A BUDGET BILL submitted by the Governor
in accordance with Article VII of the Constitution

AN ACT to amend the public health law, the executive law and the
real property law, in relation to areas at a high risk for
lead paint (Part );

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

PART __

Section 1. Section 1373 of the public health law is amended by adding
three new subdivisions 1-a, 1-b and 1-c to read as follows:

1-a. Every governmental unit or agency that is charged with or other-
wise accountable or responsible for administration and enforcement of
the New York state uniform fire prevention and building code, or any
other applicable building and fire prevention code, with respect to any
residential or non-residential building that is located within an area
designated as high risk by the commissioner pursuant to subdivision one
of this section, shall submit to the department aggregate reports summa-
rizing the outcomes of inspections and remediation conducted pursuant to
regulations adopted by the secretary of state pursuant to subdivision
seven of section three hundred eighty-one of the executive law, in a
format to be determined by the commissioner in consultation with the
secretary of state.

1-b. (a) The commissioner and the secretary of state shall have the
power to determine, individually or jointly, in such manner as he, she,
or they deem appropriate, the status of compliance by any governmental
unit or agency referred to in subdivision one-a of this section, includ-
ing but not limited to any city with a population of over one million,
with subdivision seven of section three hundred eighty-one of the execu-
tive law and the rules and regulations promulgated thereunder. If the
commissioner or the secretary of state, individually or jointly, deter-
mine that any such governmental unit or agency is not in compliance with
subdivision seven of section three hundred eighty-one of the executive
law or any regulations promulgated thereunder, the commissioner may take
any of the following actions, either individually or in combination in
any sequence:
   (i) Refer, or request the secretary of state to refer, the matter to
the attorney general to institute in the name of the commissioner or the
secretary of state an action or proceeding seeking appropriate legal or
equitable relief to require such government unit or agency, including a
city with a population over one million, to comply with such rules and
regulations;
   (ii) Require the governmental unit or agency in violation of subdivi-
sion seven of section three hundred eighty-one of the executive law, to
create a corrective action plan, in consultation with the local health
department, which shall require the government unit or agency to come
into compliance with subdivision seven of section three hundred eighty-
one of the executive law and to discontinue any paint condition condu-
cive to lead poisoning in any residential or non-residential building
located within such government unit or agency's jurisdiction;
   (iii) Investigate and examine the actions of the governmental unit or
agency in violation of subdivision seven of section three hundred eight-
y-one of the executive law or of the rules and regulations promulgated
thereunder, and declare that such governmental unit or agency is maintaining a public nuisance and:

(A) Require the jurisdictional local health department to investigate, identify, and order the discontinuance of a paint condition conducive to lead poisoning in any residential or non-residential building located within the governmental unit or agency subject to the commissioner's declaration of a public nuisance; or

(B) Investigate, identify and order the discontinuance of a paint condition conducive to lead poisoning in any residential or non-residential building located within the governmental unit or agency subject to the commissioner's declaration of a public nuisance.

(b) The expense of an investigation pursuant to paragraph (a) of this subdivision, and the discontinuance of any paint conditions conducive to lead poisoning identified during such investigation, shall be paid by the governmental unit or agency determined by the commissioner to have maintained a public nuisance pursuant to this subdivision.

1-c. All paint on any residential building which is located in an area designated as high risk by the commissioner pursuant to subdivision one of this section and on which the original construction was completed prior to January first, nineteen hundred seventy-eight, and all paint on the exterior of any non-residential building which is located in an area designated as high risk by the commissioner pursuant to subdivision one of this section and on which the original construction was completed prior to January first, nineteen hundred seventy-eight, shall be presumed to be lead-based. This presumption may be overcome by a certification by a lead-based paint inspector or risk assessor that the property has been determined through a lead-based paint inspection conducted in accordance with appropriate federal regulations not to contain lead-
based paint, or by such other means as may be prescribed by the rules
and regulations adopted by the secretary of state pursuant to paragraph
c of subdivision seven of section three hundred eighty-one of the exec-
tive law.

§ 2. Section 378 of the executive law is amended by adding a new
subdivision 17 to read as follows:

17. For any area designated as high risk by the commissioner of health
pursuant to subdivision one of section thirteen hundred seventy-three of
the public health law, a requirement that the interior and exterior of
any residential building that is presumed to have lead-based paint
pursuant to subdivision one-c of section thirteen hundred seventy-three
of the public health law, and the exterior of any non-residential build-
ing that is presumed to have lead-based paint pursuant to subdivision
one-c of section thirteen hundred seventy-three of the public health
law, be maintained in a condition such that the paint thereon does not
become deteriorated paint, unless the deteriorated paint surfaces
comprise a minimal surface area. In a city with a population of over one
million, such city's local building and fire prevention codes shall
include provisions at least as stringent as the provisions of this
subdivision.

§ 3. Section 381 of the executive law is amended by adding a new
subdivision 7 to read as follows:

7. Notwithstanding any other provision of law, the secretary, in
consultation with the commissioner of health, shall promulgate rules and
regulations with respect to governmental units and agencies that are
charged with or otherwise accountable or responsible for administration
and enforcement of the New York state uniform code, or any other appli-
cable building and fire prevention code, with respect to any residential
or non-residential building located in an area designated as high risk
by the commissioner of health pursuant to subdivision one of section
thirteen hundred seventy-three of the public health law:

a. Requiring that such governmental unit or agency conduct inspections
of all residential rental buildings in such high risk areas periodically
and at specified times including, but not limited to, as part of an
application for a certificate of occupancy, a renewal of a certificate
of occupancy, or based upon the filing of a complaint. Such inspections
shall include at a minimum a visual assessment for deteriorated paint
and bare soil present within the dripline of the building.

b. Establishing remedial actions that such governmental unit or agency
may require the owner or other person responsible for maintenance of the
subject property to take to address violations of the New York state
uniform code provisions, and other applicable building and fire
prevention code provisions, adopted pursuant to subdivision seventeen of
section three hundred seventy-eight of this article, which shall include
as appropriate:

(i) Obtaining certification by a lead-based paint inspector or risk
assessor that the property has been determined through a lead-based
paint inspection conducted in accordance with appropriate federal regu-
lations not to contain lead-based paint.

(ii) Obtaining certification by a lead-based paint inspector or risk
assessor that all cited violations have been abated, or interim controls
implemented, and clearance has been achieved in accordance with the New
York state uniform code or other applicable building and fire prevention
codes.

(iii) Where exterior deteriorated paint violations, including deteri-
orated paint violations on an open porch, and/or bare soil violations
are cited, or where interior deteriorated paint violations are cited in
a common area, clearance may be established through a visual assessment
by a local code enforcement officer after reduction measures have been
implemented.

c. Establishing standards for a clearance examination and report and
for certifications or other documentation required to overcome the
presumption created by subdivision one-c of section thirteen hundred
seventy-three of the public health law.

Notwithstanding any other provision of law, the rules and regulations
promulgated pursuant to this subdivision shall, with respect to all
governmental units and agencies other than cities with a population of
over one million, be considered to be part of the minimum standards
adopted pursuant to subdivision one of this section; provided, however,
that the closing paragraph of subdivision one of this section shall not
apply to inspections required by the rules and regulations promulgated
pursuant to this subdivision. Any governmental unit or agency other than
a city with a population of over one million that fails to comply with
the rules and regulations promulgated pursuant to this subdivision shall
be subject to the actions authorized by subdivision four of this
section. Any governmental unit or agency, including but not limited to a
city with a population of over one million, that fails to comply with
such rules and regulations shall also be subject to the actions author-
ized by subdivision one-b of section thirteen hundred seventy-three of
the public health law.

§ 4. Paragraphs b and c of subdivision 1 of section 223-b of the real
property law, as amended by chapter 584 of the laws of 1991, are amended
and a new paragraph d is added to read as follows:
b. Actions taken in good faith, by or in behalf of the tenant, to secure or enforce any rights under the lease or rental agreement, under section two hundred thirty-five-b of this [chapter] article, or under any other law of the state of New York, or of its governmental subdivisions, or of the United States which has as its objective the regulation of premises used for dwelling purposes or which pertains to the offense of rent gouging in the third, second or first degree; [or]
c. The tenant's participation in the activities of a tenant's organization[.]; or
d. The tenant's reporting of a suspected lead-based paint hazard to the owner or to any state or local agency.

§ 5. This act shall take effect on the one hundred eightieth day after it shall have become a law; provided that any rules, regulations, local laws, or ordinances necessary to implement the provisions of this act on its effective date are authorized to be made, adopted, or enacted on or before such effective date.