

SENATE BILL No. 62

January 24, 2017, Introduced by Senators HERTEL and ANANICH and referred to the Committee on Health Policy.

A bill to amend 1978 PA 368, entitled
"Public health code,"
by amending section 5475a (MCL 333.5475a), as added by 2004 PA 434.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 5475a. (1) A property manager, housing commission, or
2 owner of a rental unit who rents or continues to rent a residential
3 housing unit to a family with a minor child who is found to have ~~10~~
4 5 micrograms or more of lead per deciliter of venous blood is
5 subject to the penalties provided under subsection (3) if all of
6 the following apply:

7 (a) The property manager, housing commission, or owner of the
8 rental unit has prior actual knowledge that the rental unit
9 contains a lead-based paint hazard.

10 (b) At least ~~ninety~~ 90 days have passed since the property
11 manager, housing commission, or owner of the rental unit had actual

1 knowledge of the ~~lead~~-**LEAD-BASED** paint hazard.

2 (c) The property manager, housing commission, or owner of the
3 rental unit has not acted in good faith to reduce the ~~lead~~-**LEAD-**
4 **BASED** paint hazards through interim controls or abatement or a
5 combination of interim controls and abatement.

6 (2) A property manager, housing commission, or owner of the
7 rental unit is presumed to have prior actual knowledge that a unit
8 contains a lead-based paint hazard only if 1 of the following
9 applies:

10 (a) The property manager, housing commission, or owner of the
11 rental unit signed an acknowledgment of the hazard as a result of a
12 risk assessment under this chapter at the time the risk assessment
13 was made.

14 (b) The property manager, housing commission, or owner of the
15 rental unit was served as a result of a risk assessment under this
16 chapter with notice of the hazard by first-class mail and a return
17 receipt of that service was obtained.

18 (3) A property manager, housing commission, or owner of the
19 rental unit convicted of violating this section is guilty of a
20 crime as follows:

21 (a) Except as provided in subdivision (b), the property
22 manager, housing commission, or owner of the rental unit is guilty
23 of a misdemeanor punishable by imprisonment for not more than 93
24 days or a fine of not more than \$5,000.00, or both.

25 (b) If the property manager, housing commission, or owner of
26 the rental unit was previously convicted of violating this section
27 or a local ordinance substantially corresponding to this section,

1 the property manager, housing commission, or owner of the rental
2 unit is guilty of a misdemeanor punishable by imprisonment for not
3 more than 93 days or a fine of not more than \$10,000.00, or both.

4 (4) The property manager, housing commission, or owner of the
5 rental unit may assert 1 or more of the following as an affirmative
6 defense in a prosecution of violating this section, and has the
7 burden of proof on that defense by a preponderance of the evidence:

8 (a) That the property manager, housing commission, or owner of
9 the rental unit requested or contracted with a person having
10 responsibility for maintaining the rental unit to reduce the hazard
11 through interim controls or abatement and reasonably expected that
12 the hazard would be reduced.

13 (b) That the tenant would not allow entry into or upon
14 premises where the hazard is located or otherwise interfered with
15 correcting the hazard.

16 (5) As used in this section, ÷

17 ~~—— (a) "Property~~ **"PROPERTY** manager" means a person who engages in
18 property management as **THAT TERM IS** defined in section 2501 of the
19 occupational code, 1980 PA 299, MCL 339.2501.

20 ~~—— (b) "Lead-based paint hazard" means that term as defined in~~
21 ~~section 5458 of the public health code, 1978 PA 368, MCL 333.5458.~~

22 Enacting section 1. This amendatory act takes effect 90 days
23 after the date it is enacted into law.