New York State Association of REALTORS®, Inc.

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MEMORANDUM IN OPPOSITION

S.4265-A by Senator Brian Kavanagh
Status: Senate Judiciary Committee

A.1529-A by Assemblymember Jonathan Rivera
Status: Assembly Rules Report 292

Date: June 2025
Contact: Mike Kelly

The New York State Association of REALTORS®, Inc. **opposes S.4265-A (Kavanagh)/A.1529-A (Rivera)** as its intent of lead-paint education to homebuyer is duplicative of existing federal regulations. Current federal law requires the disclosure of lead-based paint and lead-based paint hazards by all sellers or lessors of residential real property and requires a Lead Warning Statement for those dwellings built before 1978 upon sale or lease. REALTORS® understand the critical health risks associated with lead hazards and strictly adhere to all regulations providing for the disclosure of lead-based paint hazards to buyers of residential real property.

Federal Regulation Title 24 CFR Part 35 clearly states lead disclosure requirements for sellers and lessors of residential housing, as well as certification and acknowledgement of receipt by the purchaser of a Lead Warning Statement from the seller or lessor. Under federal law, a seller or lessor must:

- Provide the purchaser or lessee with an EPA-approved lead hazard information pamphlet.
- Disclose to each agent as well as the purchaser or lessee the presence of any known lead-based paint and/or lead-based paint hazards.
- Provide the purchaser or lessee with any records or reports available to the seller or lessor pertaining to lead-based paint and/or lead-based paint hazards.
- Provide a Lead Warning Statement if the dwelling was built prior to 1978.

Under current federal regulation, a seller must also allow the purchaser a 10-day period to conduct a risk assessment or inspection for the presence of lead-based paint and/or lead-based paint hazards before being obligated under any contract to purchase. To be clear, buyers of residential real estate have the right to have a lead-paint inspection today without passage of this bill.

While the bill places a statewide mandate on all sellers of residential property, it does not address the significant costs associated with lead paint hazards remediation or removal. As the sponsor's memo states, New York has the oldest housing inventory in the nation and the highest percentage of pre-1960s housing. New York should focus on securing and distributing additional state and federal grant funding to assist property owners in remediation efforts, which costs can range from $8 to $15 per square foot; and the state Department of Health estimating costs to remediate could exceed $10,000.

New York State also enacted a new law in 2023 (Section 1377 of the Public Health Law) to address lead hazards which requires the development of a registry and inspection for lead hazards of rental residential dwellings with two or more units built before 1980 within communities of concern outside of New York City. Appropriately, the state allocated $20 million for the purposes of lead hazard remediation limited to the scope

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of the new program. S.4265-A/A.1529-A, however, is not accompanied by any state funding mechanism for remediation and is being considered without fully realizing the effects of the new law passed just last year.

Additionally, the cost to conduct a lead-paint hazard testing far exceeds the $500 or $400 deduction from the state's real estate transfer tax available to the seller within the proposed bill. This would be more financially burdensome on multi-family property owners who would be required to conduct testing on each unit. NYSAR recommends amending this section to permit sellers to deduct the actual cost of the lead-paint study rather than an arbitrary, low dollar amount.

This bill is simply duplicative of existing federal and state requirements and is unnecessary as real estate licensees must already provide disclosures on lead-based paint and lead-based paint hazards. For the above stated reasons, the New York State Association of REALTORS®, Inc. **strongly opposes S.4265-A (Kavanaugh)/A.1529-A (Rivera)**.

The New York State Association of REALTORS® is a not-for-profit trade organization representing more than 63,000 of New York State's real estate professionals. The term REALTOR® is a registered trademark, which identifies real estate professionals who subscribe to a strict code of ethics as members of the National Association of REALTORS®. These REALTORS® are also members of the New York State Association of REALTORS® as well as their local board or association of REALTORS®.