

111TH CONGRESS  
1ST SESSION

# S. 1245

To amend the Internal Revenue Code of 1986 to provide a tax credit for property owners who remove lead-based paint hazards.

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## IN THE SENATE OF THE UNITED STATES

JUNE 11, 2009

Mr. WHITEHOUSE (for himself and Ms. SNOWE) introduced the following bill;  
which was read twice and referred to the Committee on Finance

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## A BILL

To amend the Internal Revenue Code of 1986 to provide a tax credit for property owners who remove lead-based paint hazards.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

3       **SECTION 1. SHORT TITLE; FINDINGS; PURPOSE.**

4       (a) SHORT TITLE.—This Act may be cited as the  
5       “Home Lead Safety Tax Credit Act of 2009”.

6       (b) FINDINGS.—Congress finds that:

7               (1) Lead is a metal that can produce a wide  
8       range of health effects in humans when ingested.  
9       Children are more vulnerable to lead poisoning than  
10      adults.

1           (2) Lead poisoning is a serious, entirely pre-  
2           ventable threat to a child's intelligence, behavior,  
3           and learning. In severe cases, lead poisoning can re-  
4           sult in death.

5           (3) The Centers for Disease Control and Pre-  
6           vention, the Department of Housing and Urban De-  
7           velopment, the Environmental Protection Agency,  
8           and other Federal agencies have established a na-  
9           tional interagency strategy to eradicate childhood  
10          lead poisoning as a public health issue by 2010.

11          (4) Despite this goal, according to available es-  
12          timates, there are still approximately 18,000,000  
13          housing units that pose a hazard due to conditions  
14          such as peeling paint and settled dust on floors and  
15          windowsills that contain lead at levels above Federal  
16          safety standards.

17          (5) In fiscal year 2008, funding for Federal  
18          lead abatement programs, such as the Lead Hazard  
19          Control Grant Program, only provided for lead  
20          abatement for 12,600 homes.

21          (6) Childhood lead poisoning can be dramati-  
22          cally reduced by the abatement or complete removal  
23          of all lead-based paint. Empirical studies also have  
24          shown substantial reductions in lead poisoning when  
25          the affected properties have undergone "interim con-

(c) PURPOSE.—The purpose of this section is to encourage the safe removal of lead hazards from homes and thereby decrease the number of children who suffer reduced intelligence, learning difficulties, behavioral problems, and other health consequences due to lead-poisoning.

8 SEC. 2. HOME LEAD HAZARD REDUCTION ACTIVITY TAX  
9 CREDIT.

(a) IN GENERAL.—Subpart B of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 is amended by adding at the end the following new section:

**14 “SEC. 30E. HOME LEAD HAZARD REDUCTION ACTIVITY.**

15       “(a) ALLOWANCE OF CREDIT.—There shall be al-  
16       lowed as a credit against the tax imposed by this chapter  
17       for the taxable year an amount equal to 50 percent of the  
18       lead hazard reduction activity cost paid or incurred by the  
19       taxpayer during the taxable year for each eligible dwelling  
20       unit.

21       “(b) **LIMITATION.**—The amount of the credit allowed  
22   under subsection (a) for any eligible dwelling unit for any  
23   taxable year shall not exceed—

24 “(1) either—

1           “(A) \$3,000 in the case of lead hazard re-  
 2           duction activity cost including lead abatement  
 3           measures described in clauses (i), (ii), (iv) and  
 4           (v) of subsection (c)(1)(A), or

5           “(B) \$1,000 in the case of lead hazard re-  
 6           duction activity cost including interim lead con-  
 7           trol measures described in clauses (i), (iii), (iv),  
 8           and (v) of subsection (c)(1)(A), reduced by

9           “(2) the aggregate lead hazard reduction activ-  
 10          ity cost taken into account under subsection (a) with  
 11          respect to such unit for all preceding taxable years.

12          “(c) DEFINITIONS AND SPECIAL RULES.—For pur-  
 13          poses of this section:

14               “(1) LEAD HAZARD REDUCTION ACTIVITY  
 15          COST.—

16               “(A) IN GENERAL.—The term ‘lead hazard  
 17          reduction activity cost’ means, with respect to  
 18          any eligible dwelling unit—

19                       “(i) the cost for a certified risk asses-  
 20                       sor to conduct an assessment to determine  
 21                       the presence of a lead-based paint hazard,

22                       “(ii) the cost for performing lead  
 23                       abatement measures by a certified lead  
 24                       abatement supervisor, including the re-  
 25                       moval of paint and dust, the permanent

1 enclosure or encapsulation of lead-based  
2 paint, the replacement of painted surfaces,  
3 windows, or fixtures, or the removal or  
4 permanent covering of soil when lead-based  
5 paint hazards are present in such paint,  
6 dust, or soil,

7 “(iii) the cost for performing interim  
8 lead control measures to reduce exposure  
9 or likely exposure to lead-based paint haz-  
10 ards, including specialized cleaning, re-  
11 pairs, maintenance, painting, temporary  
12 containment, ongoing monitoring of lead-  
13 based paint hazards, and the establishment  
14 and operation of management and resident  
15 education programs, but only if such meas-  
16 ures are evaluated and completed by a cer-  
17 tified lead abatement supervisor using ac-  
18 cepted methods, are conducted by a quali-  
19 fied contractor, and have an expected use-  
20 ful life of more than 10 years,

21 “(iv) the cost for a certified lead  
22 abatement supervisor, those working under  
23 the supervision of such supervisor, or a  
24 qualified contractor to perform all prepara-  
25 tion, cleanup, disposal, and clearance test-

ing activities associated with the lead abatement measures or interim lead control measures, and

“(v) costs incurred by or on behalf of any occupant of such dwelling unit for any relocation which is necessary to achieve occupant protection (as defined under section 35.1345 of title 24, Code of Federal Regulations).

“(B) LIMITATION.—The term ‘lead hazard reduction activity cost’ does not include any cost to the extent such cost is funded by any grant, contract, or otherwise by another person or any governmental agency.

“(2) ELIGIBLE DWELLING UNIT.—

“(A) IN GENERAL.—The term ‘eligible dwelling unit’ means, with respect to any taxable year, any dwelling unit—

“(i) placed in service before 1960,

“(ii) located in the United States,

“(iii) in which resides, for a total period of not less than 50 percent of the taxable year, at least 1 child who has not attained the age of 6 years or 1 woman of child-bearing age, and

1 “(iv) each of the residents of which  
 2 during such taxable year has an adjusted  
 3 gross income of less than 185 percent of  
 4 the poverty line (as determined for such  
 5 taxable year in accordance with criteria es-  
 6 tablished by the Director of the Office of  
 7 Management and Budget).

8 “(B) DWELLING UNIT.—The term ‘dwell-  
 9 ing unit’ has the meaning given such term by  
 10 section 280A(f)(1).

11 “(3) LEAD-BASED PAINT HAZARD.—The term  
 12 ‘lead-based paint hazard’ has the meaning given  
 13 such term by section 745.63 of title 40, Code of  
 14 Federal Regulations.

15 “(4) CERTIFIED LEAD ABATEMENT SUPER-  
 16 VISOR.—The term ‘certified lead abatement super-  
 17 visor’ means an individual certified by the Environ-  
 18 mental Protection Agency pursuant to section  
 19 745.226 of title 40, Code of Federal Regulations, or  
 20 an appropriate State agency pursuant to section  
 21 745.325 of title 40, Code of Federal Regulations.

22 “(5) CERTIFIED INSPECTOR.—The term ‘cer-  
 23 tified inspector’ means an inspector certified by the  
 24 Environmental Protection Agency pursuant to sec-  
 25 tion 745.226 of title 40, Code of Federal Regula-

tions, or an appropriate State agency pursuant to section 745.325 of title 40, Code of Federal Regulations.

“(6) CERTIFIED RISK ASSESSOR.—The term ‘certified risk assessor’ means a risk assessor certified by the Environmental Protection Agency pursuant to section 745.226 of title 40, Code of Federal Regulations, or an appropriate State agency pursuant to section 745.325 of title 40, Code of Federal Regulations.

“(7) QUALIFIED CONTRACTOR.—The term ‘qualified contractor’ means any contractor who has successfully completed a training course on lead safe work practices which has been approved by the Department of Housing and Urban Development and the Environmental Protection Agency.

“(8) DOCUMENTATION REQUIRED FOR CREDIT ALLOWANCE.—No credit shall be allowed under subsection (a) with respect to any eligible dwelling unit for any taxable year unless—

“(A) after lead hazard reduction activity is complete, a certified inspector or certified risk assessor provides written documentation to the taxpayer that includes—

“(i) evidence that—



1           “(I) the eligible dwelling unit  
2 passes the clearance examinations re-  
3 quired by the Department of Housing  
4 and Urban Development under part  
5 35 of title 40, Code of Federal Regu-  
6 lations,

7           “(II) the eligible dwelling unit  
8 does not contain lead dust hazards (as  
9 defined by section 745.227(e)(8)(viii)  
10 of such title 40), or

11           “(III) the eligible dwelling unit  
12 meets lead hazard evaluation criteria  
13 established under an authorized State  
14 or local program, and

15           “(ii) documentation showing that the  
16 lead hazard reduction activity meets the  
17 requirements of this section, and

18           “(B) the taxpayer files with the appro-  
19 priate State agency and attaches to the tax re-  
20 turn for the taxable year—

21           “(i) the documentation described in  
22 subparagraph (A),

23           “(ii) documentation of the lead hazard  
24 reduction activity costs paid or incurred

1                   during the taxable year with respect to the  
2                   eligible dwelling unit, and

3                   “(iii) a statement certifying that the  
4                   dwelling unit qualifies as an eligible dwell-  
5                   ing unit for such taxable year.

6                   “(9) BASIS REDUCTION.—The basis of any  
7                   property for which a credit is allowable under sub-  
8                   section (a) shall be reduced by the amount of such  
9                   credit (determined without regard to subsection (d)).

10                  “(10) NO DOUBLE BENEFIT.—Any deduction  
11                  allowable for costs taken into account in computing  
12                  the amount of the credit for lead-based paint abate-  
13                  ment shall be reduced by the amount of such credit  
14                  attributable to such costs.

15                  “(d) LIMITATION BASED ON AMOUNT OF TAX.—The  
16                  credit allowed under subsection (a) for the taxable year  
17                  shall not exceed the excess of—

18                         “(1) the sum of the regular tax liability (as de-  
19                         fined in section 26(b)) plus the tax imposed by sec-  
20                         tion 55, over

21                         “(2) the sum of the credits allowable under sub-  
22                         part A and sections 27, 29, 30, 30A, 30B, 30C, and  
23                         30D for the taxable year.

24                         “(e) CARRYFORWARD ALLOWED.—

1           “(1) IN GENERAL.—If the credit amount allow-  
 2           able under subsection (a) for a taxable year exceeds  
 3           the amount of the limitation under subsection (d)  
 4           for such taxable year (referred to as the ‘unused  
 5           credit year’ in this subsection), such excess shall be  
 6           allowed as a credit carryforward for each of the 20  
 7           taxable years following the unused credit year.

8           “(2) RULES.—Rules similar to the rules of sec-  
 9           tion 39 shall apply with respect to the credit  
 10          carryforward under paragraph (1).”.

11          (b) CONFORMING AMENDMENTS.—

12           (1) Section 1016(a) of the Internal Revenue  
 13          Code of 1986 is amended by striking “and” in para-  
 14          graph (36), by striking the period and inserting “,  
 15          and” in paragraph (37), and by inserting at the end  
 16          the following new paragraph:

17           “(38) in the case of an eligible dwelling unit  
 18          with respect to which a credit for any lead hazard  
 19          reduction activity cost was allowed under section  
 20          30E, to the extent provided in section 30E(c)(9).”.

21           (2) The table of sections for subpart B of part  
 22          IV of subchapter A of chapter 1 of such Code is  
 23          amended by inserting after the item relating to sec-  
 24          tion 30D the following new item:

“Sec. 30E. Home lead hazard reduction activity.”.

1       (c) EFFECTIVE DATE.—The amendments made by  
2 this section shall apply to lead hazard reduction activity  
3 costs incurred after December 31, 2008, in taxable years  
4 ending after that date.

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