

HOUSE BILL No. 6547

November 28, 2018, Introduced by Reps. Gay-Dagnogo, Wittenberg, Liberati, Byrd, Cambensy, Sabo, Hammoud, Garrett, LaGrand, Durhal, Zemke and Greimel and referred to the Committee on Judiciary.

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

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~~ **SHALL NOT RENT OR**
3 **CONTINUE** to rent ~~a residential housing unit to a family with a~~
4 ~~minor child who is found to have 10 micrograms or more of lead per~~
5 ~~deciliter of venous blood is subject to the penalties provided~~
6 ~~under subsection (3)~~ **THE RENTAL UNIT** if all of the following apply:
7 (a) ~~The~~ **FOR AT LEAST 90 DAYS, THE** property manager, housing
8 commission, or owner of the rental unit has ~~prior actual~~ **HAD**
9 knowledge that the rental unit contains a lead-based paint hazard.

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

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

(2) ~~A~~ **FOR PURPOSES OF SUBSECTION (1), A** property manager, housing commission, or owner of the rental unit ~~is presumed~~ **IS CONSIDERED** to have ~~prior actual~~ knowledge that a unit contains a lead-based paint hazard only if 1 **OR MORE** of the following applies: **APPLY:**

(a) The property manager, housing commission, or owner of the rental unit signed an acknowledgment of the **LEAD-BASED PAINT** hazard as a result of a risk assessment under this ~~chapter at the time~~ **PART WHEN** the risk assessment was made.

(b) The property manager, housing commission, or owner of the rental unit was served as a result of a risk assessment under this ~~chapter~~ **PART** with notice of the hazard by first-class mail, ~~and~~ **IF** a return receipt of that service was obtained, **OR BY PERSONAL SERVICE.**

(C) THE RENTAL UNIT IS TARGET HOUSING AND THE PROPERTY OWNER HAS NOT HAD A RISK ASSESSMENT CONDUCTED UNDER THIS PART.

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

(a) Except as provided in subdivision (b), the property

1 manager, housing commission, or owner of the rental unit is guilty
 2 of a misdemeanor punishable by imprisonment for not more than 93
 3 days or a fine of not more than \$5,000.00, or both.

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

10 (4) A PROPERTY MANAGER, HOUSING COMMISSION, OR OWNER OF A
 11 RENTAL UNIT WHO VIOLATES THIS SECTION IS LIABLE FOR ALL OF THE
 12 FOLLOWING:

13 (A) DAMAGES SUSTAINED, AS A RESULT OF THE VIOLATION, BY A
 14 MINOR CHILD FOUND TO HAVE 10 MICROGRAMS OR MORE OF LEAD PER
 15 DECILITER OF VENOUS BLOOD.

16 (B) COSTS.

17 (C) REASONABLE ATTORNEY FEES.

18 (5) ~~(4)~~—The property manager, housing commission, or owner of
 19 the rental unit may assert 1 or more of the following as an
 20 affirmative defense in a prosecution ~~of violating this section,~~
 21 UNDER SUBSECTION (3) OR AN ACTION UNDER SUBSECTION (4) and has the
 22 burden of proof on that defense by a preponderance of the evidence:

23 (a) That the property manager, housing commission, or owner of
 24 the rental unit ~~requested~~ **DID ALL OF THE FOLLOWING:**

25 (i) **REQUESTED** or contracted with a person having
 26 responsibility for maintaining the rental unit to reduce the **LEAD-**
 27 **BASED PAINT** hazard through interim controls or abatement. ~~and~~

1 reasonably

2 (ii) REASONABLY expected that the hazard would be reduced.

3 (iii) TOOK REASONABLE ACTION TO CONFIRM THAT INTERIM CONTROLS
4 OR ABATEMENT WERE COMPLETED.

5 (b) That ~~the~~ BOTH OF THE FOLLOWING APPLY:

6 (i) THE PROPERTY MANAGER, HOUSING COMMISSION, OR OWNER OF THE
7 RENTAL UNIT SOUGHT, CONSISTENT WITH LAW AND THE TERMS OF THE RENTAL
8 AGREEMENT, TO ENTER THE PREMISES WHERE THE LEAD-BASED PAINT HAZARD
9 IS LOCATED, TO REDUCE THE LEAD-BASED PAINT HAZARD THROUGH INTERIM
10 CONTROLS OR ABATEMENT OR A COMBINATION OF INTERIM CONTROLS AND
11 ABATEMENT.

12 (ii) THE tenant would not allow entry into or upon premises
13 where the hazard is located or otherwise interfered with correcting
14 the hazard.

15 (6) ~~(5)~~ As used in this section:

16 (a) "Property manager" means a person who engages in property
17 management as defined in section 2501 of the occupational code,
18 1980 PA 299, MCL 339.2501.

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

21 (B) "RENTAL UNIT" INCLUDES ALL OF THE FOLLOWING TO WHICH A
22 TENANT HAS ACCESS UNDER A RENTAL AGREEMENT:

23 (i) COMMON AREAS INCLUDING HALLWAYS, LAUNDRY ROOMS, AND
24 COMMUNITY ROOMS IF THE RENTAL UNIT IS IN A MULTIFAMILY DWELLING.

25 (ii) ATTACHED STRUCTURES SUCH AS PORCHES AND STOOPS.

26 (iii) ACCESSORY STRUCTURES SUCH AS GARAGES, STORAGE SHEDS,
27 FENCES, AND NONAGRICULTURAL OR NONCOMMERCIAL OUTBUILDINGS.

1 Enacting section 1. Section 5474b of the public health code,
2 1978 PA 368, MCL 333.5474b[1], is repealed.