

This Document can be made available in alternative formats upon request

State of Minnesota

HOUSE OF REPRESENTATIVES

NINETIETH SESSION

H. F. No. 491

01/26/2017 Authored by Clark, Schultz, Moran, Mahoney, Bly and others
The bill was read for the first time and referred to the Committee on Health and Human Services Reform
03/14/2018 By motion, recalled and re-referred to the Committee on Job Growth and Energy Affordability Policy and Finance

A bill for an act

relating to health; amending the Lead Poisoning Prevention Act; amending landlord requirements for renting residential property; creating the Dustin Luke Shields Act; amending radon and lead disclosure requirements; providing a property tax benefit for lead hazard reductions; providing a civil cause of action; appropriating money for lead and healthy homes grants; amending Minnesota Statutes 2016, sections 144.9501, subdivision 2; 504B.001, subdivision 14; 504B.161, subdivision 1; 513.57; 513.61; proposing coding for new law in Minnesota Statutes, chapters 144; 290.

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

Section 1. Minnesota Statutes 2016, section 144.9501, subdivision 2, is amended to read:

Subd. 2. Applicability. The definitions in this section apply to sections 144.9501 to 144.9512 144.9514.

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

Subdivision 1. Lead disclosure; real estate. Before signing an agreement to sell or transfer residential real property built prior to 1978, the seller shall test the home for the presence of lead hazards by conducting a lead risk assessment. The test shall be conducted by either a lead inspector or a lead risk assessor who has been licensed by the commissioner pursuant to section 144.9505. The seller shall disclose to a purchaser the results of all lead tests on the dwelling, the residential water, and soil that are known to the seller and shall provide a description to a purchaser of any lead hazard reductions performed to address the presence of lead.

Subd. 2. Lead disclosures; residential tenancy. (a) The landlord of a residential dwelling built before 1978 must test all residential units for the presence of lead hazards by conducting

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

2.11 (b) If a lead hazard is found in a residential building, a landlord must complete interim
 2.12 controls or lead abatement measures through a swab team service, other licensed lead worker,
 2.13 or EPA-certified renovator to reduce the risk of lead exposure. Upon completion of interim
 2.14 controls or lead abatement measures the firm, individual, or supervisor of the work shall
 2.15 provide the owner of the residence with a document certifying the work was performed in
 2.16 compliance with all applicable federal and state laws related to lead hazard reduction and
 2.17 provide the amount paid by the owner for the work completed.

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

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

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

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

2.33 **Lessor's Disclosure**

2.34 The lessor must initial each applicable line:

3.1 This residence has had a paint inspection risk assessment on
3.2 (date) in compliance with Minnesota
3.3 Statutes, section 144.9514.

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

3.6

3.7

3.8

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

3.11

3.12

3.13

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

3.16 **Lessee's Acknowledgment**

3.17 The lessee must initial each applicable line:

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

3.21 **Certification of Accuracy**

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

3.24

3.25 Lessor Signature and Date

3.26

3.27 Lessee Signature and Date

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

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

3.34 **EFFECTIVE DATE.** This section is effective January 1, 2018.

4.1 Sec. 3. **[290.0682] LEAD ABATEMENT CREDIT.**

4.2 Subdivision 1. Credit allowed. An individual is allowed a credit against the tax imposed
 4.3 by this chapter equal to 75 percent of qualifying interim controls or lead abatement costs
 4.4 paid or incurred during the taxable year. An individual is allowed to claim only one credit
 4.5 for each qualifying housing unit. The maximum allowed for each credit is \$5,000.

4.6 Subd. 2. Definitions. (a) For purposes of this section, the following terms have the
 4.7 meanings given.

4.8 (b) "Qualifying housing unit" means a residence subject to section 144.9514, subdivision
 4.9 2, paragraph (b).

4.10 (c) "Qualifying interim control or lead abatement costs" means the costs of lead hazard
 4.11 reductions in compliance with section 114.9514, subdivision 2, paragraph (b). It does not
 4.12 include:

4.13 (1) any costs paid for by federal, state, or local government grants; or

4.14 (2) any costs reductions obtained through federal, state, or local subsidized financing.

4.15 Subd. 3. Credit refundable. If the amount of credit that the claimant is eligible to receive
 4.16 under this section exceeds the claimant's tax liability under this chapter, the commissioner
 4.17 shall refund the excess to the claimant.

4.18 Subd. 4. Appropriation. The amount necessary to pay the refunds required by this
 4.19 section is appropriated each fiscal year to the commissioner from the general fund.

4.20 EFFECTIVE DATE. This section is effective for taxable years beginning after December
 4.21 31, 2016.

4.22 Sec. 4. Minnesota Statutes 2016, section 504B.001, subdivision 14, is amended to read:

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

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

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

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

4.30 EFFECTIVE DATE. This section is effective August 1, 2017.

5.1 Sec. 5. Minnesota Statutes 2016, section 504B.161, subdivision 1, is amended to read:

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

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

5.5 (2) to keep the premises in reasonable repair during the term of the lease or license,
5.6 except when the disrepair has been caused by the willful, malicious, or irresponsible conduct
5.7 of the tenant or licensee or a person under the direction or control of the tenant or licensee;

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

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

5.18 (5) to complete lead testing, disclosure, and remediation in compliance with section
5.19 144.9514.

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

5.22 **EFFECTIVE DATE.** This section is effective August 1, 2017.

5.23 Sec. 6. Minnesota Statutes 2016, section 513.57, is amended to read:

5.24 **513.57 LIABILITY FOR ERROR, INACCURACY, OR OMISSION.**

5.25 Subdivision 1. **No liability.** Unless the prospective buyer and seller agree to the contrary
5.26 in writing, a seller is not liable for any error, inaccuracy, or omission of any information
5.27 delivered under sections 513.52 to ~~513.60~~ 513.61 if the error, inaccuracy, or omission was
5.28 not within the personal knowledge of the seller, or was based entirely on information provided
5.29 by other persons as specified in section 513.56, subdivision 3, and ordinary care was
5.30 exercised in transmitting the information. It is not a violation of sections 513.52 to ~~513.60~~
5.31 513.61 if the seller fails to disclose information that could be obtained only through inspection

6.1 or observation of inaccessible portions of the real estate or could be discovered only by a
 6.2 person with expertise in a science or trade beyond the knowledge of the seller.

6.3 Subd. 2. **Liability.** A seller who fails to make a disclosure as required by sections 513.52
 6.4 to ~~513.60~~ 513.61 and was aware of material facts pertaining to the real property is liable to
 6.5 the prospective buyer. A person injured by a violation of this section may bring a civil action
 6.6 and recover damages and receive other equitable relief as determined by the court. An action
 6.7 under this subdivision must be commenced within two years after the date on which the
 6.8 prospective buyer closed the purchase or transfer of the real property.

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

6.11 **EFFECTIVE DATE.** This section is effective August 1, 2017.

6.12 Sec. 7. Minnesota Statutes 2016, section 513.61, is amended to read:

6.13 **513.61 RADON AND LEAD DISCLOSURE REQUIREMENTS.**

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

6.16 **EFFECTIVE DATE.** This section is effective August 1, 2017.

6.17 Sec. 8. **HEALTHY HOUSING GRANTS.**

6.18 \$..... in fiscal year 2018 and \$..... in fiscal year 2019 are appropriated from the general
 6.19 fund to the commissioner of health for lead and healthy housing funding under Minnesota
 6.20 Statutes, sections 144.9501 to 144.9513. Of that amount, \$25,000 in each year shall be for
 6.21 grants to nonprofit organizations to purchase and maintain vacuums with high-efficiency
 6.22 particulate air filters for use in low- and moderate-income households where lead is present,
 6.23 at low or no cost to tenants.