

STATE OF NEW YORK

5054

2023-2024 Regular Sessions

IN ASSEMBLY

February 27, 2023

Introduced by M. of A. CUNNINGHAM -- read once and referred to the
Committee on Health

AN ACT to amend the public health law, the tax law, the real property
law and the multiple dwelling law, in relation to enacting the "Lead-
Free Homes Act"

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

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

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

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

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

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

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

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

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

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

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

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

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

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

24 § 3. Section 1370-a of the public health law, as added by chapter 485
25 of the laws of 1992, paragraph (a) of subdivision 2 and subdivision 3 as
26 amended by section 4 of part A of chapter 58 of the laws of 2009, and
27 paragraphs (c) and (d) of subdivision 2 as amended and paragraphs (e)
28 and (f) of subdivision 2 as added by chapter 532 of the laws of 2022, is
29 amended to read as follows:

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

37 2. The department shall:

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

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

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

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

1 ~~(d)~~ (e) develop and implement public education and community
2 outreach programs on lead exposure, detection and risk reduction;

3 ~~(e)~~ (f) require primary health care providers to provide the parent
4 or guardian of each child under six years of age anticipatory guidance
5 on lead poisoning prevention as part of routine care, including but not
6 limited to contact information for the state-designated childhood lead
7 poisoning primary prevention program serving their county; and

8 ~~(f)~~ (g) develop and update as necessary, in consultation with the
9 New York state advisory council on lead poisoning prevention, a stand-
10 ardized lead exposure risk assessment questionnaire that shall be avail-
11 able on the department's website for primary health care providers to
12 utilize pursuant to subdivision two-a of section thirteen hundred seven-
13 ty-c of this title.

14 3. The department shall identify and designate areas in the state with
15 significant concentrations of children identified with elevated blood
16 lead levels as communities of concern for purposes of implementing a
17 childhood lead poisoning primary prevention program, and may, within
18 amounts appropriated, provide grants to implement approved programs.

19 The department shall consider the results of tests of drinking water of
20 residential real property conducted and reported to the commissioner
21 pursuant to section two hundred forty-two-a of the real property law and
22 section eighty-five of the multiple dwelling law in considering whether
23 a community shall be designated as a community of concern. The commis-

24 sioner of health of a county or part-county health district, a county
25 health director or a public health director and, in the city of New
26 York, the commissioner of the New York city department of health and
27 mental hygiene, shall develop and implement a childhood lead poisoning
28 primary prevention program to prevent exposure to lead-based paint
29 hazards for the communities of concern in their jurisdiction. The
30 department shall provide funding to the New York city department of
31 health and mental hygiene or county health departments to implement the
32 approved work plan for a childhood lead poisoning primary prevention
33 program. The work plan and budget, which shall be subject to the
34 approval of the department, shall include, but not be limited to: (a)
35 identification and designation of an area or areas of high risk within
36 communities of concern; (b) a housing inspection program that includes
37 prioritization and inspection of areas of high risk for lead hazards,
38 correction of identified lead hazards using effective lead-safe work
39 practices and, appropriate oversight of remediation work; (c) partner-
40 ships with other county or municipal agencies or community-based organ-
41 izations to build community awareness of the childhood lead poisoning
42 primary prevention program and activities, coordinate referrals for
43 services, and support remediation of housing that contains lead hazards;
44 (d) a mechanism to provide education and referral for lead testing for
45 children and pregnant women to families who are encountered in the
46 course of conducting primary prevention inspections and other outreach
47 activities; and (e) a mechanism and outreach efforts to provide housing
48 inspections for lead hazards upon request. The commissioner of health of
49 a county or part-county health district, a county health director or a
50 public health director and, in the city of New York, the commissioner of
51 the New York city department of health and mental hygiene, shall also
52 enter into an agreement or subcontract with a municipal government
53 regarding inspection of the ~~paint~~ conditions in dwellings and schools
54 built prior to nineteen hundred seventy-eight for the area defined as
55 the community of concern and may, when qualified staff exists, designate
56 the local housing maintenance code enforcement agency in which the

community of concern is located as an agency authorized to administer the provisions of this title pursuant to subdivision one of section thirteen hundred seventy-five of this title. A portion of grant funding received to support the local primary prevention plan may be used to reduce barriers to lead testing of children and pregnant women within the communities of concern, including the purchase of lead testing devices and supplies when the need for such resources is identified within the community. The commissioner, the commissioner of health of a county or part-county health district, a county health director or a public health director and, in the city of New York, the commissioner of the New York city department of health and mental hygiene, is authorized to enter into agreements, contracts, subcontracts or memoranda of understanding with, and provide technical and other resources to, local health officials, local building code officials, real property owners, and community organizations in such areas to create and implement policies, education and other forms of community outreach to address lead exposure, detection and risk reduction. Primary prevention plans shall target children less than six years of age living in the highest risk housing in the communities of concern identified. The plans shall also take into consideration the extent the weatherization assistance program and other such programs can be used in conjunction with lead-based paint hazard risk reduction. Funding provided for this program shall be used for the activities described in this section and shall not be used for other activities required by this title.

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

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

(i) To report on or before December first of each year to the governor and the legislature concerning the previous year's development and implementation of the statewide plan and operation of the program, together with recommendations it deems necessary and the most currently available lead surveillance measures~~[, including]~~. Such report shall include: the actual number and estimated percentage of children tested

1 for lead in accordance with New York state regulations, including age-
2 specific testing requirements~~[, and]~~; the actual number and estimated
3 percentage of children identified with elevated blood lead levels, the
4 geographic boundaries of each community of concern in the state
5 presented with maps or other means; the number of inspections of condi-
6 tions in dwellings and schools conducted in each community of concern
7 pursuant to subdivision three of section thirteen hundred seventy-a of
8 this title; the amount and purpose of funding the department provided to
9 the New York city department of health and mental hygiene and to each
10 county health department pursuant to subdivision three of section thir-
11 teen hundred seventy-a of this title; a description and the total budget
12 for each work plan approved by the department pursuant to subdivision
13 three of section thirteen hundred seventy-a of this title; the number of
14 tests of drinking water of residential real property conducted and
15 reported to the commissioner pursuant to section two hundred forty-two-a
16 of the real property law and section eighty-five of the multiple dwell-
17 ing law, respectively; the results of such tests broken down by the
18 county and the community of concern, if any, in which such real property
19 is located; and the total amount received by the department for fines
20 paid for violations of section eighty-five of the multiple dwelling law,
21 the county and community of concern, if any, of the real property for
22 which such fine was paid, the total amount of fines collected, and the
23 amount distributed to the New York city department of health and mental
24 hygiene and to each county health department. Such report shall be made
25 available on the department's website.

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

28 § 1372. Use of leaded paint. No person shall apply paint or other
29 similar surface-coating material containing more than .06 of one per
30 centum of metallic lead based on the total weight of the contained
31 solids or dried paint film to any interior surface, window sill, window
32 frame or porch of a dwelling or school.

33 § 6. Section 1373 of the public health law, as added by chapter 338 of
34 the laws of 1970, subdivision 1 as amended by chapter 411 of the laws of
35 2017, subdivision 2 as amended by chapter 485 of the laws of 1992,
36 subdivision 3 as amended by chapter 20 of the laws of 2018, subdivision
37 5 as added by chapter 529 of the laws of 1976, is amended to read as
38 follows:

39 § 1373. Abatement of lead poisoning conditions. 1. Whenever the
40 commissioner or his or her representative shall designate an area of
41 high risk, he or she shall give written notice and demand, served as
42 provided by this section, for the discontinuance of a ~~[paint]~~ condition
43 conducive to lead poisoning in any designated dwelling or school in such
44 area within a specified period of time.

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

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

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

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

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

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

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

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

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

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

1 § 23-a. Lead remediation and abatement credit. (a) Lead remediation
2 and abatement credit. A taxpayer who is a class A multiple dwelling
3 owner and has undertaken successful lead remediation or successful lead
4 abatement of such dwelling pursuant to paragraph (b) of subdivision two
5 of section thirteen hundred seventy-a of the public health law and is
6 subject to tax under article nine-A or twenty-two of this chapter, shall
7 be allowed a credit against such tax pursuant to subdivision (e) of this
8 section.

9 (b) Amount of credit. The amount of the credit shall be one thousand
10 five hundred dollars per dwelling unit for successful lead remediation
11 and five thousand dollars per dwelling unit for successful lead abate-
12 ment. The credit shall only be allowed for the taxable year such remedi-
13 ation or abatement was certified and both credits cannot be claimed in
14 the same year. The credit authorized pursuant to this section shall not
15 apply to any remediation or abatement commenced prior to June first, two
16 thousand twenty-three.

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

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

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

55 Article 9-A: Section 210-B, subdivision 59.

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

§ 9. Section 210-B of the tax law is amended by adding a new subdivision 59 to read as follows:

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

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

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

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

proceeding may continue pursuant to article seven of the real property actions and proceedings law and this paragraph.

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

<u>(1) Lead remediation and</u>	<u>Amount of credit under subdivision</u>
<u>abatement credit under subsection</u>	<u>fifty-nine of section two</u>
<u>(ooo)</u>	<u>hundred ten-B</u>

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

(ooo) Lead remediation and abatement credit. (1) Allowance of credit. A taxpayer who is a class A multiple dwelling owner and has undertaken successful lead remediation or successful lead abatement of such dwelling pursuant to paragraph (b) of subdivision two of section thirteen hundred seventy-a of the public health law and is subject to tax under this article, shall be allowed a credit, to be computed as provided in section twenty-three-a of this chapter, against the tax imposed by this article.

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

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

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

1 if the petitioner establishes that the tenant persistently and unreason-
2 ably engaged in such behavior, the proceeding may continue pursuant to
3 article seven of the real property actions and proceedings law and this
4 paragraph.

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

7 § 242-a. Lead disclosure. 1. Any seller of residential real property
8 on or after July first, two thousand twenty-four, shall be required to
9 provide at least one week before closing the results of a test of the
10 drinking water of the residential property being conveyed for the pres-
11 ence of lead conducted no more than twelve months prior to the closing
12 date. This subdivision shall not apply to the conveyance of residential
13 real property where the owner remains the same natural person or persons
14 regardless of whether such property is conveyed to a limited liability
15 company or other entity. Any such seller required to provide the
16 results of a test pursuant to this section shall submit the results of
17 such test to the department of health in a manner the department
18 prescribes.

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

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

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

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

36 (b) "Contractor" means any person, other than a bona fide employee of
37 the owner, who owns, operates, maintains, conducts, controls or trans-
38 acts a home improvement business and who undertakes or offers to under-
39 take or agrees to perform any home improvement or solicits any contract
40 therefor, whether or not such person is licensed, and whether or not
41 such person is a prime contractor or subcontractor with respect to the
42 owner.

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

52 3. (a) The department of health shall promulgate the standards for any
53 such tests conducted pursuant to subdivision two of this section and
54 collect all results of all such tests. Such tests shall provide for the
55 testing of water from the service lines leading into the dwelling. The
56 commissioner of health shall include a detailed summary of the results

1 of such tests throughout the state in the annual report required pursu-
2 ant to paragraph (i) of subdivision four of section thirteen hundred
3 seventy-b of the public health law and shall use the data collected
4 pursuant to this paragraph to identify communities of concern pursuant
5 to section thirteen hundred seventy-a of the public health law.

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

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

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

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

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

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

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

47 4. (a) In every town, village, county, and city outside of the city of
48 New York, beginning January first, two thousand twenty-seven, for any
49 class A multiple dwelling constructed before nineteen seventy-eight,
50 within five years of such date; or prior to the issuance of a certif-
51 icate of occupancy; or within one year after the owner or landlord is
52 notified that a child of six years or younger comes to reside in a
53 dwelling unit subject to the requirements of this section; or at the
54 time of inspection for any state or federal affordable housing program
55 or at the time of inspection for any state-funded rental voucher, which-
56 ever is sooner, an investigation for the presence of lead-based paint

1 undertaken pursuant to this subdivision shall be performed by a person
2 who (i) is not the owner or the agent of the owner or any contractor
3 hired to perform work related to the remediation of lead-based paint
4 hazards, and (ii) is certified as an inspector or risk assessor pursuant
5 to section 745.226 of title 40 of the code of federal regulations. Such
6 inspection shall consist of the use of an x-ray fluorescence analyzer on
7 all types of surfaces in accordance with the procedures described in
8 chapter 7 of the United States department of housing and urban develop-
9 ment guidelines for the evaluation and control of lead-based paint
10 hazards in housing, including on chewable surfaces, friction surfaces,
11 and impact surfaces, to determine whether lead-based paint is present,
12 and where such paint is located, in such dwelling unit. Provided, howev-
13 er, that the investigation specified by this subdivision shall not be
14 required if an investigation that complies with the requirements of this
15 subdivision was previously completed and the owner retains records of
16 such investigation. The results of any investigation required to be
17 completed pursuant to this section shall be submitted to the department
18 of health in a manner the department prescribes.

19 (b) (i) The department of health shall promulgate the standards for
20 any investigation required to be conducted pursuant to paragraph (a) of
21 this subdivision and collect all results of all such tests. The commis-
22 sioner of health shall include a detailed summary of the results of such
23 investigations throughout the state in the annual report required pursu-
24 ant to paragraph (i) of subdivision four of section thirteen hundred
25 seventy-b of the public health law and shall use the data collected
26 pursuant to paragraph (a) of this subdivision to identify communities of
27 concern pursuant to section thirteen hundred seventy-a of the public
28 health law.

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

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

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

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

8 8. The commissioner of health shall collect all fines due pursuant to
9 this section in a fund created for and solely dedicated to this purpose.
10 The commissioner of health shall promulgate any rules and regulations
11 necessary to distribute these funds annually to cities, counties, towns,
12 and villages outside of towns for the purpose of the enforcement of this
13 section and for the furtherance of lead abatement and remediation, with
14 at least seventy-five percent of funds to be directed to communities of
15 concern pursuant to section thirteen hundred seventy-a of the public
16 health law. The commissioner of health may, at his or her discretion,
17 distribute these funds directly to the owners of class A multiple dwell-
18 ings subject to this section who own fifty or fewer dwelling units sole-
19 ly to conduct lead testing, inspection, remediation or abatement in high
20 risk localities. The commissioner of health shall include a detailed
21 summary of the number of fines collected broken down by census tract
22 and/or zip code, and how the funds were disbursed, in the annual report
23 required pursuant to paragraph (i) of subdivision four of section thir-
24 teen hundred seventy-b of the public health law.

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

27 § 14. This act shall take effect immediately.