

HOUSE BILL NO. 5364

January 21, 2020, Introduced by Reps. Garza, Whitsett, Coleman, Pohutsky, Gay-Dagnogo, Hood, Kennedy, Stone, Rabhi, Yancey, Ellison, Sneller, Tate, Bolden, Manoogian, Kuppa, Anthony, Cherry, Hope, Brixie, Clemente, Sabo, Brenda Carter, Warren, Hammoud, Peterson, Lasinski, Wittenberg, Jones and Love 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~~**that** rents or continues to rent a
3 residential housing unit to a family with a minor child who is
4 found to have ~~10~~**5** micrograms or more of lead per deciliter of



1 venous blood is subject to the penalties provided under subsection
2 (3) if all of the following apply:

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

6 (b) At least ~~ninety~~ **90** days have passed since the property
7 manager, housing commission, or owner of the rental unit had actual
8 knowledge of the ~~lead~~ **lead-based** paint hazard.

9 (c) The property manager, housing commission, or owner of the
10 rental unit has not acted in good faith to reduce the ~~lead paint~~
11 ~~hazards~~ **lead-based paint hazard** through interim controls or
12 abatement or a combination of interim controls and abatement.

13 (2) A property manager, housing commission, or owner of the
14 rental unit **described in subsection (1)** is presumed to have prior
15 actual knowledge that ~~a~~ **the** unit contains a lead-based paint hazard
16 only if 1 of the following applies:

17 (a) The property manager, housing commission, or owner of the
18 rental unit signed an acknowledgment of the **lead-based paint** hazard
19 as a result of a risk assessment under this ~~chapter~~ **part** at the
20 time the risk assessment was made.

21 (b) The property manager, housing commission, or owner of the
22 rental unit was served as a result of a risk assessment under this
23 ~~chapter~~ **part** with notice of the **lead-based paint** hazard by first-
24 class mail and a return receipt of that service was obtained.

25 (3) A property manager, housing commission, or owner of the
26 rental unit **described in subsection (1) that is** convicted of
27 violating this section is guilty of a crime as follows:

28 (a) Except as provided in subdivision (b), the property
29 manager, housing commission, or owner of the rental unit is guilty



1 of a misdemeanor punishable by imprisonment for not more than 93
2 days or a fine of not more than \$5,000.00, or both.

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

9 (4) The property manager, housing commission, or owner of the
10 rental unit **described in subsection (1)** may assert 1 or more of the
11 following as an affirmative defense in a prosecution ~~of violating~~
12 **under** this section, and has the burden of proof on that defense by
13 a preponderance of the evidence:

14 (a) That the property manager, housing commission, or owner of
15 the rental unit requested or contracted with a person having
16 responsibility for maintaining the rental unit to reduce the **lead-**
17 **based paint** hazard through interim controls or abatement and
18 reasonably expected that the hazard would be reduced. **The property**
19 **manager, housing commission, or owner of the rental unit shall**
20 **provide documentation to support the defense asserted under this**
21 **subdivision, including documentation indicating that the abatement**
22 **undertaken complies with guidelines for lead abatement established**
23 **by the federal Centers for Disease Control and Prevention.**

24 (b) That the tenant would not allow entry into or upon **the**
25 premises where the **lead-based paint** hazard is located or otherwise
26 interfered with correcting ~~the~~**that** hazard.

27 (5) As used in this section, ÷

28 ~~(a) "Property"~~**property manager** means a person who engages in
29 property management as **that term is** defined in section 2501 of the



1 occupational code, 1980 PA 299, MCL 339.2501.

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

4 Enacting section 1. This amendatory act does not take effect
5 unless all of the following bills of the 100th Legislature are
6 enacted into law:

7 (a) Senate Bill No. ____ or House Bill No. 5359 (request no.
8 02658'19).

9 (b) Senate Bill No. ____ or House Bill No. 5360 (request no.
10 05130'19).

