

SENATE COMMITTEE SUBSTITUTE FOR
SENATE, No. 1147

STATE OF NEW JERSEY
219th LEGISLATURE

ADOPTED JUNE 21, 2021

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SYNOPSIS

Requires lead paint inspection on certain residential rental property, including upon tenant turnover; establishes lead-based paint hazard education program; appropriates \$3,900,000.

CURRENT VERSION OF TEXT

Substitute as adopted by the Senate Budget and Appropriations Committee.

(Sponsorship Updated As Of: 6/24/2021)

1 **AN ACT** concerning certain lead-based paint hazards, and
2 residential rental property, and establishing lead-based paint
3 hazard programs, supplementing P.L.2003, c.311 (C.52:27D-
4 437.1 et al.), amending various parts of the statutory law, and
5 making an appropriation.

6

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

9

10 1. (New section) a. As used in this section:

11 "Dust wipe sampling" means a sample collected by wiping a
12 representative surface and tested in accordance with a method
13 approved by the United States Department of Housing and Urban
14 Development.

15 "Tenant turnover" means the time at which all existing occupants
16 vacate a dwelling unit and all new tenants move into the dwelling
17 unit.

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

20 b. (1) Subject to subsection c. of this section, in a municipality
21 that maintains a permanent local agency for the purpose of
22 conducting inspections and enforcing laws, ordinances, and
23 regulations concerning buildings and structures within the
24 municipality, the permanent local agency shall inspect every single-
25 family, two-family, and multiple rental dwelling located within the
26 municipality at tenant turnover for lead-based paint hazards or
27 within two years of the effective date of P.L. , c. (C.)
28 (pending before the Legislature as this bill), whichever is earlier.
29 Thereafter, all such units shall be inspected for lead-based paint
30 hazards the earlier of every three years or upon tenant turnover,
31 except that an inspection upon tenant turnover shall not be required
32 if the owner has a valid lead-safe certification pursuant to this
33 section. The municipality shall charge the dwelling owner or
34 landlord a fee sufficient to cover the cost of the inspection.

35 (2) Subject to subsection c. of this section, a municipality that
36 does not maintain a permanent local agency for the purpose of
37 conducting inspections and enforcing laws, ordinances, and
38 regulations concerning buildings and structures within the
39 municipality, the municipality shall hire a lead evaluation
40 contractor, certified to provide lead paint inspection services by the
41 Department of Community Affairs, to inspect every single-family,
42 two-family, and multiple rental dwelling located within the
43 municipality at tenant turnover for lead-based paint hazards or
44 within two years of the effective date of P.L. , c. (C.)
45 (pending before the Legislature as this bill), whichever is earlier.

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.

1 Thereafter, all such units shall be inspected for lead-based paint
2 hazards the earlier of every three years or upon tenant turnover,
3 except that an inspection upon tenant turnover shall not be required
4 if the owner has a valid lead-safe certification pursuant to this
5 section. The municipality shall charge the dwelling owner or
6 landlord a fee sufficient to cover the cost of the inspection,
7 including the cost of hiring the lead evaluation contractor.

8 (3) A municipality shall permit the dwelling owner or landlord
9 to directly hire a lead evaluation contractor who is certified to
10 provide lead paint inspection services by the Department of
11 Community Affairs to satisfy the requirements of paragraph (1) or
12 (2) of this subsection.

13 (4) A permanent local agency or lead evaluation contractor with
14 the duty to inspect single-family, two-family, and multiple rental
15 dwellings pursuant to this section may consult with the local health
16 board, the Department of Health, or the Department of Community
17 Affairs concerning the criteria for the inspection and identification
18 of areas and conditions involving a high risk of lead poisoning in
19 dwellings, methods of detection of lead in dwellings, and standards
20 for the repair of dwellings containing lead paint.

21 (5) Fees established pursuant to this subsection shall be
22 dedicated to meeting the costs of implementing and enforcing this
23 subsection and shall not be used for any other purpose.

24 c. Notwithstanding subsection b. of this section to the contrary,
25 a dwelling unit in a single-family, two-family, or multiple rental
26 dwelling shall not be subject to inspection and evaluation for the
27 presence of lead-based paint hazards if the unit:

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

29 (2) was constructed during or after 1978;

30 (3) is in a multiple dwelling that has been registered with the
31 Department of Community Affairs as a multiple dwelling for at
32 least 10 years, either under the current or a previous owner, and has
33 no outstanding lead violations from the most recent cyclical
34 inspection performed on the multiple dwelling under the "Hotel and
35 Multiple Dwelling Law," P.L.1967, c.76 (C.55:13A-1 et seq.);

36 (4) is a single-family or two-family seasonal rental dwelling
37 which is rented for less than six months duration each year by
38 tenants that do not have consecutive lease renewals; or

39 (5) has a valid lead-safe certification issued in accordance with
40 this section.

41 d. (1) If a lead evaluation contractor or permanent local
42 agency finds that a lead-based paint hazard exists in a dwelling unit
43 upon conducting an inspection pursuant to this section, then the
44 owner of the dwelling unit shall remediate the lead-based paint
45 hazard by using abatement or lead-based paint hazard control
46 methods, approved in accordance with the provisions of the "Lead
47 Hazard Control Assistance Act," P.L.2003, c.311 (C.52:27D-437.1
48 et al.). Upon the remediation of the lead-based paint hazard, the

1 lead evaluation contractor or permanent local agency shall conduct
2 an additional inspection of the unit to certify that the hazard no
3 longer exists.

4 (2) If a lead evaluation contractor or permanent local agency
5 finds that no lead-based paint hazards exist in a dwelling unit upon
6 conducting an inspection pursuant to this section or following
7 remediation of a lead-based paint hazard pursuant to paragraph (1)
8 of this subsection, then the lead evaluation contractor or permanent
9 local agency shall certify the dwelling unit as lead-safe on a form
10 prescribed by the Department of Community Affairs as provided for
11 in regulations or guidance promulgated pursuant to section 8 of
12 P.L. , c. (C.) (pending before the legislature as this bill).
13 The lead-safe certification provided to the property owner by the
14 lead evaluation contractor or permanent local agency pursuant to
15 this paragraph shall be valid for two years.

16 e. Beginning on effective date of P.L. , c. (C.) (pending
17 before the Legislature as this bill), property owners shall:

18 (1) provide evidence of a valid lead-safe certification obtained
19 pursuant to this section as well as evidence of the most recent tenant
20 turnover at the time of the cyclical inspection carried out under the
21 "Hotel and Multiple Dwelling Law," P.L.1967, c.76 (C.55:13A-1 et
22 seq.), unless not required to have had an inspection by a lead
23 evaluation contractor or permanent local agency pursuant to
24 paragraphs (1), (2), or (3) of subsection c. of this section;

25 (2) provide evidence of a valid lead-safe certification obtained
26 pursuant to this section to new tenants of the property at the time of
27 tenant turnover unless not required to have had an inspection by a
28 lead evaluation contractor or permanent local agency pursuant to
29 paragraphs (1), (2), (3), and (4) of subsection c. of this section, and
30 shall affix a copy of such certification as an exhibit to the tenant's
31 or tenants' lease; and

32 (3) maintain a record of the lead-safe certification which shall
33 include the name or names of the unit's tenant or tenants, if the
34 inspection was conducted during a period of tenancy, unless not
35 required to have had an inspection by a lead evaluation contractor
36 or permanent local agency pursuant to paragraphs (1), (2), (3), and
37 (4) of subsection c. of this section.

38 f. If a lead evaluation contractor or permanent local agency
39 finds that a lead-based paint hazard exists in a dwelling unit upon
40 conducting an inspection pursuant to this section, then the lead
41 evaluation contractor or permanent local agency shall notify the
42 Commissioner of Community Affairs, who shall review the findings
43 in accordance with section 8 of the "Lead Hazard Control
44 Assistance Act," P.L.2003, c.311 (C.52:27D-437.8).

45 g. (1) If a dwelling is located in a municipality in which less
46 than three percent of children tested, six years of age or younger,
47 have a blood lead level greater than or equal to five ug/dL,
48 according to the central lead screening database maintained by the

1 Department of Health pursuant to section 5 of P.L.1995, c.328
2 (C.26:2-137.6), or according to other data deemed appropriate by
3 the commissioner, then a lead evaluation contractor or permanent
4 local agency may inspect for lead-based paint hazards through
5 visual assessment.

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

14 (3) If a lead hazard is identified in an inspection of one of the
15 dwelling units in a building consisting of two- or three- dwelling
16 units, then the lead evaluation contractor or permanent local agency
17 shall inspect the remainder of the building's dwelling units for lead
18 hazards, with the exception of dwelling units that have been
19 certified to be free of lead-based paint. The lead evaluation
20 contractor or permanent local agency may charge fees in
21 accordance with this section for such additional inspections.

22 h. In addition to the fees permitted to be charged for inspection
23 of rental housing pursuant to this section, each municipality shall
24 assess an additional fee of \$20 per unit inspected by a certified lead
25 evaluation contractor or permanent local agency for the purposes of
26 the "Lead Hazard Control Assistance Act," P.L.2003, c.311
27 (C.52:27D-437.1 et al.) concerning lead hazard control work, unless
28 the unit owner demonstrates that the Department of Community
29 Affairs has already assessed an additional inspection fee of \$20
30 pursuant to the provisions of section 10 of P.L. 2003, c. 311
31 (C.52:27D-437.10). In a common interest community, any
32 inspection fee charged pursuant to this subsection shall be the
33 responsibility of the unit owner and not the homeowners'
34 association, unless the association is the owner of the unit. The fees
35 collected pursuant to this subsection shall be deposited into the
36 "Lead Hazard Control Assistance Fund" established pursuant to
37 section 4 of P.L.2003, c.311 (C.52:27D-437.4).

38
39 2. (New section) a. The Department of Community Affairs, in
40 consultation with the Department of Health, shall establish a
41 Statewide, multifaceted, ongoing educational program designed to
42 meet the needs of tenants, property owners, realtors and real estate
43 agents, insurers and insurance agents, and local building officials
44 about the nature of lead-based paint hazards, the importance of
45 lead-based paint hazard control and mitigation, and the
46 responsibilities set forth in P.L. , c. (C.) (pending before
47 the Legislature as this bill). In developing and coordinating this
48 educational program, the department shall seek the participation and

1 involvement of private industry organizations, including those
2 involved in real estate, insurance, mortgage banking, and pediatrics.

3 b. Prior to the effective date of P.L. , c. (C.) (pending
4 before the Legislature as this bill), the department shall:

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

8 (2) Establish guidelines and a trainer's manual for a lead-based
9 paint hazard seminar for rental property owners or designated
10 persons, which the department shall forward to all public and
11 private colleges and universities in New Jersey, to other
12 professional training facilities, and to professional associations and
13 community organizations with a training capacity. The department
14 shall approve proposals to offer the seminar from institutions;
15 provided that the proposals are consistent with the guidelines. The
16 department shall create an electronic version of the lead-based paint
17 hazard seminar accessible on the Internet. The seminar shall be
18 available to tenants, property owners, and other interested parties.

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

23 (4) Solicit requests to enter into ongoing, funded partnerships to
24 provide specific counseling information services to tenants and
25 affected parties on their rights and responsibilities with regard to
26 lead-based paint hazards and lead poisoning.

27 c. The lead-based paint hazard seminar established pursuant to
28 this section shall not exceed three hours in length. The department
29 shall offer the seminar for a maximum fee of \$50 per participant.

30

31 3. (New section) In association with an application for lead
32 remediation funding provided pursuant to the "Lead Hazard Control
33 Assistance Fund" established pursuant to section 4 of P.L.2003,
34 c.311 (C.52:27D-437.4), or any other program administered for lead
35 remediation purposes by the Department of Community Affairs, the
36 department shall not request or require that a property owner
37 disclose the social security number of any person renting the
38 property or otherwise associated with the inspected property other
39 than the property owner. This disclosure requirement prohibition
40 shall apply to an application for assistance, funded and administered
41 by the State, for lead remediation purposes.

42

43 4. (New section) a. Upon the filing of a complaint with the
44 department or of the commissioner's own accord, the commissioner
45 shall be authorized to conduct investigations and issue penalties
46 against a municipality for its failure to comply with subsection b. of
47 section 1 of P.L. , c. (C.) (pending before the Legislature as
48 this bill).

1 b. A municipality or its permanent local agency shall be
2 authorized to conduct investigations and issue penalties not
3 inconsistent with this subsection to enforce a property owner's
4 failure to comply with paragraph (1) of subsection d. of section 1,
5 or subsection e. of section 1 of P.L. , c. (C.) (pending
6 before the Legislature as this bill). If the municipality or permanent
7 local agency determines that a property owner has failed to comply
8 with a provision of P.L. , c. (C.) (pending before the
9 Legislature as this bill) with respect to a rental dwelling unit owned
10 by the property owner, the property owner shall first be given 30
11 days to cure any violation by conducting the required inspection or
12 initiate any required remediation efforts. If the property owner has
13 not cured the violation after 30 days, the property owner shall be
14 subject to a penalty not to exceed \$1,000 per week until the
15 required inspection has been conducted or remediation efforts have
16 been initiated.

17

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

20 5. a. The department shall maintain a central **【data base】**
21 database which shall include a record of all lead screening
22 conducted pursuant to this act. The **【data base】** database shall
23 include the name, age and address of the child screened and any
24 other demographic data the department deems necessary. The **【data**
25 **base】** database shall be geographically indexed, by municipality, in
26 order to determine the location of areas of relatively high incidence
27 of lead poisoning.

28 b. The information reported to and compiled by the department
29 pursuant to this act is to be used only by the department and such
30 other agencies as may be designated by the commissioner and shall
31 not otherwise be divulged or made public so as to disclose the
32 identity of any child to whom it relates without written parental
33 consent; and to that end, the information shall not be included under
34 materials available to public inspection pursuant to P.L.1963,
35 c.73 (C.47:1A-1 et seq.). The department may, however, make such
36 statistical reports available using information compiled from the
37 **【data base】** database if the name or other identifying information of
38 the child screened is not revealed and in accordance with all other
39 federal and State laws regarding the protection of medical
40 information.

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

42

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

45 1. a. The commissioner shall inspect every single-family and
46 two-family rental dwelling in accordance with the "Hotel and
47 Multiple Dwelling Law," P.L.1967, c.76 (C.55:13A-1 et seq.), at

1 least once every five years for lead-based paint hazards and shall
2 charge a fee sufficient to cover the cost of such inspection;
3 provided, however, that the fee shall not exceed one-third of the
4 inspection fee for a three-unit multiple dwelling, established
5 pursuant to the "Hotel and Multiple Dwelling Law," P.L.1967,
6 c.76 (C.55:13A-1 et seq.), for each unit inspected.

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

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

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

14 (3) is a seasonal rental unit which is rented for less than six
15 months' duration each year; or

16 (4) has **【**been certified as having a lead-free interior by a
17 certified inspector**】** a valid lead-safe certification issued in
18 accordance with section 1 of P.L. , c. (C.) (pending before
19 the Legislature as this bill).

20 c. The commissioner shall have the power to enforce the
21 corrections of any violations found pursuant to a lead-based paint
22 hazard inspection conducted pursuant to this section as if the rental
23 unit were in a multiple dwelling subject to the requirements of the
24 "Hotel and Multiple Dwelling Law," P.L.1967, c.76 (C.55:13A-1 et
25 seq.).

26 (cf: P.L.2007, c.251, s.1)

27
28 7. Section 5 of P.L.2003, c.311 (C.52:27D-437.5) is amended to
29 read as follows:

30 5. a. The department is hereby authorized to provide financial
31 assistance in the form of grants or loans, or a combination thereof,
32 with moneys available from the fund to eligible owners of
33 multifamily housing and to eligible owners of single-family and
34 two-family homes, whether or not utilized as rental housing, for
35 lead hazard control work, in compliance with the terms of P.L.2003,
36 c.311 (C.52:27D-437.1 et al.) and subject to the conditions set forth
37 in this section. "Eligible owner" shall mean an owner who provides
38 proof to the satisfaction of the department of the presence of a lead-
39 based paint hazard on the owner's property.

40 b. Financial assistance in the form of a loan may be provided to
41 an eligible owner of multifamily housing, a single-family home or
42 a two-family home based on the owner's ability to repay the loan as
43 determined by the department.

44 c. Financial assistance shall be provided for a period to be
45 determined by the department.

46 d. The department may provide financial assistance, upon
47 application therefore, for up to 100% of the costs of lead hazard
48 control work, including associated lead evaluation costs, and for

1 temporary relocation assistance, except that no award of financial
2 assistance for a dwelling unit may exceed \$150,000.

3 e. Financial assistance provided in the form of a loan shall be
4 secured by a lien upon the real property on which the lead hazard
5 control work is performed, with respect to which the financial
6 assistance is made and other such collateral as the department may
7 consider necessary to secure the interests of the fund in accordance
8 with the provisions and purposes of P.L.2003, c.311 (C.52:27D-
9 437.1 et al.). The department may, if it deems necessary, require
10 the financial assistance to be secured by a personal loan guarantee
11 by the owner of the property or by a lien upon other real property
12 belonging to the person to whom the loan is made. The department
13 may authorize a loan in conjunction with an award of a grant for a
14 partial or the total amount of the costs of lead hazard control work.

15 f. The department shall establish a program to provide the
16 grants authorized pursuant to this section, including grants to
17 remediate lead-based paint hazards identified by a permanent local
18 agency or lead evaluation contractor during an inspection conducted
19 pursuant to P.L. , c. (C.) (pending before the Legislature as
20 this bill). Grants shall not be made available to owners of multiple
21 dwellings comprising more than four separate dwelling units.
22 Priority shall not be granted to any applicant on the basis of the
23 location of the housing. Priority may be given, however, to those
24 residences in which children under the age of six reside, as well as
25 for remediation for lead-based paint hazards identified by a
26 permanent local agency or lead evaluation contractor during an
27 inspection conducted pursuant to P.L. , c. (C.) (pending
28 before the Legislature as this bill). The department may award the
29 grants on a pro-rata basis to the applicants, if there is an insufficient
30 amount in the fund to award grants for the full amount of the
31 projected cost of the lead hazard control work.

32 (cf: P.L.2003, c.311, s.5)

33

34 8. (New section) a. The Commissioner of Community Affairs,
35 in accordance with the "Administrative Procedure Act," P.L.1968,
36 c.410 (C.52:14B-1 et seq.), shall adopt rules and regulations to
37 effectuate the provisions of P.L. , c. (C.) (pending before
38 the Legislature as this bill). Additionally, as soon as possible
39 following the enactment of P.L. , c. (C.) (pending before
40 the Legislature as this bill), the commissioner shall take steps
41 necessary to ensure that municipal officials are informed of the
42 responsibilities of municipalities established by P.L. ,
43 c. (C.) (pending before the Legislature as this bill).

44 b. Notwithstanding the limitations established in section 1 of
45 P.L. 2011, c.215 (C.52:14B-3a) on the use of regulatory guidance
46 documents, the commissioner shall prepare and disseminate
47 regulatory guidance documents as defined in subsection d. of
48 section 1 of P.L. 2011, c.215 (C.52:14B-3a), in advance of the

1 adoption of regulations as necessary for the administration of
2 P.L. , c. (C.) (pending before the Legislature as this bill), for
3 purposes including but not limited to: (1) providing guidance on the
4 procedures required for lead inspection and remediation, and (2) the
5 existing certifications, or educational requirements, that shall
6 qualify a person as a lead evaluation contractor.

7
8 9. (New section) There is appropriated from the General Fund
9 to the Department of Community Affairs the sum of \$3,900,000 to
10 effectuate the purposes of P.L. , c. (C.) (pending before the
11 Legislature as this bill).

12
13 10. This act shall take effect one year following enactment, but
14 the department and municipalities are authorized to take any
15 anticipatory actions necessary to prepare for the implementation of
16 the provisions of this act.