from such notice due to certificates of lead abatement.

8. The commissioner of health shall collect all fines due pursuant to this section in a fund created for and solely dedicated to this purpose. The commissioner of health shall promulgate any rules and regulations necessary to distribute these funds annually to cities, counties, towns,

and villages outside of towns for the purpose of the enforcement of this section and for the furtherance of lead abatement and remediation, with at least seventy-five percent of funds to be directed to communities of concern pursuant to section thirteen hundred seventy-a of the public health law. The commissioner of health may, at his or her discretion, distribute these funds directly to the owners of class A multiple dwellings subject to this section who own fifty or fewer dwelling units solely to conduct lead testing, inspection, remediation or abatement in high risk localities. The commissioner of health shall include a detailed summary of the number of fines collected broken down by census tract and/or zip code, and how the funds dispersed, in the annual report required pursuant to paragraph (i) of subdivision four of section thirteen hundred seventy-b of the public health law.

9. The commissioner of health shall promulgate any rules or regulations required to effectuate the provisions of this section.

§ 14. This act shall take effect immediately.