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State of Minnesota
HOUSE OF REPRESENTATIVES

EIGHTY-NINTH SESSION

H. F. No. 1398

03/02/2015 Authored by Clark, Liebling and Moran

The bill was read for the first time and referred to the Committee on Health and Human Services Reform

1.1 A bill for an act
1.2 relating to health; amending the lead poisoning prevention act; amending
1.3 landlord requirements for renting residential property; creating the Dustin Luke
1.4 Shields Act; amending radon and lead disclosure requirements; providing a
1.5 property tax benefit for lead hazard reductions; providing a civil cause of action;
1.6 appropriating funds for lead and healthy homes grants; amending Minnesota
1.7 Statutes 2014, sections 144.9501, subdivision 2; 273.11, by adding a subdivision;
1.8 504B.001, subdivision 14; 504B.161, subdivision 1; 513.57; 513.61; proposing
1.9 coding for new law in Minnesota Statutes, chapter 144.

1.10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.11 Section 1. Minnesota Statutes 2014, section 144.9501, subdivision 2, is amended to read:

1.12 Subd. 2. **Applicability.** The definitions in this section apply to sections 144.9501 to
1.13 ~~144.9512~~ 144.9514.

1.14 Sec. 2. **[144.9514] LEAD HOME HEALTH; DISCLOSURE AND REDUCTION.**

1.15 Subdivision 1. **Lead disclosure; real estate.** Before signing an agreement to sell
1.16 or transfer residential real property built prior to 1978, the seller shall test the home for
1.17 the presence of lead-based paint or lead hazards by conducting a lead risk assessment,
1.18 a lead hazard screen, or a lead inspection. The test shall be conducted by either a lead
1.19 inspector or a lead risk assessor who has been licensed by the commissioner pursuant to
1.20 section 144.9505. The seller shall disclose to a purchaser the results of all lead tests on
1.21 the dwelling known to the seller and shall provide a description to a purchaser of any
1.22 lead-based paint or lead hazard reductions performed to address the presence of lead.

1.23 Subd. 2. **Lead disclosures; residential tenancy.** (a) The landlord of a residential
1.24 dwelling built before 1978 must test all residential units for the presence of lead-based
1.25 paint or lead hazards by conducting a risk assessment as defined by Code of Federal

2.1 Regulations, title 40, section 745.223. The test shall be conducted by a lead risk assessor
 2.2 who has been licensed by the commissioner pursuant to section 144.9505. The landlord
 2.3 shall complete testing every five years and disclose the results of the most recent lead
 2.4 tests on the dwelling to current tenants and to any prospective tenants and shall provide
 2.5 a description of any lead hazard reductions performed on the residence to address the
 2.6 presence of lead to the residential tenant or any prospective tenant. Full risk assessment
 2.7 reports created by the risk assessor should be available for public viewing. For the
 2.8 purposes of this section, the terms "landlord," "residential tenant," and "residential
 2.9 building" have the meanings given them in section 504B.001.

2.10 (b) If lead-based paint or a lead hazard is found in a residential building, a landlord
 2.11 must complete interim controls or lead abatement measures through a swab team service,
 2.12 other licensed lead worker, or EPA-certified renovator to reduce the risk of lead exposure.

2.13 Subd. 3. **Lead hazard reduction.** (a) A landlord must complete the form in
 2.14 paragraph (b) and provide it to each prospective tenant. A landlord must provide an
 2.15 updated form to a current tenant within 60 days of the completed testing or completed
 2.16 interim controls or lead abatement measures.

2.17 (b) The following is the statutory short form that must be used for compliance with
 2.18 this section. The Department of Health shall provide an electronic copy of this statutory
 2.19 short form on its Web site for use by residential landlords in Minnesota.

2.20 **MINNESOTA RESIDENTIAL LEAD-BASED PAINT DISCLOSURE FORM**

2.21 *This notice is to inform prospective and current tenants of residential dwellings built*
 2.22 *prior to 1978 that such property may present exposure to lead from lead-based paint*
 2.23 *that may place young children at risk of developing lead poisoning. Lead poisoning*
 2.24 *in young children may produce permanent neurological damage, including learning*
 2.25 *disabilities, reduced intelligence quotient, behavioral problems, and impaired memory.*
 2.26 *Lead poisoning also poses a particular risk to pregnant women. Lead from paint, paint*
 2.27 *chips, and dust can pose health hazards if not managed properly.*

2.28 **Lessor's Disclosure**

2.29 The lessor must initial each applicable line:

2.30 This residence has had a paint inspection risk assessment on
 2.31 (date) in compliance with Minnesota
 2.32 Statutes, section 144.9514.

2.33 There are known lead-based paint and/or lead-based paint hazards are present
 2.34 in the housing (explain).

2.35
 2.36
 2.37

3.1 The following interim controls or lead abatement measures were done to
3.2 reduce the risk of lead exposure (explain).

3.3

3.4

3.5

3.6 There are NO known lead-based paint and/or lead-based paint hazards in
3.7 the housing.

3.8 **Lessee's Acknowledgement**

3.9 The lessee must initial each applicable line:

3.10 The lessee is aware that they have the right to request copies of all paint
3.11 inspection risk assessments and documentation of completed interim controls
3.12 or lead abatement measures that were done to reduce the risk of lead exposure.

3.13 **Certification of Accuracy**

3.14 The following parties have reviewed the information above and certify, to the best of their
3.15 knowledge, that the information they have provided is true and accurate.

3.16

3.17 Lessor Signature and Date

3.18

3.19 Lessee Signature and Date

3.20 (c) If a current or prospective tenant requests documentation then a landlord must
3.21 provide copies of the lead testing as required by subdivision 1, and if lead-based paint or a
3.22 lead hazard has been found, then documentation of the completed interim controls or lead
3.23 abatement measures completed by a swab team service, other licensed lead worker, or
3.24 EPA-certified renovator that were done to reduce the risk of lead exposure.

3.25 Subd. 4. **Short title.** This section shall be known as the "Dustin Luke Shields Act."

3.26 **EFFECTIVE DATE.** This section is effective January 1, 2016.

3.27 Sec. 3. Minnesota Statutes 2014, section 273.11, is amended by adding a subdivision to
3.28 read:

3.29 Subd. 24. **Lead hazard market property tax reduction.** (a) Owners of property
3.30 classified as class 1a, 1b, 1c, 2a, 4a, 4b, 4bb, or 4d under section 273.13 may apply for
3.31 a lead hazard property tax reduction, provided that the property is located in a city that
3.32 has authorized valuation reductions under this subdivision. A city that authorizes the
3.33 benefit of this property tax reduction under this subdivision must establish guidelines for
3.34 qualifying lead hazard reduction projects and must designate an agency within the city to
3.35 issue a clearance report completed by a licensed risk assessor for qualifying projects. For

4.1 purposes of this subdivision, "lead hazard reduction" has the meaning given in section
 4.2 144.9501, subdivision 17.

4.3 (b) The property owner must obtain a certificate from the agency stating (1) that the
 4.4 project has been completed, and (2) the total cost incurred by the owner, which must be at
 4.5 least \$3,000. Only projects originating after July 1, 2015, and completed before July 1,
 4.6 2020, qualify for a reduction under this subdivision. The property owner shall apply for
 4.7 the valuation reduction to the assessor on a form prescribed by the assessor accompanied
 4.8 by a copy of the certificate of completion from the agency.

4.9 (c) A qualifying property is eligible for a one-year valuation reduction equal to the
 4.10 actual cost incurred, up to a maximum of \$10,000 per unit, in the case of class 4a or 4d
 4.11 property, or \$20,000 per parcel, in the case of other property types. If a property owner
 4.12 applies to the assessor for the valuation reduction under this subdivision between January
 4.13 1 and June 30 of any year, the reduction applies for taxes payable in the following year. If
 4.14 a property owner applies to the assessor for the valuation reduction under this subdivision
 4.15 between July 1 and December 31, the reduction applies for taxes payable in the second
 4.16 following year. For purposes of subdivision 1a, any additional market value resulting from
 4.17 the lead hazard removal must be considered an increase in value due to new construction.

4.18 **EFFECTIVE DATE.** This section is effective beginning with taxes payable in 2017.

4.19 Sec. 4. Minnesota Statutes 2014, section 504B.001, subdivision 14, is amended to read:

4.20 Subd. 14. **Violation.** "Violation" means:

4.21 (1) a violation of any state, county or city health, safety, housing, building, fire
 4.22 prevention, or housing maintenance code applicable to the building;

4.23 (2) a violation of any of the covenants set forth in section 504B.161, subdivision 1,
 4.24 clause (1) or (2), or (5) or in section 504B.171, subdivision 1; or

4.25 (3) a violation of an oral or written agreement, lease, or contract for the rental of
 4.26 a dwelling in a building.

4.27 **EFFECTIVE DATE.** This section is effective August 1, 2016.

4.28 Sec. 5. Minnesota Statutes 2014, section 504B.161, subdivision 1, is amended to read:

4.29 Subdivision 1. **Requirements.** (a) In every lease or license of residential premises,
 4.30 the landlord or licensor covenants:

4.31 (1) that the premises and all common areas are fit for the use intended by the parties;

4.32 (2) to keep the premises in reasonable repair during the term of the lease or license,
 4.33 except when the disrepair has been caused by the willful, malicious, or irresponsible

5.1 conduct of the tenant or licensee or a person under the direction or control of the tenant or
5.2 licensee;

5.3 (3) to make the premises reasonably energy efficient by installing weatherstripping,
5.4 caulking, storm windows, and storm doors when any such measure will result in energy
5.5 procurement cost savings, based on current and projected average residential energy costs
5.6 in Minnesota, that will exceed the cost of implementing that measure, including interest,
5.7 amortized over the ten-year period following the incurring of the cost; ~~and~~

5.8 (4) to maintain the premises in compliance with the applicable health and safety laws
5.9 of the state, and of the local units of government where the premises are located during the
5.10 term of the lease or license, except when violation of the health and safety laws has been
5.11 caused by the willful, malicious, or irresponsible conduct of the tenant or licensee or a
5.12 person under the direction or control of the tenant or licensee; and

5.13 (5) to complete lead testing, disclosure, and remediation in compliance with section
5.14 144.9514.

5.15 (b) The parties to a lease or license of residential premises may not waive or modify
5.16 the covenants imposed by this section.

5.17 **EFFECTIVE DATE.** This section is effective August 1, 2016.

5.18 Sec. 6. Minnesota Statutes 2014, section 513.57, is amended to read:

5.19 **513.57 LIABILITY FOR ERROR, INACCURACY, OR OMISSION.**

5.20 Subdivision 1. **No liability.** Unless the prospective buyer and seller agree to the
5.21 contrary in writing, a seller is not liable for any error, inaccuracy, or omission of any
5.22 information delivered under sections 513.52 to ~~513.60~~ 513.61 if the error, inaccuracy,
5.23 or omission was not within the personal knowledge of the seller, or was based entirely
5.24 on information provided by other persons as specified in section 513.56, subdivision 3,
5.25 and ordinary care was exercised in transmitting the information. It is not a violation of
5.26 sections 513.52 to ~~513.60~~ 513.61 if the seller fails to disclose information that could be
5.27 obtained only through inspection or observation of inaccessible portions of the real estate
5.28 or could be discovered only by a person with expertise in a science or trade beyond the
5.29 knowledge of the seller.

5.30 Subd. 2. **Liability.** A seller who fails to make a disclosure as required by sections
5.31 513.52 to ~~513.60~~ 513.61 and was aware of material facts pertaining to the real property is
5.32 liable to the prospective buyer. A person injured by a violation of this section may bring a
5.33 civil action and recover damages and receive other equitable relief as determined by the

6.1 court. An action under this subdivision must be commenced within two years after the
6.2 date on which the prospective buyer closed the purchase or transfer of the real property.

6.3 Subd. 3. **Other actions.** Nothing in sections 513.52 to ~~513.60~~ 513.61 precludes
6.4 liability for an action based on fraud, negligent misrepresentation, or other actions allowed
6.5 by law.

6.6 **EFFECTIVE DATE.** This section is effective August 1, 2016.

6.7 Sec. 7. Minnesota Statutes 2014, section 513.61, is amended to read:

6.8 **513.61 RADON AND LEAD DISCLOSURE REQUIREMENTS.**

6.9 A seller of residential real property must comply with the radon disclosure
6.10 requirements under section 144.496 and the lead disclosure requirements under 144.9514.

6.11 **EFFECTIVE DATE.** This section is effective August 1, 2016.

6.12 Sec. 8. **HEALTHY HOUSING GRANTS.**

6.13 \$..... in fiscal year 2016 and \$..... in fiscal year 2017 are appropriated from the
6.14 general fund for lead and healthy housing funding under Minnesota Statutes, sections
6.15 144.9501 to 144.9513. Of that amount, \$25,000 in each year shall be for grants to
6.16 nonprofit organizations to purchase and maintain vacuums with high-efficiency particulate
6.17 air (HEPA) filters for use in low- and moderate-income households where lead is present,
6.18 at low or no cost to tenants.