

[First Reprint]

SENATE, No. 1147

STATE OF NEW JERSEY
219th LEGISLATURE

INTRODUCED FEBRUARY 3, 2020

Sponsored by:

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District 29 (Essex)

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District 5 (Camden and Gloucester)

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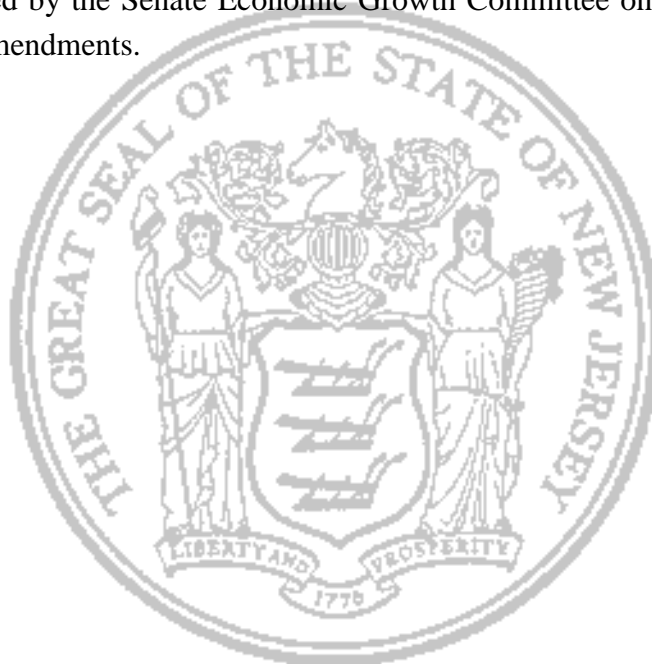
Senators Turner, Pou and Cunningham

SYNOPSIS

Requires lead paint inspection prior to home purchases and tenant turnover; establishes educational program on lead hazards.

CURRENT VERSION OF TEXT

As reported by the Senate Economic Growth Committee on September 17, 2020, with amendments.



(Sponsorship Updated As Of: 6/21/2021)

1 AN ACT concerning lead paint inspections prior to home purchases
2 and tenant turnover, establishing an educational program on lead
3 hazards, supplementing P.L.2003, c.311 (C.52:27D-437.1 et al.),
4 and amending various parts of the statutory law.

5
6 **BE IT ENACTED** by the Senate and General Assembly of the State
7 of New Jersey:

8
9 1. (New section) a. Every contract of sale of real property that
10 has not been certified as lead-safe under subsection c. of this
11 section shall include a provision requiring, as a condition of the
12 sale, the seller to hire a lead evaluation contractor, certified to
13 provide lead paint inspection services by the Department of
14 Community Affairs, to inspect any dwelling located on the real
15 property for lead-based paint hazards.

16 b. Closing of title on the sale of the real property shall not
17 occur unless both the buyer and the seller have received and
18 reviewed a copy of the inspection results. At closing, the buyer and
19 seller both shall certify, in writing, that they have received and
20 reviewed the inspection results.

21 c. If a lead evaluation contractor finds that no lead hazards
22 exist in a dwelling upon conducting an inspection pursuant to this
23 section, then the lead evaluation contractor shall certify the
24 dwelling as lead-safe on a form prescribed by the Department of
25 Community Affairs.

26 d. Notwithstanding this section or any other provisions of
27 P.L. , c. (C.) (pending before the Legislature as this bill)
28 to the contrary, a dwelling shall not be subject to inspection and
29 evaluation for the presence of lead-based paint hazards if the
30 dwelling was constructed during or after 1978.

31
32 2. (New section) a. As used in this section:

33 "Dust wipe sampling" means a sample collected by wiping a
34 representative surface and tested in accordance with a method
35 approved by the United States Department of Housing and Urban
36 Development.

37 "Self-inspection" means evaluation of a dwelling unit by the
38 unit's owner, or the owner's designee, in accordance with evaluation
39 and control methods approved by the Department of Community
40 Affairs.

41 "Tenant turnover" means the time at which all existing occupants
42 vacate a dwelling unit and all new tenants move into the dwelling
43 unit.

44 "Visual assessment" means a visual examination for deteriorated
45 paint or visible surface dust, debris, or residue.

EXPLANATION – Matter enclosed in bold-faced brackets **[thus]** in the above bill is
not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹Senate SEG committee amendments adopted September 17, 2020.

1 b. (1) In a municipality that maintains a permanent local
2 agency for the purpose of conducting inspections and enforcing
3 laws, ordinances, and regulations concerning buildings and
4 structures within the municipality, the permanent local agency shall
5 inspect every single-family, two-family, and multiple rental
6 dwelling located within the municipality at tenant turnover for lead-
7 based paint hazards. The municipality shall charge the dwelling
8 owner or landlord a fee sufficient to cover the cost of the
9 inspection.

10 (2) In a municipality that does not maintain a permanent local
11 agency for the purpose of conducting inspections and enforcing
12 laws, ordinances, and regulations concerning buildings and
13 structures within the municipality, the municipality shall hire a lead
14 evaluation contractor, certified to provide lead paint inspection
15 services by the Department of Community Affairs, to inspect every
16 single-family, two-family, and multiple rental dwelling located
17 within the municipality at tenant turnover for lead-based paint
18 hazards. The municipality shall charge the dwelling owner or
19 landlord a fee sufficient to cover the cost of the inspection,
20 including the cost of hiring the lead evaluation contractor.

21 (3) ¹A municipality shall permit the dwelling owner or landlord
22 to directly hire a lead evaluation contractor. A lead evaluation
23 contractor that is directly hired by a dwelling owner or landlord
24 pursuant to this paragraph shall be certified to provide lead paint
25 inspection services by the Department of Community Affairs.

26 (4)¹ A permanent local agency or lead evaluation contractor
27 with the duty to inspect single-family, two-family, and multiple
28 rental dwellings pursuant to this section may consult with the local
29 health board, the Department of Health, or the Department of
30 Community Affairs concerning the criteria for the inspection and
31 identification of areas and conditions involving a high risk of lead
32 poisoning in dwellings, methods of detection of lead in dwellings,
33 and standards for the repair of dwellings containing lead paint.

34 ¹~~[(4)]~~ (5)¹ Fees established pursuant to this subsection shall be
35 dedicated to meeting the costs of implementing and enforcing this
36 subsection and shall not be used for any other purpose.

37 c. Notwithstanding subsection b. of this section to the contrary,
38 a dwelling unit in a single-family, two-family, or multiple rental
39 dwelling shall not be subject to inspection and evaluation for the
40 presence of lead hazards if the unit:

41 (1) has been certified to be free of lead-based paint;

42 (2) was constructed during or after 1978;

43 (3) ¹~~[(3)]~~ is a seasonal rental unit which is rented for less than six
44 months' duration each year; or

45 (4) has been certified as lead-safe by a certified lead evaluation
46 contractor or permanent local agency pursuant to this section, or the
47 Bureau of Housing Inspection in the Department of Community
48 Affairs during a cyclical inspection under the "Hotel and Multiple

1 Dwelling Law," P.L.1967, c.76 (C.55:13A-1 et seq.), within the
2 preceding year¹ is in a multiple dwelling that has been registered
3 with the Department of Community Affairs as a multiple dwelling
4 for at least 10 years, either under the current or a previous owner,
5 and has no outstanding lead violations from the most recent cyclical
6 inspection performed on the multiple dwelling under the "Hotel and
7 Multiple Dwelling Law," P.L.1967, c.76 (C.55:13A-1 et seq.); or
8 (4) has a valid lead-safe certification issued in accordance with
9 this section¹.

10 d. (1) If a lead evaluation contractor or permanent local
11 agency finds that a lead hazard exists in a dwelling unit upon
12 conducting an inspection pursuant to this section, then the owner of
13 the dwelling unit shall remediate and dispose of the lead hazard by
14 using abatement or lead hazard control methods, approved in
15 accordance with the provisions of the "Lead Hazard Control
16 Assistance Act," P.L.2003, c.311 (C.52:27D-437.1 et al.). The lead
17 evaluation contractor or permanent local agency shall notify the
18 Commissioner of Community Affairs in accordance with subsection
19 e. of this section.

20 (2) If a lead evaluation contractor or permanent local agency
21 finds that no lead hazards exist in a dwelling unit upon conducting
22 an inspection pursuant to this section, then the lead evaluation
23 contractor or permanent local agency shall certify the dwelling unit
24 as lead-safe on a form prescribed by the Department of Community
25 Affairs. ¹The lead-safe certification provided to the property owner
26 by the lead evaluation contractor or permanent local agency
27 pursuant to this paragraph shall be valid for two years.¹ Property
28 owners shall provide evidence of a lead-safe certification obtained
29 pursuant to this section at the time of the cyclical inspection carried
30 out under the "Hotel and Multiple Dwelling Law," P.L.1967, c.76
31 (C.55:13A-1 et seq.).

32 e. If a lead evaluation contractor or permanent local agency
33 finds that a lead-based paint hazard exists in a dwelling unit upon
34 conducting an inspection pursuant to this section, then the lead
35 evaluation contractor or permanent local agency shall notify the
36 Commissioner of Community Affairs, who shall review the findings
37 in accordance with section 8 of the "Lead Hazard Control
38 Assistance Act," P.L.2003, c.311 (C.52:27D-437.8). If the
39 commissioner determines that the removal and relocation of a
40 household is warranted, then the commissioner shall authorize the
41 payment of relocation assistance pursuant to P.L.2003, c.311
42 (C.52:27D-437.1 et al.), and shall assist in the relocation of the
43 household to lead-safe housing. The commissioner may authorize
44 the payment of relocation assistance pursuant to P.L.2003, c.311
45 (C.52:27D-437.1 et al.) to a household that has reached an
46 agreement with a property owner to be the legal inhabitant of a
47 dwelling unit, but has not begun residing in the dwelling unit
48 because an inspection revealed a lead hazard.

1 f. (1) If a dwelling is located in a municipality in which less
2 than three percent of children tested, six years of age or younger,
3 have a blood lead level greater than or equal to five ug/dL,
4 according to the central lead screening database maintained by the
5 Department of Health pursuant to section 5 of P.L.1995, c.328
6 (C.26:2-137.6), then a lead evaluation contractor or permanent local
7 agency may inspect for lead-based paint hazards through visual
8 assessment.

9 (2) If a dwelling is located in a municipality in which at least
10 three percent of children tested, six years of age or younger, have a
11 blood lead level greater than or equal to five ug/dL, according to the
12 central lead screening database maintained by the Department of
13 Health pursuant to section 5 of P.L.1995, c.328 (C.26:2-137.6), then
14 a lead evaluation contractor or permanent local agency shall inspect
15 for lead-based paint hazards through dust wipe sampling.

16 g. Notwithstanding any provision of this section, the "Lead
17 Hazard Control Assistance Act," P.L.2003, c.311 (C.52:27D-437.1
18 et al.), or the "Hotel and Multiple Dwelling Law," P.L.1967, c.76
19 (C.55:13A-1 et seq.), to the contrary, rental property owners or
20 designated persons may conduct self-inspections of single-family,
21 two-family, and multiple dwellings at tenant turnover if:

22 (1) The property owner or designated person completed the lead
23 hazard seminar established pursuant to section 3 of P.L. ,
24 c. (C.) (pending before the Legislature as this bill); and

25 (2) A certified lead evaluation contractor or permanent local
26 agency pursuant to this section, or the Bureau of Housing
27 Inspection in the Department of Community Affairs during a
28 cyclical inspection pursuant to the "Hotel and Multiple Dwelling
29 Law," P.L.1967, c.76 (C.55:13A-1 et seq.), certified the single-
30 family, two-family, or multiple dwelling as lead safe within the
31 preceding five years.

32 h. A landlord conducting self-inspections pursuant to
33 subsection g. of this section shall notify all effected tenants and
34 shall certify, in writing, that the landlord or a designee performed a
35 self-inspection and no lead hazards were detected. Failure to
36 conduct self-inspections in good faith shall constitute an unlawful
37 practice under the New Jersey consumer fraud act, P.L.1960, c.39
38 (C.56:8-1 et seq.).

39 i. In addition to the fees permitted to be charged for inspection
40 of rental housing pursuant to this section, each municipality shall
41 assess an additional fee of \$20 per unit inspected by a certified lead
42 evaluation contractor or permanent local agency for the purposes of
43 the "Lead Hazard Control Assistance Act," P.L.2003, c.311
44 (C.52:27D-437.1 et al.) concerning lead hazard control work ¹, if
45 the Department of Community Affairs has not already assessed an
46 additional inspection fee of \$20 pursuant to the provisions of
47 section 10 of P.L. 2003, c. 311 (C.52:27D-437.10)¹. In a common
48 interest community, any inspection fee charged pursuant to this

1 subsection shall be the responsibility of the unit owner and not the
2 homeowners' association, unless the association is the owner of the
3 unit. The fees collected pursuant to this subsection shall be
4 deposited into the "Lead Hazard Control Assistance Fund"
5 established pursuant to section 4 of P.L.2003, c.311 (C.52:27D-
6 437.4).

7
8 3. (New section) a. The Department of Community Affairs, in
9 consultation with the Department of Health, shall establish a
10 Statewide, multifaceted, ongoing educational program designed to
11 meet the needs of tenants, property owners, realtors and real estate
12 agents, insurers and insurance agents, and local building officials
13 about the nature of lead hazards, the importance of lead hazard
14 control and mitigation, and the responsibilities set forth in P.L. ,
15 c. (C.) (pending before the Legislature as this bill). In
16 developing and coordinating this educational program, the
17 department shall seek the participation and involvement of private
18 industry organizations, including those involved in real estate,
19 insurance, mortgage banking, and pediatrics.

20 b. Within 90 days of the effective date of P.L. ,
21 c. (C.) (pending before the Legislature as this bill), the
22 department shall:

23 (1) Create educational materials outlining the rights and
24 responsibilities of parties subject to the provisions of P.L. ,
25 c. (C.) (pending before the Legislature as this bill).

26 (2) Establish guidelines and a trainer's manual for a lead hazard
27 seminar for rental property owners or designated persons, which the
28 department shall forward to all public and private colleges and
29 universities in New Jersey, to other professional training facilities,
30 and to professional associations and community organizations with
31 a training capacity. The department shall approve proposals to
32 offer the seminar from institutions; provided that the proposals are
33 consistent with the guidelines. The department shall create an
34 electronic version of the lead hazard seminar accessible on the
35 Internet. The seminar shall be available to tenants, property
36 owners, and other interested parties.

37 (3) Promulgate rules for the dissemination of information about
38 the requirements of P.L. , c. (C.) (pending before the
39 Legislature as this bill) to all prospective owners of pre-1978
40 dwellings during the real estate transaction, settlement, or closing;

41 (4) Solicit requests to enter into ongoing, funded partnerships to
42 provide specific counseling information services to tenants and
43 affected parties on their rights and responsibilities with regard to
44 lead hazards and lead poisoning.

45 c. The lead hazard seminar established pursuant to this section
46 shall not exceed three hours in length. The department shall offer
47 the seminar for a maximum fee of \$50 per participant.

1 4. Section 5 of P.L.1995, c.328 (C.26:2-137.6) is amended to
2 read as follows:

3 5. a. The department shall maintain a central **【data base】**
4 database which shall include a record of all lead screening
5 conducted pursuant to this act. The **【data base】** database shall
6 include the name, age and address of the child screened and any
7 other demographic data the department deems necessary. The **【data**
8 **base】** database shall be geographically indexed, by municipality, in
9 order to determine the location of areas of relatively high incidence
10 of lead poisoning.

11 b. The information reported to and compiled by the department
12 pursuant to this act is to be used only by the department and such
13 other agencies as may be designated by the commissioner and shall
14 not otherwise be divulged or made public so as to disclose the
15 identity of any child to whom it relates without written parental
16 consent; and to that end, the information shall not be included under
17 materials available to public inspection pursuant to P.L.1963,
18 c.73 (C.47:1A-1 et seq.). The department may, however, make such
19 statistical reports available using information compiled from the
20 **【data base】** database if the name or other identifying information of
21 the child screened is not revealed.

22 (cf: P.L.1995, c.328, s.5)

23

24 5. Section 2 of P.L.2007, c.251 (C.46:8-28.5) is amended to
25 read as follows:

26 2. a. Except as otherwise provided in subsection b. of this
27 section, every owner of a tenant-occupied single-family or two-
28 family residential property, including, without limitation, a two-
29 family property in which one unit is owner-occupied, shall file a
30 certificate of registration on forms prescribed by the Commissioner
31 of Community Affairs, in accordance with section 2 of P.L.1974,
32 c.50 (C.46:8-28), with the Bureau of Housing Inspection in the
33 Department of Community Affairs. Any such filing shall be
34 accompanied by a filing fee not exceeding the filing for hotels and
35 multiple dwellings established by section 12 of P.L.1967,
36 c.76 (C.55:13A-12).

37 b. Subsection a. of this section shall not apply to any owner-
38 occupied two-family residential property that:

39 (1) has been certified to be free of lead-based paint;

40 (2) was constructed during or after 1978; or

41 (3) **【is a seasonal rental unit which is rented for less than six**
42 **months' duration each year; or】** (Deleted by amendment, P.L. ____,
43 c. __) (pending before the Legislature as this bill)

44 (4) has been certified as having a lead-free interior by a
45 certified inspector.

46 c. Any owner who fails to comply with an order of the
47 commissioner to register any property subject to this section shall

1 be liable for a penalty of \$200 for each registration ordered by the
2 commissioner. The commissioner may issue a certificate to the
3 clerk of the Superior Court that an owner is indebted to the
4 department for the payment of such penalty and thereupon the clerk
5 shall enter upon the record of docketed judgments the name of the
6 owner, and of the State, a designation of the statute under which the
7 penalty is imposed, the amount of the penalty so certified, and the
8 date of such certification. The making of the entry shall have the
9 same force and effect as the entry of a docketed judgment in the
10 office of such clerk.

11 (cf: P.L.2007, c.251, s.2)

12

13 6. Section 12 of P.L.2003, c.311 (C.52:27D-437.12) is
14 amended to read as follows:

15 12. a. Notwithstanding any other provisions of this act, a
16 dwelling unit shall not be subject to inspection and evaluation or
17 subject to any fees for the presence of lead-based paint hazards if
18 the unit:

19 (1) has been certified to be free of lead-based paint;

20 (2) was constructed during or after 1978;

21 (3) **is** a seasonal rental unit which is rented for less than six
22 months' duration each year; **】** (Deleted by amendment, P.L. , c.)
23 (pending before the Legislature as this bill)

24 (4) has been certified as having a lead-free interior by a certified
25 inspector; or

26 (5) is occupied by the owner of the dwelling unit.

27 b. In a common interest community, any inspection fee charged
28 shall be the responsibility of the unit owner and not the
29 homeowners' association unless the association is the owner of the
30 unit.

31 (cf: P.L.2003, c.311, s.12)

32

33 7. Section 1 of P.L.2007, c.251 (C.55:13A-12.2) is amended to
34 read as follows:

35 1. a. The commissioner shall inspect every single-family and
36 two-family rental dwelling in accordance with the "Hotel and
37 Multiple Dwelling Law," P.L.1967, c.76 (C.55:13A-1 et seq.), at
38 least once every five years for lead-based paint hazards and shall
39 charge a fee sufficient to cover the cost of such inspection;
40 provided, however, that the fee shall not exceed one-third of the
41 inspection fee for a three-unit multiple dwelling, established
42 pursuant to the "Hotel and Multiple Dwelling Law," P.L.1967,
43 c.76 (C.55:13A-1 et seq.), for each unit inspected.

44 b. Notwithstanding any other provisions of P.L.2007,
45 c.251 (C.55:13A-12.2 et al.) to the contrary, a dwelling unit in a
46 single-family or two-family dwelling shall not be subject to
47 inspection and evaluation for the presence of lead-based paint
48 hazards, or for the fees for such inspection or evaluation, if the unit:

- 1 (1) has been certified to be free of lead-based paint;
2 (2) was constructed during or after 1978; or
3 (3) **is** a seasonal rental unit which is rented for less than six
4 months' duration each year; **or** (Deleted by amendment, P.L. ,
5 c.) (pending before the Legislature as this bill)
6 (4) has been certified as having a lead-free interior by a
7 certified inspector.
8 c. The commissioner shall have the power to enforce the
9 corrections of any violations found pursuant to a lead-based paint
10 hazard inspection conducted pursuant to this section as if the rental
11 unit were in a multiple dwelling subject to the requirements of the
12 "Hotel and Multiple Dwelling Law," P.L.1967, c.76 (C.55:13A-1 et
13 seq.).
14 (cf: P.L.2007, c.251, s.1)
15
16 8. This act shall take effect **'[immediately]** on the 90th day
17 after enactment¹.