# STATE OF NEW YORK

8453

# IN SENATE

March 2, 2022

Introduced by Sen. KAVANAGH -- read twice and ordered printed, and when printed to be committed to the Committee on Judiciary

AN ACT to amend the real property law, the labor law, the tax law, the state finance law, the multiple dwelling law, the multiple residence law, the social services law and the public health law, in relation to enacting the "childhood lead poisoning prevention and safe housing act of 2022"

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

Section 1. This act shall be known and may be cited as the "childhood lead poisoning prevention and safe housing act of 2022".

§ 2. Legislative findings and purposes. 1. (a) Lead poisoning of children persists as one of the most prevalent and preventable environmental diseases in New York. Nearly 100,000 children were newly identified with levels of lead in their blood at or above 5 micrograms per deciliter (ug/dL) in New York state between 2011 and 2015. Moreover, only about one-third of children are receiving the lead screenings that are required by law and therefore, the actual number of children affected by the ingestion or inhalation of lead is undoubtedly significantly greater than reported. Prevention is the only effective way to protect children from irreversible damage. Unless lead poisoning is prevented, elevated blood lead levels will result in impairment of the ability of children to think, concentrate, and learn.

(b) Medical research indicates that children can suffer permanent, irreparable damage at blood levels even lower than 5ug/dL, and that there is no level of lead ingestion or inhalation which is without adverse impact. Medical research also indicates that fetal injuries from lead paint can occur if women have elevated blood levels during pregnancy. Because of this, intervention measures that wait until children have been exposed have limited benefits, and the pursuit of primary prevention, which means eliminating lead hazards before children are exposed, has been recommended by the federal centers for disease control and prevention (CDC) and promoted by leading experts in the field as a critical course of action to protect the health of young children.

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

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(c) Adult exposure to lead is also dangerous. It increases the risk of mortality from hypertension and cardiovascular disease with a recent large-scale study finding that 400,000 deaths per year in the U.S. are attributable to lead exposure. The study found that even adult blood lead concentrations lower than 5 ug/dL are associated with mortality. In addition, the federal environmental protection agency (EPA) classifies lead as a probable human carcinogen.

(d) The predominant cause of lead poisoning in children is the ingestion or inhalation of lead particles from deteriorating or abraded lead-based paint from older and poorly maintained residences.

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

(f) Although New York state banned the sale of lead paint in 1970 (chapter 338 of the laws of 1970), seventy percent of New York's housing stock was constructed prior to 1970, and seventy-eight percent was constructed prior to 1978, the year federal law banned the use of lead-based paint in residential homes. At least ninety percent of lead-based paint still remaining in occupied housing exists in units built before 1960. New York state has both the largest percentage and the largest absolute number of older housing units with lead paint in the nation.

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

(h) The deterioration of lead-based paint in older residences results in increased expenses each year for the state of New York in the form of special education and other education expenses, medical care for lead poisoned children, and expenditures for delinquent youth and others needing special supervision. The overall social costs of lead poisoning are estimated to amount to at least six billion dollars annually.

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

(j) The existing housing codes and enforcement systems in most New York jurisdictions do not include primary prevention measures for lead hazards and have proven ineffective in encouraging widespread lead-based paint hazard abatement, mitigation, and control. As a result, in many cases lead hazards are often not identified until a child is found to have high concentrations of lead in their blood.

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

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

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

2. The purposes of this act are:

(a) to increase the supply of affordable rental housing in the state of New York in which measures have been taken to eliminate or substantially reduce the risk of childhood lead poisoning;

(b) to ensure that New York's response to lead-based paint hazards focuses on primary prevention as the essential tool to combat childhood lead poisoning - meaning that lead hazards are eliminated or substantially reduced before a child has been poisoned, and thus to substantially reduce, and eventually eliminate, the incidence of childhood lead poisoning in the state of New York;

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

(d) to improve public awareness of the dangers of exposure to lead even at low levels, and to educate both property owners and tenants about practices that can reduce the incidence of lead poisoning; and

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

(f) to improve the responses of the department of health in those situations where children are identified with elevated blood lead levels; and

(g) to better coordinate across various departments and agencies to protect children from lead poisoning.

§ 3. The real property law is amended by adding a new article 19 to read as follows:

**ARTICLE 19**

**CHILDHOOD LEAD POISONING PREVENTION AND SAFE HOUSING**

**Section 500. Definitions.**
**501. Requirements for owners of affected properties.**
**502. Investigation and inspection of affected properties by the deputy commissioner.**
**503. Safe work practices for activities disturbing lead-based paint or paint of unknown lead content in affected properties.**
**504. Accreditation of inspectors and contractors performing work.**
**505. Enforcement.**
**506. Injunctive relief.**
**507. Retaliatory evictions prohibited.**
**508. Lead poisoning prevention fee.**
**509. Designation of exempt municipalities; minimum standards for lead-based paint poisoning prevention programs.**
**510. Reporting.**

**§ 500. 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-lead hazards. When abatement has occurred, a property is deemed abated.**

**2. "Affected property" means a room or group of rooms within a property constructed before nineteen hundred seventy-eight 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) a unit within a hotel, motel, or similar seasonal or transient facility unless such unit is occupied by one or more persons for a period exceeding thirty days;

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

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

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

(e) a dwelling or dwelling unit within an exempt municipality; or

(f) 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 paragraph c of subdivision one of section five hundred one of this article, but does include privately-owned properties that receive governmental rental assistance.

3. "Area of high risk" means an area designated as such by the deputy commissioner, pursuant to section five hundred two of this article, in conjunction with the commissioner of health pursuant to section thirteen hundred seventy of the public health law.

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

5. "Chewable surface" shall mean a protruding interior windowsill in a dwelling unit in an affected property that is readily accessible to a child under age seven. "Chewable surface" shall also mean any other type of interior edge or protrusion in a dwelling unit in an affected property, such as a rail or stair.

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

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

8. "Deputy commissioner" means such person as has been designated by the commissioner of housing and community renewal to enforce this article.

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

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

11. "Division" means the division of housing and community renewal.

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

going, include child care facilities for children under seven years of age, kindergartens and nursery schools.

13. "Dwelling unit" means a:

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

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

14. "Encapsulation" means the application of a covering or coating that acts as a barrier between the lead-based paint and the environment and that relies for its durability on adhesion between the encapsulant and the painted surface, and on the integrity of the existing bonds between paint layers and between the paint and the substrate. Encapsulation may be used as a method of abatement if it is designed and performed so as to be permanent.

15. "Exempt municipality" means the cities of New York, Rochester, and Syracuse, and such other municipalities that the commissioner of housing and community renewal may designate pursuant to section five hundred nine of this article.

16. "Exterior surfaces" means:

(a) all fences and porches that are part of a dwelling;

(b) all outside surfaces of a dwelling that are accessible to a child under the age of seven and that:

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

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

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

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

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

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

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

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

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

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

24. "Investigation" means an examination conducted by the owner of an affected property, the owner's agent or employee, or someone retained by

the owner, in accordance with the requirements established by the deputy commissioner, to determine whether the affected property meets the standards of lead-stabilized status as defined in paragraph c of subdivision one of section five hundred one of this article.

25. "Lead-based paint" means paint or other similar surface coating material containing 0.5 milligrams of lead per square centimeter or greater, as determined by laboratory analysis, or by an x-ray fluorescence analyzer. If an x-ray fluorescence analyzer is used, readings shall be corrected for substrate bias when necessary as specified by the performance characteristic sheets released by the United States environmental protection agency (EPA) and the United States department of housing and urban development (HUD) for the specific x-ray fluorescence analyzer used. X-ray fluorescence readings shall be classified as positive, negative or inconclusive in accordance with the HUD guidelines for the evaluation and control of lead-based paint hazards in housing (June 1995, revised 1997 and 2012) and the performance characteristic sheets released by the EPA and HUD for the specific x-ray fluorescence analyzer used. X-ray fluorescence readings that fall within the inconclusive zone, as determined by the performance characteristic sheets, shall be confirmed by laboratory analysis of paint chips, results shall be reported in milligrams of lead per square centimeter and the measure of such laboratory analysis shall be definitive. If laboratory analysis is used to determine lead content, results shall be reported in milligrams of lead per square centimeter. Where the surface area of a paint chip sample cannot be accurately measured or if an accurately measured paint chip sample cannot be removed, a laboratory analysis may be reported in percent by weight. In such case, lead-based paint shall mean any paint or other similar surface-coating material containing more than 0.25% of metallic lead, based on the non-volatile content of the paint or other similar surface-coating material except that, if the EPA or a successor agency, or the HUD or a successor agency, adopts more stringent definitions of lead-based paint, such more stringent levels shall apply for the purposes of this article and the division shall update its regulations so they are at least as stringent as the federal levels. In a residential dwelling constructed before 1970, it shall be presumed that paint or other similar surface coating material contains 0.5 milligrams of lead per square centimeter or greater unless it has been tested in the manner specified in this section by personnel qualified pursuant to subdivision two of section five hundred four of this article.

26. "Lead-based paint hazard" means any condition in, or proximate to, a dwelling or dwelling unit that may result in exposure to lead that could result in adverse human health effects from any of the following conditions: lead-contaminated dust; lead-based paint that is deteriorated; lead-based paint that is present on chewable surfaces, deteriorated subsurfaces, friction surfaces, or impact surfaces; or soil-lead hazards.

27. "Lead-contained" means property that has attained lead-contained property status within the meaning of paragraph d of subdivision one of section five hundred one of this article.

28. "Lead-contaminated dust" means surface dust that contains a mass per area concentration of lead equal to or exceeding 5 micrograms per square foot ("ug/ft2") on floors, or 40 ug/ft2 on interior windowsills based on wipe sample, or 100 ug/ft2 on window wells, or 40 ug/ft2 on porch floors, or such more stringent standards as may be adopted by the division of housing and community renewal, except that, if the United States environmental protection agency or a successor agency, or the

United States department of housing and urban development or a successor agency, adopts more stringent definitions of lead-contaminated dust, such more stringent levels shall apply for the purposes of this article, and the division shall update its regulations so they are at least as stringent as the federal levels.

29. "Lead-free" means property that has attained lead-free property status within the meaning of paragraph e of subdivision one of section five hundred one of this article.

30. "Lead-stabilized" means property that has attained lead-stabilized property status within the meaning of paragraph c of subdivision one of section five hundred one of this article.

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

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

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

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

35. "Person" means any natural person.

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

37. "Rent-to-own contract" shall mean any agreement between an owner of real property and a tenant which provides that after a specified term the tenant will take ownership of the rented home.

38. "Resides" shall mean to routinely spend ten or more hours per week within a dwelling unit.

39. "Soil-lead hazard" means soil in a play area where the soil-lead concentration from a composite play area sample of bare soil is equal to or greater than 400 parts per million; or in the rest of the yard when the arithmetic mean lead concentration from a composite sample (or arithmetic mean of composite samples) of bare soil from the rest of the yard (i.e., non-play areas) is equal to or greater than 1,200 parts per million except that, if the United States environmental protection agency or a successor agency, or the United States department of housing and urban development or a successor agency, adopts more stringent definitions of soil-lead hazard, such more stringent levels shall apply for the purposes of this article, and the division shall update its regulations so they are at least as stringent as the federal levels.

40. "Tenant" means the individual named as the lessee in a lease, rental agreement, rent-to-own contract, or other form of occupancy agreement, whether written or oral, for a dwelling unit, and includes

tenancies incident to employment. Where applicable, the term "tenant" shall also include any occupant of the tenant's household.

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

§ 501. Requirements for owners of affected properties. 1. Duty to maintain affected properties. (a) All affected properties shall be maintained free of conditions conducive to lead paint poisoning.

(b) Within two years following the effective date of this section, all affected properties shall be maintained as "lead-stabilized" as defined by paragraph (c) of this subdivision or "lead-contained" as defined by paragraph (d) of this subdivision, or "lead-free" as provided for in paragraph (e) of this subdivision.

(c) An affected property will be considered to be "lead-stabilized" when:

(i) All exterior and interior painted surfaces have been visually reviewed; and all chipping, peeling, or flaking lead-based paint or paint of unknown lead content on exterior and interior painted surfaces has been removed and repainted, or stabilized and repainted, and any structural defect that is causing or likely to cause lead-based paint or paint of unknown lead content to chip, peel, or flake that the owner of the affected property has knowledge of, or with the exercise of reasonable care should have knowledge of, has been repaired;

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

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

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

(v) All work has been completed in compliance with the safe work practice regulations promulgated pursuant to section five hundred three of this article; and

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

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

(B) clearance for lead-contaminated dust has been achieved as determined by wipe samples in all areas accessible to occupants, taken by properly accredited independent personnel after completion of all activities undertaken pursuant to paragraph (b) of this subdivision.

(d) An affected property will be considered to be "lead-contained" when a certified inspector, accredited pursuant to the provisions of section five hundred four of this article, inspects the affected property and certifies that the affected property has been tested for the presence of lead-based paint and lead-contaminated dust in accordance with the standards and procedures established by regulations promulgated by the commissioner and states under penalties of perjury that:

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

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

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

(iii) Clearance for lead dust hazards has been achieved as determined by wipe samples in all areas accessible to occupants, taken by properly accredited independent personnel.

(e) An affected property will be considered to be "lead-free" when a certified inspector, accredited pursuant to the provisions of section five hundred four of this article, inspects the affected property and certifies that the affected property has been tested for the presence of lead-based paint and lead-contaminated dust in accordance with the standards and procedures established by regulations promulgated by the commissioner and states under penalties of perjury that there is no lead-based paint or lead-contaminated dust present on the interior surfaces of the dwelling unit, no lead-based paint on the interior surfaces of the common areas of the property, and no lead-based paint present on any of the exterior surfaces of the property.

2. Duty to inspect affected properties. (a) Unless an affected property has been determined to be "lead-contained" or "lead-free" as defined in subdivision one of this section, the owner of such affected property shall cause an investigation to be made as provided in paragraph (b) of this subdivision, either directly by the owner, the owner's agent or employee, or by any other person authorized by the deputy commissioner, to determine whether such property complies, at a minimum, with "lead-stabilized" property status. Alternatively, the owner may cause an inspection to be made by a person trained and accredited for such inspections as described in section five hundred four of this article for the purpose of determining whether the affected property complies with either "lead-free" property status or "lead-contained" property status.

(b) The investigation to ascertain whether a property complies with "lead-stabilized" property status shall occur at least once a year and more often if necessary, such as when, in the exercise of reasonable care, an owner knows or should know of a condition that is reasonably foreseeable to be conducive to lead poisoning, or when an occupant specifically requests that an inspection or investigation be made based upon his or her reasonable belief that such a condition exists, or when an occupant makes a complaint to the owner concerning a condition that the owner knows or should know is reasonably foreseeable to be conducive to lead poisoning.

(c) In addition to any investigations or inspections required under paragraph (b) of this subdivision, the owner shall cause such an investigation or inspection to be made within the thirty days prior to the leasing, rental, or other turnover of an affected property, and shall report the findings of that investigation or inspection to prospective tenants in accordance with section 42 U.S.C. 4852d, 24 C.F.R. part 35 subpart a and 40 C.F.R. part 40 subpart f or such successor regulations and this article.

3. Duty to maintain and provide records of compliance, and notice to occupants of affected properties.

(a) Beginning two years following the effective date of this section, owners of affected properties shall submit to the deputy commissioner or the deputy commissioner's designee for the jurisdiction in which such property is located a certification of compliance with paragraph (b) of subdivision one of this section, in the manner directed by the deputy commissioner. Said certifications shall include the results of any lead dust wipe tests, any tests for the presence of lead-based paint, and any inspections conducted by inspectors accredited pursuant to the provisions of section five hundred ninety-eight of this article. Certifications of affected properties as "lead stabilized" within the meaning of paragraph (c) of subdivision one of this section shall be submitted every three years. Certifications of affected properties as "lead contained" within the meaning of paragraph (d) of subdivision one of this section shall be submitted every ten years, unless clause (B) of subparagraph (i) of paragraph (d) of such subdivision has been completed, in which case such certification shall be submitted every twenty years.

(b) When an owner of an affected property submits a certification to the division pursuant to paragraph (a) of this subdivision, the owner shall also provide a copy of the certification and any dust wipe test results to the tenants within one month thereafter of providing the certification to the department or, for dwelling units that are vacant at the time of such certification, at the time tenants take occupancy.

(c) The division shall maintain a searchable public database of all certifications filed pursuant to this subdivision.

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

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

(f) All leases offered to tenants or prospective tenants in affected properties shall contain a notice, conspicuously set forth therein, which advises tenants of the obligations of the owner as set forth in this section. Such notice shall be in a manner approved by the deputy commissioner, the content of which shall, at a minimum, be in English and Spanish.

(g) Unless an affected property has been certified as being "lead-free," as provided in paragraph (e) of subdivision one of this section, 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 article 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."

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

§ 502. Investigation and inspection of affected properties by the deputy commissioner. 1. (a) Beginning two years after the effective date of this section, the deputy commissioner or his or her designee for the jurisdiction in which such property is located shall order an inspection of an affected property by an inspector accredited pursuant to the provisions of section five hundred four of this article, at the expense of the owner of the affected property, whenever the deputy commissioner's designee for the jurisdiction in which such property is located receives notification that the affected property does not reasonably appear to comply with either the lead-free, lead-contained, or lead-stabilized property status.

(b) Any state or local agency employees who have occasion to observe deteriorated paint or any other condition believed to be conducive to lead poisoning at an affected property are authorized to report, and shall report, such conditions to the deputy commissioner's designee, and in such instance, the deputy commissioner's designee shall require an inspection to be made of the affected property.

(c) Beginning two years after the effective date of this section, the deputy commissioner shall establish a central complaint system for tenants in affected properties to report deteriorated paint or any other condition believed to be conducive to lead poisoning at an affected property, and in such instance, the deputy commissioner's designee shall require an inspection to be made of the affected property.

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

(e) Beginning two years after the effective date of this section, the deputy commissioner shall establish and maintain an index and file containing all notifications or complaints of affected properties that may not comply with the requirements of subdivision one of section five

hundred one of this article and the results of inspections conducted pursuant to paragraph (d) of this subdivision. Said index and file shall be made publicly available in an accessible, electronic searchable form on a website maintained by the division of housing and community renewal.

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

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

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

(b) identify the affected properties 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 article within thirty days. In preparing this primary prevention inspection strategy, the responsible officials shall, among other factors, consider reports of persons 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 of health.

4. An inspector shall submit a verified report of the result of the inspection conducted pursuant to subdivision one, two, or three 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.

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

(a) notice to tenants;

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

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

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

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

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

(g) dust wipe clearance testing;

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

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

2. A tenant shall, at reasonable times and upon appropriate notice of not less than forty-eight hours, allow access to an affected property to the owner to perform any work required under this article.

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

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

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

(a) regulations adopted by the commissioner of labor pursuant to section nine hundred forty-nine-b of the labor law governing the accreditation of individuals to engage in lead-based paint activities;

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

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

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

2. No person shall conduct an inspection required by section five hundred one of this article, unless that person is accredited pursuant to one of the following:

(a) regulations adopted by the commissioner of labor pursuant to section nine hundred forty-nine-b of the labor law governing the accreditation of individuals to engage in lead-based paint activities; or

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

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

3. All persons engaged in conducting inspections or lead-based paint hazard abatement work under this section shall secure, maintain, and file with the deputy commissioner proof of a certificate of liability coverage, which terms and conditions shall be determined by the commissioner of housing and community renewal.

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

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

(b) The deputy commissioner shall establish and maintain an index and file containing all notices and demands issued pursuant to this section. Said index and file shall be made publicly available in an accessible, electronic searchable form on a website maintained by the division of housing and community renewal.

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

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

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

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

6. Any violation of the requirements of section five hundred one of this article shall also constitute a violation of any municipal or other local housing code and shall subject the owner of an affected property to all orders, criminal penalties, and other civil forfeitures or penalties that are possible under such municipal or local housing code. Any such violation shall also constitute a rent impairing violation within the meaning of section three hundred two-a of the multiple dwelling law and section three hundred five-a of the multiple residence law, and entitle the tenant of such dwelling to a rent rebate of no less than fifty percent or one thousand dollars per month, whichever is greater, or such greater amount as a court of competent jurisdiction shall impose.

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

8. The office of the attorney general and all local authorities responsible for the enforcement of state, municipal, and other local housing codes are hereby empowered to and shall vigorously enforce civil remedies and/or criminal penalties provided for by law arising out of the failure to comply with the requirements of section five hundred one

or section five hundred four of this article and may seek injunctive relief where appropriate.

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

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

§ 506. Injunctive relief. 1. If an owner of an affected property fails to comply with the requirements of section five hundred one or five hundred two of this article, a tenant, an occupant or other interested persons may seek injunctive relief from a court of competent jurisdiction against the owner of the affected property in the form of a court order to compel compliance. For the purposes of this article, a court of competent jurisdiction shall include county court, city court, district court, town court and village court.

2. In any action or proceeding seeking injunctive relief pursuant to subdivision one of this section, either (a) the visually displayed or (b) the printed computerized files of the division, maintained pursuant to paragraph (b) of subdivision one of section five hundred five of this article indicating the issuance of a notice and demand issued pursuant to section five hundred five of this article shall be prima facie evidence of any matter stated therein and the courts shall take judicial notice thereof as if same were certified as true under the seal and signature of the commissioner of housing and community renewal.

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

(a) A person or their attorney, has notified the owner of an affected property that the property fails to meet the requirements of paragraph (b) of subdivision one of section five hundred one of this article;

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

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

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

5. A tenant or occupant or other interested person who prevails in an action to enforce the provisions of this article is entitled to an award of the costs of the litigation and to an award of reasonable attorneys' fees in an amount to be fixed by the court.

6. The removal of an occupant or tenant from or the surrender by the occupant or tenant of a dwelling with respect to which an injunction has been issued pursuant to this section shall not absolve, relieve or discharge any persons chargeable therewith from the obligation and responsibility to comply with any orders to comply with this article. For the purposes of this subdivision, "removal of an occupant or tenant" shall include vacate or condemnation orders.

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

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

§ 507. Retaliatory evictions prohibited. 1. An owner of an affected property may not evict or take any other retaliatory action against an occupant or tenant in response to the actions of the occupant, tenant or other persons in:

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

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

2. An owner of an affected property may not evict or take any other retaliatory action against an occupant in response to the actions of any state or local agency to enforce the provisions of this article.

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

(a) A refusal to renew a lease;

(b) Termination of a tenancy;

(c) An arbitrary rent increase or decrease in services to which the occupant is entitled; or

(d) Any form of constructive eviction.

4. An occupant subject to an eviction or retaliatory action under this section is entitled to the relief as may be provided by statute and/or any further relief deemed just and equitable by the court, and is eligible for reasonable attorneys' fees and costs.

§ 508. Lead poisoning prevention fee. 1. Beginning on January first, two thousand twenty-three, a fee is imposed on manufacturers or wholesalers of paint sold in the state to support the residential property lead-based paint hazard abatement revolving loan fund established pursuant to section ninety-nine-pp of the state finance law. The fee shall be imposed at the manufacturer or wholesaler level, in the amount of fifty cents per gallon of paint estimated to have been sold within the state during the prior year, as determined by rule adopted by the division.

2. The division shall adopt rules to implement this section, including rules to determine which manufacturers or wholesalers of paint sold in the state are responsible for the fees imposed under subdivision one of

this section and rules establishing the estimated number of gallons of paint sold in the state in the prior year for each manufacturer and rules determining the manner of payment. The rules shall provide for waivers of payment for manufacturers and wholesalers of paint that is sold in low quantities in the state. The costs for administration of the residential property lead-based paint hazard abatement revolving loan fund may be reimbursed from the fees collected.

3. The attorney general shall enforce payment of fees under this section through an action in the supreme court in Albany county and may collect costs and attorneys' fees.

§ 509. Designation of exempt municipalities; minimum standards for lead-based paint poisoning prevention programs. 1. The commissioner of housing and community renewal may, by regulation, designate as an "exempt municipality" such other municipalities that enact local laws for the prevention of childhood lead poisoning that contain at least all of the following elements:

(a) Provide that residential property units rented to families with children under age seven shall:

(i) be maintained free of conditions that would constitute a condition conducive to lead poisoning; and

(ii) be inspected either by appropriately-trained and accredited local governmental inspectors no less frequently than every two years, or by property owners no less frequently than every year, for the presence of conditions conducive to lead poisoning, and provide that the results of such inspections shall be provided in writing to the occupants of such dwellings and maintained for ten years.

(b) Provide for the inspection for, and removal of, conditions conducive to lead poisoning prior to the renting of residential properties.

(c) Provide that any activities that disturb lead-based paint or paint of unknown lead content in dwellings or dwelling units with children under age seven, and the common areas of such dwellings, be performed only by personnel who have met the requirements established in section five hundred three of this article.

(d) Provide a private right of action by tenants or occupants for violations of such local law.

2. Notwithstanding any local law to the contrary, no local lead poisoning prevention law or program may employ standards for "lead-based paint," "lead-contaminated dust," and "soil-lead hazard" that are less protective of public health than those set forth in section five hundred one of this article or such more stringent levels adopted by regulation by the division of housing and community renewal.

§ 510. Reporting. 1. Within three months after the close of the fiscal year, the deputy commissioner, in consultation with the commissioner of health and commissioner of labor or her or his designee, shall report to the advisory council established in section thirteen hundred seventy-b of the public health law on the implementation of this article during the preceding period. Such report shall be publicly available and shall include, at a minimum, a detailed statement of revenue and expenditures and statement of the division's program, supported by a statistical section with geographic indexing designed to provide a detailed explanation of the division's enforcement, including but not limited to the following:

(a) the number of dwelling units inspected by the division or other state or local agency pursuant to this article, and the number of inspectors assigned to conduct such inspections;

(b) the number of dwelling units in which the occupant complained of violations of this article and the number of dwelling units in which the existence of such conditions were confirmed by the division or other state or local agency;

(c) a statistical profile of dwellings in which violations have been placed pursuant to this title and pursuant to this article, indicating the ages of the dwellings and other factors relevant to the prevalence of lead-based paint hazards, which may include the prior lead poisonings or reports of persons with elevated blood lead levels in the dwelling, outstanding violations, emergency repair charges, tax arrears and mortgage debt;

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

(e) the enforcement actions brought pursuant to section five hundred five of this article, the identity of the owners of the affected properties, the authority bringing the enforcement action, the nature of the action, and describing the criminal penalties and/or civil relief; and

(f) an evaluation of the division's implementation of a program of inspection pursuant to section five hundred two of this article.

2. The commissioner of housing and community renewal shall designate a deputy commissioner responsible for fulfilling the objectives of this title when such objectives involve the responsibilities of the division.

§ 4. The labor law is amended by adding a new article 32-A to read as follows:

ARTICLE 32-A

NEW YORK LICENSING OF LEAD INSPECTORS AND CONTRACTORS

Section 949-a. Definitions.

949-b. Accreditation of inspectors and contractors performing lead-based paint activities.

§ 949-a. Definitions. As used in this article:

1. "Abatement" means any measure or set of measures designed to permanently eliminate lead-based paint hazards, as defined by the United States environmental protection agency pursuant to 40 CFR 745.220 or successor regulation.

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

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

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

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

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

7. "Inspection" means a surface-by-surface investigation in a dwelling to determine the presence of lead-based paint and the provision of a report explaining the results of the investigation.

8. "Lead-based paint" means paint or other similar surface coating material containing 0.5 milligrams of lead per square centimeter or greater, as determined by laboratory analysis of paint samples with all layers of paint present, or by an x-ray fluorescence analyzer. If an x-ray fluorescence analyzer is used, readings shall be corrected for substrate bias when necessary as specified by the performance characteristic sheets released by the United States environmental protection agency (EPA) and the United States department of housing and urban development (HUD) for the specific x-ray fluorescence analyzer used. X-ray fluorescence readings shall be classified as positive, negative or inconclusive in accordance with the United States department of housing and urban development guidelines for the evaluation and control of lead-based paint hazards in housing (July 2012) and the performance characteristic sheets released by the EPA for the specific x-ray fluorescence analyzer used. X-ray fluorescence readings that fall within the inconclusive zone, as determined by the performance characteristic sheets, shall be confirmed by laboratory analysis of paint chips, results shall be reported in milligrams of lead per square centimeter and the measure of such laboratory analysis shall be definitive. If laboratory analysis is used to determine lead content, results shall be reported in milligrams of lead per square centimeter. Where the surface area of a paint chip sample cannot be accurately measured or if an accurately measured paint chip sample cannot be removed, a laboratory analysis may be reported in percent by weight. In such case, lead-based paint shall mean any paint or other similar surface-coating material containing more than 0.25% of metallic lead, based on the non-volatile content of the paint or other similar surface-coating material. In the event that the EPA or a successor agency, or the HUD or a successor agency, or a department or agency of the state of New York that has obtained applicable authorization pursuant to 40 C.F.R. part 745 subpart Q or successor regulation, adopts more stringent definitions of lead-based paint, such more stringent definitions shall apply for the purposes of this article.

9. "Lead-based paint activities" means, in the case of housing constructed before nineteen seventy-eight, and child-occupied facilities, inspection, risk assessment, and abatement.

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

11. "Lead-contaminated dust" means surface dust that contains a mass per area concentration of lead equal to or exceeding 5 micrograms per square foot ("ug/ft2") on floors, or 40 ug/ft2 on interior windowsills based on wipe sample, or 100 ug/ft2 on window wells, or such more stringent standards as may be adopted by the commissioner of health, except that, if the United States environmental protection agency or a successor agency, or the United States department of housing and urban development or a successor agency, adopts more stringent definitions of lead-

contaminated dust, such definitions shall apply for the purposes of this article.

12. "Risk assessment" means (a) an on-site investigation to determine the existence, nature, severity, and location of lead-based paint hazards, and (b) the provision of a report by the individual or the firm conducting the risk assessment, explaining the results of the investigation and options for reducing lead-based paint hazards.

§ 949-b. Accreditation of inspectors and contractors performing lead-based paint activities. The commissioner shall adopt regulations, sufficient to satisfy the requirements of 40 C.F.R. 745.325 or successor regulation, governing (a) procedures and requirements for the accreditation of lead-based paint activities training programs, (b) procedures and requirements for the certification of individuals engaged in lead-based paint activities, (c) work practice standards for the conduct of lead-based paint activities, (d) requirements that all lead-based paint activities be conducted by appropriately certified contractors, and (e) development of the appropriate infrastructure or government capacity to effectively carry out clear enforcement mechanisms and procedures for unannounced compliance inspections of properties and for responding to complaints.

§ 5. The tax law is amended by adding a new section 187-r to read as follows:

§ 187-r. Lead hazard reduction tax credit. 1. Tax credit for activities resulting in lead-free or lead-contained status. A taxpayer shall be allowed a credit against taxes imposed by this article for activities necessary to bring any affected property into lead-free or lead-contained status within the meaning of section five hundred one of the real property law, provided that the taxpayer complies with the documentation requirements of subdivision four of this section.

2. Tax credit for multiple dwelling units located within exempt municipalities. A taxpayer also shall be eligible for the tax credit under subdivision one of this section if a dwelling unit that satisfies all the requirements for an affected property contained in subdivision two of section five hundred of the real property law but such dwelling unit is located in an exempt municipality within the meaning of section five hundred of the real property law. In such case, the taxpayer shall 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 taxes 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 five hundred one of the real property law, provided that the expected useful life of such renovations is ten years or more and the taxpayer complies with the documentation requirements of subdivision four of this section. The commissioner of housing and community renewal 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 an exempt municipality within the meaning of section five hundred of the real property law, shall be allowed a credit under this subdivision provided that the taxpayer complies with similar standards in local laws concerning lead hazards that apply to multiple dwellings.

4. Documentation required for credit allowance. No credit shall be allowed under subdivisions one, two or three of this section unless the taxpayer provides documentation to the division of housing and community renewal that:

(a) the activities described above have been performed by a contractor accredited pursuant to section five hundred four of the real property 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 five hundred four of the real property law, that the activities described above have been completed in accordance with all applicable requirements and that either:

(i) Where applicable, the affected property or property unit can now be certified as either lead-free or lead-contained under section five hundred one of the real property law; or

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

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

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

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

(nnn) 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 section five hundred one of the real property law, provided that the taxpayer complies with the documentation requirements of paragraph four of this subsection.

(2) Tax credit for similar dwelling units located within exempt municipalities within the meaning of section five hundred of the real property law. 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 five hundred of the real property law but such dwelling unit is located in an exempt municipality within the meaning of section five hundred of the real property law. In such case, the taxpayer shall 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 taxes imposed by this article for the costs of certain activities necessary to bring any affected property into lead-stabilized status within the mean-

ing of section five hundred one of the real property 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 commissioner of housing and community renewal 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 an exempt municipality within the meaning of section five hundred of the real property law 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 division of housing and community renewal that:

(A) the activities described above have been performed by a contractor accredited pursuant to section five hundred four of the real property 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 five hundred four of the real property 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 five hundred one of the real property law; or

(ii) where applicable, the affected property has undergone renovations that satisfy the requirements established by regulation by the division of housing and community renewal as activities necessary to achieve lead-stabilized status with an expected useful life of more than ten years.

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

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

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

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

§ 99-pp. Residential property lead-based paint hazard abatement revolving loan fund. 1. There is created, as a separate fund within the general fund, in the custody of the comptroller a fund to be known as the residential property lead-based paint hazard abatement revolving

loan fund. Such fund shall consist of proceeds received from the sale of bonds pursuant to subdivision two of this section, fees collected pursuant to section five hundred eight of the real property law, and any sums that the state may from time to time deem appropriate, as well as donations, gifts, bequests, or otherwise from any public or private source, which money is intended to assist owners of residential properties in meeting the standards for either lead-free or lead-contained certification pursuant to section five hundred one of the real property law, or, for multiple dwellings in an exempt municipality within the meaning of section five hundred of the real property law, compliance with local laws concerning the control of lead-based paint hazards in such multiple dwellings.

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

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

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

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

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

4. Funds placed in the residential property lead-based paint hazard abatement revolving loan fund shall be made available, at the discretion of the commissioner of the division of housing and community renewal, to the owners of affected properties including those located within exempt municipalities within the meaning of section five hundred of the real property law, and to non-profit organizations for the purpose of bringing affected properties into compliance with the standards for lead-free, lead-contained, or lead-stabilized property status as specified by section five hundred one of the real property law, or, for multiple dwellings in an exempt municipality within the meaning of section five hundred of the real property law, compliance with local laws concerning the control of lead-based paint hazards in such multiple dwellings. An owner of a pre-nineteen hundred seventy property who owns and occupies the dwelling unit shall be eligible for loans under this section in the same manner, and to the same extent, as an owner of an affected property.

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

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

7. The deputy commissioner of housing and community renewal shall take any action necessary to obtain federal assistance for lead hazard

**reduction to be used in conjunction with the residential property lead abatement revolving loan fund.**

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

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

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

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

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

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

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

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

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

§ 12. Section 390-a of the social services law is amended by adding a new subdivision 2-a to read as follows:

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

§ 13. Subdivision 2 of section 1370 of the public health law, as amended by chapter 485 of the laws of 1992, is amended to read as follows:

2. "Area of high risk" means an area designated as such by the commissioner or his or her representative, in conjunction with the commissioner of housing and community renewal, 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.

§ 14. Section 1370-a of the public health law is amended by adding two new subdivisions 4 and 5 to read as follows:

4. The department shall, in conjunction with the division of housing and community renewal pursuant to section five hundred two of the real property law, 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.

5. Within three months after the close of the fiscal year, the commissioner, in collaboration with the deputy commissioner of the division of housing and community renewal, shall report to the advisory council established in section thirteen hundred seventy-b of this title on the

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

(a) a statistical profile of dwellings in which violations have been placed pursuant to this title and pursuant to article nineteen of the real property law, indicating the ages of the dwellings and other factors relevant to the prevalence of lead-based paint hazards, which may include the prior lead poisonings or reports of elevated blood lead levels of occupants in the dwelling, outstanding violations, emergency repair charges, tax arrears and mortgage debt;

(b) the number of dwelling units inspected by the department or other state or local agency pursuant to this title or pursuant to article nineteen of the real property law, and the number of inspectors assigned to conduct such inspections;

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

(d) the number of dwelling units in which the occupant complained of a violation of article nineteen of the real property law and the number of pre-nineteen hundred seventy-eight dwelling units in which the existence of such conditions were confirmed by the division of housing and community renewal or other state or local agency;

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

(f) the number of dwelling units in which a violation of article nineteen of the real property law was placed, whether the violation was placed in response to an occupant's complaint or otherwise;

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

(h) an evaluation of the division of housing and community renewal's capability to timely inspect, serve a notice of violation, and enforce the correction of violations;

(i) an evaluation of the division of housing and community renewal's implementation of a program of inspection pursuant to section five hundred two of the real property law; and

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

§ 15. Subdivision 1 of section 1371 of the public health law, as amended by chapter 485 of the laws of 1992 and as designated by chapter 721 of the laws of 1993, is amended to read as follows:

1. No person shall manufacture, sell or hold for sale a children's toy or children's furniture having paint or other similar surface-coating material thereon containing more than [~~.06~~] .009 of one per centum (90 parts per million) of metallic lead based on the total weight of the contained solids or dried paint film.

§ 16. 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~~] **.009** of one per centum **(90 parts per million)** 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.

§ 17. This act shall take effect immediately; provided, however, that section 508 of the real property law, as added by section three of this act, shall expire and be deemed repealed when the commissioner of health certifies that a period of 24 months has elapsed since the department identified a child with an elevated blood lead level through screening by health care providers under section thirteen hundred seventy-c of the public health law; provided that the commissioner of health shall notify the legislative bill drafting commission upon the occurrence of the certification required by this section in order that the commission may maintain an accurate and timely effective data base of the official text of the laws of the state of New York in furtherance of effectuating the provisions of section 44 of the legislative law and section 70-b of the public officers law.