



June 28, 2018

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The Honorable Hannah-Beth Jackson
Chair, Senate Judiciary Committee
State Capitol, Room 2032
Sacramento, CA 95814

**Re: AB 2136 (Bonta) – Damages: lead-based paint.
As Amended June 18, 2018 – SUPPORT
Set to be Heard on July 3, 2018- Senate Judiciary Committee**

Dear Senator Jackson,

The California State Association of Counties (CSAC), representing all 58 of the state's counties, writes in support of Assembly Bill 2136 by Assembly Member Rob Bonta. This measure, as amended, would create a new avenue to litigation for those poisoned by lead-based paint who are unable to identify the exact manufacturer of the lead paint pigment.

Under current law it is nearly impossible to hold paint manufacturers legally accountable for injuries. Although at least ten hundreds of thousands of citizens in California continue to suffer serious and irreversible health harms due to exposure of lead-based paint, they are unable to identify the precise manufacturer of the lead paint pigment they were exposed to due to the number of manufacturers, the passage of time, and the loss of records. As a result, these individuals are unable to establish causation under traditional common law tort principles. To address this, AB 2136:

- Codifies in statute a “risk contribution” theory of liability to injuries caused by lead-based paint allowing a person poisoned by lead-based paint to establish a *prima facie*, or legally sufficient case of causation to recover damages for their injury.
- Requires the plaintiff to prove by preponderance of the evidence that a particular party produced, sold, distributed, or promoted the type of lead paint that caused the injury during the time and in the area that the injury occurred.
- Shifts the burden of proof from the person injured to the lead paint company to prove they did not produce, sell, distribute, or promote the lead-based paint during that time or in that area.
- Holds multiple companies jointly liable if there were numerous companies selling or distributing paint at that time in the area.

In sum, AB 2136 removes a significant hurdle to holding lead paint manufacturers legally accountable for injuries caused by lead-based paint. It is for these reasons that CSAC supports AB 2136 and respectfully requests your **AYE** vote. Should you have any questions or concerns regarding our position, please do not hesitate to contact me at jdevencenzi@counties.org or 916.650.8131.

Sincerely,

A handwritten signature in blue ink, appearing to read 'J. Devencenzi', with a large flourish extending to the right.

Jessica Devencenzi
Legislative Representative

cc: The Honorable Rob Bonta, California State Assembly
Members and Consultant, Senate Judiciary Committee
Mike Petersen, Consultant, Senate Republican Caucus