

# 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:

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

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

6 § 1370. Definitions. When used in this title, the following words and  
7 phrases shall have the following meanings, unless the context clearly  
8 requires otherwise:

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

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

19 [~~2-~~] 3. "Area of high risk" means an area designated as such by the  
20 commissioner or his or her representative and consisting of one or more  
21 dwellings or schools in which a condition conducive to lead poisoning of  
22 children is present.

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

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1     ~~[3-]~~ 4. "Community of concern" means an area designated as such by the  
2     commissioner or his or her representative with significant concen-  
3     trations of children identified with elevated blood lead levels.

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

13    ~~[4-]~~ 6. "Program" means the lead poisoning prevention program in the  
14    department established pursuant to section thirteen hundred seventy-a of  
15    this title.

16    ~~[5-]~~ 7. "Council" means the advisory council on lead poisoning  
17    prevention established pursuant to section thirteen hundred seventy-b of  
18    this title.

19    ~~[6-]~~ 8. "Elevated lead levels" means a blood lead level greater than  
20    or equal to five micrograms of lead per deciliter of whole blood or such  
21    lower blood lead level as may be established by the department pursuant  
22    to rule or regulation.

23    ~~[7-]~~ 9. "Person" means any natural person.

24    § 3. Section 1370-a of the public health law, as added by chapter 485  
25    of the laws of 1992, paragraphs (a) and (c) of subdivision 2 and subdi-  
26    vision 3 as amended by section 4 of part A of chapter 58 of the laws of  
27    2009, is amended to read as follows:

28    § 1370-a. Lead poisoning prevention program. 1. The department shall  
29    establish a lead poisoning prevention program, in consultation with the  
30    advisory council on lead poisoning prevention. This program shall be  
31    responsible for establishing and coordinating activities to prevent lead  
32    poisoning and to minimize risk of exposure to lead. The department shall  
33    exercise any and all authority which may be deemed necessary and appro-  
34    priate to effectuate the provisions of this title.

35    2. The department shall:

36    (a) promulgate and enforce regulations for screening children and  
37    pregnant women, including requirements for blood lead testing, for lead  
38    poisoning, and for follow up of children and pregnant women who have  
39    elevated blood lead levels;

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

44    (c) enter into interagency agreements to coordinate lead poisoning  
45    prevention, exposure reduction, identification and treatment activities  
46    and lead reduction activities with other federal, state and local agen-  
47    cies and programs;

48    ~~(d)~~ (d) establish a statewide registry of lead levels of children  
49    provided such information is maintained as confidential except for (i)  
50    disclosure for medical treatment purposes; (ii) disclosure of non-iden-  
51    tifying epidemiological data; and (iii) disclosure of information from  
52    such registry to the statewide immunization information system estab-  
53    lished by section twenty-one hundred sixty-eight of this chapter; and

54    ~~(e)~~ (e) develop and implement public education and community  
55    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

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

12 § 4. Subdivision 1 and paragraph (i) of subdivision 4 of section  
13 1370-b of the public health law, subdivision 1 as amended by section 79  
14 of part A of chapter 62 of the laws of 2011, paragraph (i) of subdivi-  
15 sion 4 as amended by section 5 of part A of chapter 58 of the laws of  
16 2009 and renumbered by chapter 314 of the laws of 2020, are amended to  
17 read as follows:

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

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

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

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

15 § 1372. Use of leaded paint. No person shall apply paint or other  
16 similar surface-coating material containing more than .06 of one per  
17 centum of metallic lead based on the total weight of the contained  
18 solids or dried paint film to any interior surface, window sill, window  
19 frame or porch of a dwelling or school.

20 § 6. Section 1373 of the public health law, as added by chapter 338 of  
21 the laws of 1970, subdivision 1 as amended by chapter 411 of the laws of  
22 2017, subdivision 2 as amended by chapter 485 of the laws of 1992,  
23 subdivision 3 as amended by chapter 20 of the laws of 2018, subdivision  
24 5 as added by chapter 529 of the laws of 1976, is amended to read as  
25 follows:

26 § 1373. Abatement of lead poisoning conditions. 1. Whenever the  
27 commissioner or his or her representative shall designate an area of  
28 high risk, he or she shall give written notice and demand, served as  
29 provided by this section, for the discontinuance of a ~~[paint]~~ condition  
30 conducive to lead poisoning in any designated dwelling or school in such  
31 area within a specified period of time.

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

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

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

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

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

16 § 1374. Receivership. 1. In the event of failure to comply with an  
17 order issued pursuant to this title and containing provision for such  
18 application, the officer issuing the order may apply to a court of  
19 competent jurisdiction in the county wherein the dwelling or school is  
20 located for an order appointing such officer or his or her designee  
21 receiver of the rents of such dwelling or school for the purpose of  
22 effectuating the provisions of such order.

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

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

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

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

45 § 23-a. Lead remediation and abatement credit. (a) Lead remediation  
46 and abatement credit. A taxpayer who is a class A multiple dwelling  
47 owner and has undertaken successful lead remediation or successful lead  
48 abatement of such dwelling pursuant to paragraph (b) of subdivision two  
49 of section thirteen hundred seventy-a of the public health law and is  
50 subject to tax under article nine-A or twenty-two of this chapter, shall  
51 be allowed a credit against such tax pursuant to subdivision (e) of this  
52 section.

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

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

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

10 (d) Nothing in subdivision (c) of this section shall prevent eviction  
11 proceedings from being commenced or shall cause eviction proceedings to  
12 be stayed if the tenant or lawful occupant is persistently and unreason-  
13 ably engaging in behavior that substantially infringes on the use and  
14 enjoyment of other tenants or occupants or causes a substantial safety  
15 hazard to others, provided: (i) if an eviction proceeding is pending on  
16 the date a landlord or property owner receives a credit pursuant to this  
17 section, but the petitioner has not previously alleged that such tenant  
18 or occupant persistently and unreasonably engaged in such behavior, the  
19 petitioner shall be required to submit a new petition with such allega-  
20 tions and comply with all notice and service requirements under article  
21 seven of the real property actions and proceedings law and this subdivi-  
22 sion; (ii) if the court has awarded a judgment against a respondent  
23 prior to the date a landlord or property owner receives a credit pursu-  
24 ant to this section on the basis of objectionable or nuisance behavior,  
25 the court shall hold a hearing to determine whether the tenant is  
26 continuing to persist in engaging in unreasonable behavior that substan-  
27 tially infringes on the use and enjoyment of other tenants or occupants  
28 or causes a substantial safety hazard to others; (iii) for the purposes  
29 of this subdivision, a mere allegation of the behavior by the petitioner  
30 or an agent of the petitioner alleging such behavior shall not be suffi-  
31 cient evidence to establish that the tenant has engaged in such behav-  
32 ior; (iv) if the petitioner fails to establish that the tenant or lawful  
33 occupant persistently and unreasonably engaged in such behavior and the  
34 landlord or property owner receives a credit pursuant to this section,  
35 the court shall stay or continue to stay any further proceedings until  
36 the one year period provided for in subdivision (c) of this section has  
37 elapsed; and (v) if the petitioner establishes that the tenant persis-  
38 tently and unreasonably engaged in such behavior, the proceeding may  
39 continue pursuant to article seven of the real property actions and  
40 proceedings law and this subdivision.

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

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

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

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

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

55 (b) Application of credit. The credit allowed under this subdivision  
56 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	Amount of credit under subdivision
abatement credit under subsection	fifty-five of section two
(nnn)	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

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

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

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

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

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

24 (b) "Contractor" means any person, other than a bona fide employee of  
25 the owner, who owns, operates, maintains, conducts, controls or trans-  
26 acts a home improvement business and who undertakes or offers to under-  
27 take or agrees to perform any home improvement or solicits any contract  
28 therefor, whether or not such person is licensed, and whether or not  
29 such person is a prime contractor or subcontractor with respect to the  
30 owner.

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

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

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

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

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

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

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

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

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

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

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

8 (b) (i) The department of health shall promulgate the standards for  
9 any investigation required to be conducted pursuant to paragraph (a) of  
10 this subdivision and collect all results of all such tests. The commis-  
11 sioner of health shall include a detailed summary of the results of such  
12 investigations throughout the state in the annual report required pursu-  
13 ant to paragraph (i) of subdivision four of section thirteen hundred  
14 seventy-b of the public health law and shall use the data collected  
15 pursuant to paragraph (a) of this subdivision to identify communities of  
16 concern pursuant to section thirteen hundred seventy-a of the public  
17 health law.

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

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

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

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

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

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

14 9. The commissioner of health shall promulgate any rules or regu-  
15 lations required to effectuate the provisions of this section.

16 § 14. This act shall take effect immediately.