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**AB-206 Public nuisance: abatement: lead-based paint.** (2019-2020)

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**Assembly Bill No. 206**

**CHAPTER 171**

An act to add Section 3494.5 to the Civil Code, relating to public nuisance.

[ Approved by Governor August 30, 2019. Filed with Secretary of State August 30, 2019. ]

**LEGISLATIVE COUNSEL'S DIGEST**

AB 206, Chiu. Public nuisance: abatement: lead-based paint.

Existing law defines a public nuisance as one that affects an entire community or neighborhood at the same time, or any considerable number of persons, although the extent of the annoyance or damage inflicted upon individuals may be unequal, and provides that a public nuisance may be remedied by an indictment or information, a civil action, or abatement.

This bill would make a property owner, or agent thereof, who participates in a program to abate lead-based paint created as a result of a judgment or settlement in any public nuisance or similar litigation, and all public entities, immune from liability in any lawsuit seeking to recover any cost associated with that abatement program. The bill would prohibit participation in a lead paint abatement program from being considered as evidence that a property constitutes a nuisance, or is substandard or untenable, as provided.

Vote: majority Appropriation: no Fiscal Committee: no Local Program: no

**THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:**

**SECTION 1.** Section 3494.5 is added to the Civil Code, to read:

**3494.5.** (a) (1) A property owner who voluntarily participates in a lead paint abatement program, and all public entities, shall be immune from liability in any lawsuit where a responsible party seeks to recover any cost associated with a lead paint abatement program from a property owner or public entity.

(2) For purposes of this subdivision, participation in a lead paint abatement program may be as limited as submission of an application to a lead paint abatement program or as extensive as completion of all activities conducted pursuant to a lead paint abatement program.

(b) (1) A property owner's participation in a lead paint abatement program shall not be evidence that the participating property is any of the following:

(A) A nuisance.

(B) Substandard under Section 17920.3 of the Health and Safety Code or is in violation of Section 17920.10 of the Health and Safety Code, to the extent that those sections apply to lead-based paint or other substandard conditions controlled

utilizing program funds.

(C) Untenantable under Section 1941.1 of the Civil Code, as that section applies to lead-based paint or other conditions controlled utilizing program funds.

(2) For the purposes of this subdivision, "participation in a lead paint abatement program" means that a property has been voluntarily enrolled in a lead paint abatement program, qualifies for inspection and services, is deemed to contain actionable lead-based paint, and has been satisfactorily abated, is in the process of being satisfactorily abated, or is awaiting abatement under the lead paint abatement program.

(c) For the purposes of this section:

(1) "Lead paint abatement program" means a program that satisfies both of the following:

(A) The program is created to abate lead-based paint.

(B) The program is created as a result of a judgment or settlement in any public nuisance or similar litigation.

(2) "Property owner" means the property owner as well as all agents or employees thereof acting within the course and scope of their agency or employment.

(3) "Public entities" includes the state, the Regents of the University of California, the Trustees of the California State University, a county, city, district, public authority, public agency, and any other political subdivision or public corporation in the state, including any employees or agents thereof acting within the course and scope of their employment or agency.

(4) "Responsible party" means a private party legally responsible for the inspection costs, abatement costs, or any other costs associated with a lead paint abatement program.

(d) This section shall not alter existing obligations on homeowners to maintain their property under applicable law or otherwise limit a tenant's legal remedies for addressing the presence of lead paint on a dwelling.