

HOUSE BILL No. 4062

January 27, 2015, Introduced by Reps. Banks, Gay-Dagnogo, Byrd, Garrett, Dillon, Zemke, Durhal, Neeley, Sarah Roberts, Greig, Talabi and Chang 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~~ **HAD** actual
9 knowledge that the rental unit contains a lead-based paint hazard.

10 ~~(b) At least ninety days have passed since the property~~

1 ~~manager, housing commission, or owner of the rental unit had actual~~
 2 ~~knowledge of the lead paint hazard.~~

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

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

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

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

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

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

26 (a) Except as provided in subdivision (b), the property
 27 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) **A PROPERTY MANAGER, HOUSING COMMISSION, OR OWNER OF A**
10 **RENTAL UNIT WHO VIOLATES THIS SECTION IS LIABLE FOR ALL OF THE**
11 **FOLLOWING:**

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

15 (B) **COSTS.**

16 (C) **REASONABLE ATTORNEY FEES.**

17 (5) ~~(4)~~—The property manager, housing commission, or owner of
18 the rental unit may assert 1 or more of the following as an
19 affirmative defense in a prosecution ~~of violating this section,~~
20 **UNDER SUBSECTION (3) OR AN ACTION UNDER SUBSECTION (4)** and has the
21 burden of proof on that defense by a preponderance of the evidence:

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

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

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

1 **(iii) TOOK REASONABLE ACTION TO CONFIRM THAT INTERIM CONTROLS OR**
2 **ABATEMENT WERE COMPLETED.**

3 (b) That **THE PROPERTY MANAGER, HOUSING COMMISSION, OR OWNER OF**
4 **THE RENTAL UNIT SOUGHT TO ENTER THE PREMISES CONSISTENT WITH**
5 **MICHIGAN LAW AND THE TERMS OF THE RENTAL AGREEMENT BUT** the tenant
6 would not allow entry into or upon premises where the hazard is
7 located or otherwise interfered with correcting the hazard.

8 **(6) ~~(5)~~As used in this section:**

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

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

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

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

18 **(ii) ATTACHED STRUCTURES SUCH AS PORCHES AND STOOPS.**

19 **(iii) ACCESSORY STRUCTURES SUCH AS GARAGES, STORAGE SHEDS,**
20 **FENCES, AND NONAGRICULTURAL OR NONCOMMERCIAL OUTBUILDINGS.**

21 Enacting section 1. Section 5474b of the public health code,
22 1978 PA 368, MCL 333.5474b[1], is repealed.