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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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HOUSE BILL

No. 1919 Session of  
2015

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INTRODUCED BY SCHLOSSBERG, CRUZ, McCARTER, SCHREIBER, W. KELLER,  
YOUNGBLOOD, V. BROWN, THOMAS, O'BRIEN, ACOSTA, DAVIDSON, KIM,  
BULLOCK, KAUFER, CALTAGIRONE, SIMS, SANTARSIERO, GOODMAN,  
BURNS, D. COSTA, ROEBUCK, McNEILL AND KINSEY, APRIL 8, 2016

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REFERRED TO COMMITTEE ON URBAN AFFAIRS, APRIL 8, 2016

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AN ACT

1 Amending the act of April 6, 1951 (P.L.69, No.20), entitled "An  
2 act relating to the rights, obligations and liabilities of  
3 landlord and tenant and of parties dealing with them and  
4 amending, revising, changing and consolidating the law  
5 relating thereto," providing for lead-based paint and related  
6 hazardous conditions; and imposing a penalty.

7 The General Assembly of the Commonwealth of Pennsylvania  
8 hereby enacts as follows:

9 Section 1. The act of April 6, 1951 (P.L.69, No.20), known  
10 as The Landlord and Tenant Act of 1951, is amended by adding an  
11 article to read:

12 ARTICLE V-C

13 LEAD-BASED PAINT AND

14 RELATED HAZARDOUS CONDITIONS

15 Section 501-C. Definitions.

16 The following words and phrases when used in this article  
17 shall have the meanings given to them in this section unless the  
18 context clearly indicates otherwise:

19 "Agent." A party who enters into a contract to act on behalf

1 of a lessor, including any party who enters into a contract with  
2 a representative of the lessor, for the purpose of leasing a  
3 residential dwelling.

4 "Certified contractor." A person approved by the Department  
5 of Labor and Industry to perform lead-based paint activities in  
6 this Commonwealth under the act of July 6, 1995 (P.L.291,  
7 No.44), known as the Lead Certification Act.

8 "Children." Individuals who are under six years of age.

9 "Hazardous condition." Any condition that causes exposure to  
10 lead from lead-contaminated dust, lead-contaminated soil or a  
11 lead-contaminated paint that is deteriorated or present in  
12 accessible surfaces, friction surfaces or impact surfaces that  
13 would result in adverse human health effects as established by  
14 the administrator of the Environmental Protection Agency under  
15 section 403 of the Toxic Substances Control Act (Public Law 94-  
16 469, 15 U.S.C. § 2683).

17 "Inspection." Comprises both of the following:

18 (1) A surface-by-surface investigation to determine the  
19 presence of lead-based paint, as provided in section 302(c)  
20 of the Lead-Based Paint Poisoning Prevention Act (Public Law  
21 91-695, 42 U.S.C. § 4822(c)).

22 (2) A written report explaining the results of the  
23 investigation.

24 "Inspector-risk assessor." A person trained and certified in  
25 accordance with the requirements of the act of July 6, 1995  
26 (P.L.291, No.44), known as the Lead Certification Act, to  
27 perform all activities of the inspector-technician, as well as  
28 to identify the presence of lead-based paint and to collect  
29 additional information designed to assess the level of risk to  
30 residents of residential dwellings.

1 "Inspector-technician." A person trained and certified in  
2 accordance with the requirements of the act of July 6, 1995  
3 (P.L.291, No.44), known as the Lead Certification Act, to  
4 perform inspections solely for the purpose of determining the  
5 presence of lead-based paint through the use of onsite testing,  
6 such as XRF analysis, and the collection of samples for  
7 laboratory analysis.

8 "Lead-based paint." Paint or other surface coatings that  
9 contain lead in excess of the most current Department of Housing  
10 and Urban Development standards or, in the case of paint or  
11 other surface coatings on residential dwellings, such lower  
12 level as may be established by the Secretary of Housing and  
13 Urban Development under the Lead-Based Paint Poisoning  
14 Prevention Act (Public Law 91-695, 42 U.S.C. § 4822(c)).

15 "Lessee." A person that enters into a contract to lease or  
16 rent a residential dwelling for occupation, including a  
17 nonprofit organization.

18 "Lessor." A person that offers a residential dwelling for  
19 lease, rent or sublease, including a nonprofit organization.

20 "Residential dwelling." Any of the following if built or  
21 constructed prior to 1978:

22 (1) A single-family dwelling including attached  
23 structures such as porches and stoops.

24 (2) A single-family dwelling unit in a multifamily  
25 dwelling that contains more than one separate residential  
26 dwelling unit and in which each such unit is used or  
27 occupied, or intended to be used or occupied, or actually  
28 occupied, in whole or in part, as an individual home or  
29 residence of one or more households. A multifamily dwelling  
30 shall include an apartment and tenement building, as defined

1 in section 501-A.

2 "XRF analysis." The use of X-Ray Fluorescence (XRF) to test  
3 for the presence of lead-based paint.

4 Section 502-C. Inspection.

5 A lessor or agent shall inspect a residential dwelling,  
6 offered by the lessor or agent for lease, rent or sublease for  
7 occupation, for the presence of lead-based paint and hazardous  
8 conditions as follows:

9 (1) An inspection shall be conducted:

10 (i) after the residential dwelling becomes vacant;

11 or

12 (ii) before the occupancy of the residential  
13 dwelling.

14 (2) Lead inspection shall be completed by a certified  
15 contractor, an inspector-risk assessor or an inspector-  
16 technician in accordance with the act of July 6, 1995  
17 (P.L.291, No.44), known as the Lead Certification Act.

18 Section 503-C. Disclosure.

19 (a) General rule.--Prior to entering into a contract to  
20 lease a residential dwelling, a lessor or agent shall:

21 (1) Inform the lessee whether or not the residential  
22 dwelling has been tested for lead-based paint and hazardous  
23 conditions.

24 (2) Provide the lessee with a lead hazard information  
25 pamphlet approved by the Environmental Protection Agency  
26 (EPA). The pamphlet shall include the EPA publication  
27 entitled Protect Your Family From Lead in Your Home (EPA-747-  
28 K-94-001) or an equivalent pamphlet that has been approved  
29 for use in this Commonwealth by the EPA.

30 (3) Disclose to the lessee the presence of any known

1 lead-based paint and hazardous condition in the residential  
2 dwelling being leased. The lessor or agent shall also  
3 disclose any additional information available concerning the  
4 known lead-based paint and hazardous condition, such as the  
5 basis for the determination that the lead-based paint and  
6 hazardous condition exist, the location of the lead-based  
7 paint and hazardous condition and the condition of the  
8 painted surfaces.

9 (4) Provide the lessee with any records or reports  
10 available to the lessor or agent pertaining to lead-based  
11 paint and hazardous conditions in the residential dwelling  
12 being leased, including:

13 (i) Records and reports regarding common areas in  
14 the residential dwelling.

15 (ii) Records and reports regarding other residential  
16 dwelling units in a multifamily dwelling if the  
17 information is part of an evaluation or reduction of  
18 lead-based paint and hazardous conditions in the  
19 multifamily dwelling as a whole.

20 (b) Disclosure to agent.--A lessor shall disclose to the  
21 agent the presence of any known lead-based paint and hazardous  
22 condition in the residential dwelling being leased and the  
23 existence of any available records or reports pertaining to the  
24 lead-based paint and hazardous condition. The lessor shall also  
25 disclose any additional information available concerning the  
26 known lead-based paint and hazardous condition, such as the  
27 basis for the determination that the lead-based paint and  
28 hazardous condition exist, the location of the lead-based paint  
29 and hazardous condition and the condition of the painted  
30 surfaces.

1 (c) Failure to comply.--A contract to lease a residential  
2 dwelling is voidable by the lessee until the lessor or agent  
3 complies with subsection (a).

4 (d) Construction.--Nothing in this section shall be  
5 construed to create an affirmative duty on the part of a lessor  
6 to conduct an evaluation or reduction of lead-based paint or  
7 hazardous conditions except as provided under Federal law or  
8 regulation.

9 Section 504-C. Certification and acknowledgment of disclosure.

10 (a) Lease requirements.--Each contract to lease a  
11 residential dwelling shall include the following provisions:

12 (1) A lead warning statement as follows:  
13 Housing built before 1978 may contain lead-based paint. Lead  
14 from paint, paint chips, and dust can pose health hazards if  
15 not managed properly. Lead exposure is especially harmful to  
16 young children and pregnant women. Before renting pre-1978  
17 housing, lessors must disclose to lessees the presence of  
18 lead-based paint and hazardous conditions in the dwelling.  
19 Lessors must provide to lessees a federally-approved pamphlet  
20 on lead poisoning prevention.

21 (2) A statement by the lessor disclosing the information  
22 under section 503-C(a)(2) or indicating no knowledge of the  
23 presence of lead-based paint and hazardous conditions.

24 (3) A list of any records or reports available to the  
25 lessor pertaining to lead-based paint and hazardous  
26 conditions that have been provided to the lessee. If no  
27 records or reports are available, the lessor shall so  
28 indicate.

29 (4) A statement by the lessee acknowledging receipt of  
30 the information under paragraphs (2) and (3) and the lead

1 hazard information pamphlet required under section 503-C.

2 (5) When an agent is involved in the transaction, a  
3 statement that:

4 (i) The lessor has informed the agent of the  
5 lessor's obligations under sections 502-C and 503-C.

6 (ii) The agent is aware of the duty of the lessor to  
7 ensure compliance with the requirements of this article.

8 (6) The signatures of the lessors, agents and lessees  
9 certifying to the accuracy of their statements to the best of  
10 their knowledge, along with the dates of signature.

11 (b) Form.--The provisions required under subsection (a) may  
12 be included in an addendum to a contract to lease a residential  
13 dwelling.

14 (c) Retention of certification and acknowledgment  
15 information.--The lessor, and any agent, shall retain a copy of  
16 the completed addendum or lease contract containing the  
17 information required under subsection (a) for not less than  
18 three years from the commencement of the leasing period.

19 Section 505-C. Penalty.

20 (a) Violation.--A person who violates this article commits a  
21 misdemeanor of the third degree and shall, upon conviction, be  
22 sentenced to pay a fine of not less than \$5,000.

23 (b) Disposition of fines.--Notwithstanding the provisions of  
24 42 Pa.C.S. §§ 3571 (relating to Commonwealth portion of fines,  
25 etc.) and 3573 (relating to municipal corporation portion of  
26 fines, etc.), fines collected under subsection (a) shall be paid  
27 into the State Treasury and shall be credited to the Department  
28 of Health for the operation and maintenance of the Lead and  
29 Healthy Homes Program.

30 Section 2. This act shall take effect in 180 days.