



# Lead-based Paint Legislation

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# Background

Governor Granholm signed into law four bills concerning lead-based paint.

- Senate Bill No. 757: Establishes criminal penalties for an owner who rents, with knowledge, a unit that contains a lead-based paint hazard.
- Senate Bill No. 756 and House Bill No. 5116: Create a Lead-Safe-Housing Registry.
- Senate Bill No. 753: Creates a Childhood Lead Poisoning Prevention and Control Commission.



# PURPOSE OF BILLS

- Decrease lead poisoning in Michigan's children.



# Statistics

- Lead poisoning affects 20,000 children under six in Michigan.
- Grand Rapids has the highest concentration of lead poisoning in Michigan.
- 50-80% of families affected by lead poisoning are renters.
- Two million homes in Michigan were constructed before 1950.



# Senate Bill 757

- Purpose:

- Target owners who deliberately fail to properly deal with known lead-based paint hazards and continue to rent to families with young children.



# Senate Bill 757

- Whom does the bill affect?
  - Property Management
    - the leasing or renting, or the offering to lease or rent, of real property of others for a fee, commission, compensation, or other valuable consideration pursuant to a property management employment contract.
  - Housing Commissions
  - Owners of Rental Units



# Senate Bill 757

What does it do?

Senate Bill 757 subjects an Owner who rents or continues to rent to a family with a child who has a specified amount of lead in his or her blood to criminal penalties.

# Senate Bill 757

- Requirements for Criminal Penalties:
  - All Three of the Following Must Be Present:
    - The Owner has prior, actual knowledge that the rental unit contains a “lead-based paint hazard”; and
    - At least 90 days has passed since the Owner had actual knowledge of the “lead-based paint hazard”; and
    - The Owner did not act in good faith to reduce the “lead paint hazard” through “interim controls” or “abatement” or a combination of “interim controls” and “abatement.”



# Senate Bill 757

## ■ Lead-Based Paint Hazard:

- Any lead-based paint on a friction surface that is subject to abrasion and where the lead dust levels on the nearest horizontal surface are equal to or greater than the dust lead levels identified in promulgated rules;
- Any damaged or deteriorated lead-based paint on an impact surface that is caused by impact from a related building component;
- Any chewable lead-based painted surface where there is evidence of teeth marks;

# Senate Bill 757

- Lead-Based Paint Hazard (continued)
  - Surface dust in a residential dwelling that contains lead in a mass-per-area concentration equal to or exceeding the levels established by promulgated rules; and
  - Bare soil on residential property that contains lead equal to or exceeding levels established by promulgated rules.

# Senate Bill 757

- Abatement:

- A measure designed to eliminate lead-based paint hazards permanently.



# Senate Bill 757

## ■ Abatement Includes:

- The removal of lead-based paint and dust lead hazards;
- The permanent enclosure or encapsulation of lead-based paint;
- The replacement of lead-painted surfaces or fixtures;
- The removal or covering of soil-lead hazards;

# Senate Bill 757

## ■ Abatement Includes (continued):

- A written contract for a project that will result in the permanent elimination of lead-based paint hazards;
- A project resulting in the permanent elimination of lead-based paint hazards, conducted by a certified person;
- A project resulting in the permanent elimination of lead-based paint hazards, conducted by a person who holds himself or herself out to be in the business of performing lead-based paint activities; and
- A project resulting in the permanent elimination of lead-based paint hazards that is conducted in response to a state or local government abatement order.

# Senate Bill 757

- Abatement Does Not Include:
  - Renovation, remodeling, landscaping, or other activity, if the activity is not designed to permanently eliminate lead-based paint hazards, but is instead designed to repair, restore, or remodel the structure, even though the activity may incidentally result in a reduction or elimination of a lead-based paint hazard;

# Senate Bill 757

- Abatement Does Not Include (continued):
  - An interim control, operation, and maintenance activity, or other measure or activity designed to temporarily, but not permanently, reduce a lead-based paint hazard; and
  - Any lead-based paint activity performed by the owner of an owner-occupied residential dwelling or an owner-occupied multifamily dwelling containing 4 or fewer units if the activity is performed only in that owner-occupied unit of the multifamily dwelling.

# Senate Bill 757

- Interim Controls:

- A set of measures designed to temporarily reduce human exposure to lead-based paint hazards.



# Senate Bill 757

## ■ Interim Controls Include:

- Specialized Cleaning;
- Repairs;
- Maintenance;
- Painting;
- Temporary Containment;
- Ongoing monitoring; and
- Operation of management and resident education programs.



# Senate Bill 757

- Presumptions:

- An Owner is presumed to have actual knowledge if:
  - He or she signed an acknowledgment of the hazard at the time of a risk assessment; OR
  - He or she was served with notice of the hazard as a result of the risk assessment.

# Senate Bill 757

## ■ Affirmative Defenses:

- The Owner requested or contracted with a person having responsibility for maintaining the rental unit to reduce the hazard through interim controls or abatement, and reasonably expected that the hazard would be reduced; or
- The tenant would not allow the Owner on the premises where the hazard is located or interfered with correcting the hazard.

# Senate Bill 757

- Affirmative Defenses (continued)

- Burden of Proof:

- The Owner has the burden of proving his or her affirmative defense beyond a preponderance of the evidence.

# Senate Bill 757

## ■ Penalties

### □ First Offense:

- Misdemeanor
- Up to 93 days' imprisonment
- Up to \$5,000 fine, or both imprisonment and fine

### □ Second Offense:

- Misdemeanor
- Up to 93 days' imprisonment
- Up to \$10,000 fine, or both imprisonment and fine



# Senate Bill 756 and House Bill 5116

- Requires the Department of Community Health to establish and maintain a public listing of residential and multifamily dwellings, and child-occupied facilities that have been abated or have had interim controls performed.
- Must be determined by a lead-based paint inspection performed by a certified assessor.

# Senate Bill 756 and House Bill 5116

## ■ Required Registrants

Owners of “target housing” that is offered for rent and Owners of a “child-occupied facility” must register if property was abated or had interim controls performed.



# Senate Bill 756 and House Bill 5116

- Target Housing

- Housing constructed before 1978.



# Senate Bill 756 and House Bill 5116

## ■ Target Housing Does Not Include:

- Housing for the elderly or disabled (unless a child six years or younger resides in that housing);
- A zero-bedroom dwelling; and
- An unoccupied dwelling pending demolition.

# Senate Bill 756 and House Bill 5116

## ■ Child-Occupied Facility

- A building constructed before 1978 that is regularly visited by a child six or younger.
  - Child must visit two days a week for at least three hours per visit.
  - Combined annual visits must be 60 hours.
  - Examples: Day-care center, preschool, and kindergarten classroom.

# Senate Bill 756 and House Bill 5116

## ■ Optional Registrants:

- Any other owner of a residential or multifamily dwelling offered for lease, or the owner of a child-occupied facility may register that property that has been abated or interim controls performed.



# Senate Bill 753

- Establishes a Childhood Lead Poisoning Prevention and Control Commission
  - Made up of nine voting members.
    - Seven from different governmental agencies and private interest groups.
    - Two from the general public.



# Senate Bill 753

- The Commission must develop short- and long-range strategic recommendations for reducing lead poisoning in Michigan.
- Must conduct two public hearings and seek input from other groups and individuals not represented on the Commission before making the recommendations.



# CONCLUSION

- Senate Bill 757 creates criminal penalties for an Owner of rental property that knowingly rents a facility with a lead-based paint hazard to a family with a child who contains a specified amount of lead in his or her blood and does not attempt to fix the hazard within 90 days of learning of the hazard.



# CONCLUSION

- Senate Bill 756 and House Bill 5116 create a Lead Safe Housing Registry. Owners of target housing and Owners of a child-occupied facility must register on the list, if they have abated the hazard or had interim controls performed.
- The Bill allows all other Owners the option of registering for a small fee.



# CONCLUSION

- Senate Bill 753 creates a Commission that must develop strategies to reduce lead poisoning in Michigan.





# CONCLUSION

- Kent County Ordinances
  - Section 403
  - Section 606
  
- Grand Rapids Ordinances