

HOUSE SUBSTITUTE FOR

SENATE BILL NO. 757

(As amended, November 10, 2004)

A bill to amend 1978 PA 368, entitled
"Public health code,"
(MCL 333.1101 to 333.25211) by adding section 5475a.

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
3 residential housing unit to a family with a minor child who is
4 found to <<have 10 micrograms or more of lead per deciliter of venous
5 blood>> is subject to the penalties provided
6 under subsection (3) if all of the following apply:

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

9 (b) At least ninety days have passed since the property
10 manager, housing commission, or owner of the rental unit had
11 actual knowledge of the lead paint hazard.

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

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

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

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

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

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

27 (b) If the property manager, housing commission, or owner <<of the
rental unit>> was
previously convicted of violating this section or a local
ordinance substantially corresponding to this section, the
property manager, housing commission, or owner <<of the rental unit>> is
guilty of a
misdemeanor punishable by imprisonment for not more than 93 days
or a fine of not more than \$10,000.00, or both.

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

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

9 (ii) That the tenant would not allow entry into or upon premises
 where the hazard is located or otherwise interfered with correcting the
 hazard. >>

10 (5) As used in this section:

11 (a) "Property manager" means a person who engages in property
12 management as defined in section 2501 of the occupational code,
13 1980 PA 299, MCL 339.2501.

14 (b) "Lead-based paint hazard" means that term as defined in
15 section 5458 of the public health code, 1978 PA 368, MCL
16 333.5458.

17 Enacting section 1. This amendatory act takes effect

18 <<~~November 1, 2004~~ January 2, 2005>>.