

ASSEMBLY, No. 1372

STATE OF NEW JERSEY 219th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2020 SESSION

Sponsored by:

Assemblyman JAMEL C. HOLLEY

District 20 (Union)

Assemblyman BENJIE E. WIMBERLY

District 35 (Bergen and Passaic)

Assemblyman DANIEL R. BENSON

District 14 (Mercer and Middlesex)

Assemblyman RAJ MUKHERJI

District 33 (Hudson)

Co-Sponsored by:

Assemblywomen Reynolds-Jackson, Speight and Assemblyman Chiaravalloti

SYNOPSIS

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

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.



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 unit's
38 owner, or the owner's designee, in accordance with evaluation and
39 control methods approved by the Department of Community Affairs.

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

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

44 b. (1) In a municipality that maintains a permanent local agency
45 for the purpose of conducting inspections and enforcing laws,

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 ordinances, and regulations concerning buildings and structures within
2 the municipality, the permanent local agency shall inspect every
3 single-family, two-family, and multiple rental dwelling located within
4 the municipality at tenant turnover for lead-based paint hazards. The
5 municipality shall charge the dwelling owner or landlord a fee
6 sufficient to cover the cost of the inspection.

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

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

26 (4) Fees established pursuant to this subsection shall be dedicated
27 to meeting the costs of implementing and enforcing this subsection and
28 shall not be used for any other purpose.

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

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

34 (2) was constructed during or after 1978;

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

37 (4) has been certified as lead-safe by a certified lead evaluation
38 contractor or permanent local agency pursuant to this section, or for
39 lead-based paint hazards during a cyclical inspection within the
40 preceding year.

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

1 permanent local agency shall notify the Commissioner of Community
2 Affairs in accordance with subsection e. of this section.

3 (2) If a lead evaluation contractor or permanent local agency finds
4 that no lead hazards exist in a dwelling unit upon conducting an
5 inspection pursuant to this section, then the lead evaluation contractor
6 or permanent local agency shall certify the dwelling unit as lead-safe
7 on a form prescribed by the Department of Community Affairs.
8 Property owners shall provide evidence of a lead-safe certification
9 obtained pursuant to this section at the time of the cyclical inspection
10 for lead-based paint hazards.

11 e. If a lead evaluation contractor or permanent local agency finds
12 that a lead-based paint hazard exists in a dwelling unit upon
13 conducting an inspection pursuant to this section, then the lead
14 evaluation contractor or permanent local agency shall notify the
15 Commissioner of Community Affairs, who shall review the findings in
16 accordance with section 8 of the "Lead Hazard Control Assistance
17 Act," P.L.2003, c.311 (C.52:27D-437.8). If the commissioner
18 determines that the removal and relocation of a household is
19 warranted, then the commissioner shall authorize the payment of
20 relocation assistance pursuant to P.L.2003, c.311 (C.52:27D-437.1 et
21 al.), and shall assist in the relocation of the household to lead-safe
22 housing. The commissioner may authorize the payment of relocation
23 assistance pursuant to P.L.2003, c.311 (C.52:27D-437.1 et al.) to a
24 household that has reached an agreement with a property owner to be
25 the legal inhabitant of a dwelling unit, but has not begun residing in
26 the dwelling unit because an inspection revealed a lead hazard.

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

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

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

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

4 (2) The single-family, two-family, or multiple dwelling has been
5 certified as lead-safe by a certified lead evaluation contractor or
6 permanent local agency pursuant to this section, or during a cyclical
7 inspection for lead-based paint hazards within the preceding five years.

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

14 i. In addition to the fees permitted to be charged for inspection of
15 rental housing pursuant to this section, each municipality shall assess
16 an additional fee of \$20 per unit inspected by a certified lead
17 evaluation contractor or permanent local agency for the purposes of
18 the "Lead Hazard Control Assistance Act," P.L.2003,
19 c.311 (C.52:27D-437.1 et al.) concerning lead hazard control work. In
20 a common interest community, any inspection fee charged pursuant to
21 this subsection shall be the responsibility of the unit owner and not the
22 homeowners' association, unless the association is the owner of the
23 unit. The fees collected pursuant to this subsection shall be deposited
24 into the "Lead Hazard Control Assistance Fund" established pursuant
25 to section 4 of P.L.2003, c.311 (C.52:27D-437.4).

26
27 3. (New section) a. The Department of Community Affairs, in
28 consultation with the Department of Health, shall establish a
29 Statewide, multifaceted, ongoing educational program designed to
30 meet the needs of tenants, property owners, realtors and real estate
31 agents, insurers and insurance agents, and local building officials
32 about the nature of lead hazards, the importance of lead hazard
33 control and mitigation, and the responsibilities set forth in P.L. ,
34 c. (C.) (pending before the Legislature as this bill). In
35 developing and coordinating this educational program, the
36 department shall seek the participation and involvement of private
37 industry organizations, including those involved in real estate,
38 insurance, mortgage banking, and pediatrics.

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

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

45 (2) Establish guidelines and a trainer's manual for a lead hazard
46 seminar for rental property owners or designated persons, which the
47 department shall forward to all public and private colleges and
48 universities in New Jersey, to other professional training facilities,

1 and to professional associations and community organizations with
2 a training capacity. The department shall approve proposals to
3 offer the seminar from institutions; provided that the proposals are
4 consistent with the guidelines. The department shall create an
5 electronic version of the lead hazard seminar accessible on the
6 Internet. The seminar shall be available to tenants, property
7 owners, and other interested parties.

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

12 (4) Solicit requests to enter into ongoing, funded partnerships to
13 provide specific counseling information services to tenants and
14 affected parties on their rights and responsibilities with regard to
15 lead hazards and lead poisoning.

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

19

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

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

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

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

42

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

45 2. a. Except as otherwise provided in subsection b. of this
46 section, every owner of a tenant-occupied single-family or two-
47 family residential property, including, without limitation, a two-

1 family property in which one unit is owner-occupied, shall file a
2 certificate of registration on forms prescribed by the Commissioner
3 of Community Affairs, in accordance with section 2 of P.L.1974,
4 c.50 (C.46:8-28), with the Bureau of Housing Inspection in the
5 Department of Community Affairs. Any such filing shall be
6 accompanied by a filing fee not exceeding the filing for hotels and
7 multiple dwellings established by section 12 of P.L.1967,
8 c.76 (C.55:13A-12).

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

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

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

13 (3) **[is a seasonal rental unit which is rented for less than six**
14 **months' duration each year; or]** (Deleted by amendment, P.L. ,
15 c.) (pending before the Legislature as this bill)

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

18 c. Any owner who fails to comply with an order of the
19 commissioner to register any property subject to this section shall
20 be liable for a penalty of \$200 for each registration ordered by the
21 commissioner. The commissioner may issue a certificate to the
22 clerk of the Superior Court that an owner is indebted to the
23 department for the payment of such penalty and thereupon the clerk
24 shall enter upon the record of docketed judgments the name of the
25 owner, and of the State, a designation of the statute under which the
26 penalty is imposed, the amount of the penalty so certified, and the
27 date of such certification. The making of the entry shall have the
28 same force and effect as the entry of a docketed judgment in the
29 office of such clerk.

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

31

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

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

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

39 (2) was constructed during or after 1978;

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

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

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

46 b. In a common interest community, any inspection fee charged
47 shall be the responsibility of the unit owner and not the

1 homeowners' association unless the association is the owner of the
2 unit.

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

4

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

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

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

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

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

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

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

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

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

35

36 8. This act shall take effect immediately.

37

38

39

STATEMENT

40

41 This bill would require every contract of sale of real property to
42 include a provision requiring, as a condition of the sale, a lead
43 evaluation contractor, certified to provide lead paint inspection
44 services by the Department of Community Affairs (DCA), to inspect
45 any dwelling located on the real property for lead-based paint hazards.
46 If a lead evaluation contractor finds that no lead hazards exist in
47 dwellings located on the property, then the lead evaluation contractor

1 would certify the property as lead-safe on a form prescribed by the
2 DCA.

3 Additionally, this bill would require municipalities to inspect every
4 single-family, two-family, and multiple rental dwelling located within
5 the municipality for lead-based paint hazards at tenant turnover.
6 Municipalities would charge a fee for the inspection at a rate
7 proportional to the current "Hotel and Multiple Dwelling Law" fee
8 schedule. Moreover, the bill requires municipalities to impose an
9 additional fee of \$20 per unit inspected by a certified lead evaluation
10 contractor or permanent local agency for deposit into the "Lead
11 Hazard Control Assistance Fund."

12 In a municipality that maintains a permanent local agency for the
13 purpose of conducting inspections and enforcing laws, ordinances, and
14 regulations concerning buildings and structures within the
15 municipality, the permanent local agency would inspect single-family,
16 two-family, and multiple rental dwellings located within the
17 municipality for lead-based paint hazards. If the municipality does not
18 maintain a permanent local agency that conducts inspections and
19 enforces laws, ordinances, and regulations concerning buildings and
20 structures within the municipality, then the municipality would hire a
21 lead evaluation contractor, certified to provide lead paint inspection
22 services by the DCA, to inspect single-family, two-family, and
23 multiple rental dwellings located within the municipality for lead-
24 based paint hazards. A permanent local agency or lead evaluation
25 contractor with the duty to inspect single-family, two-family, and
26 multiple rental dwellings may consult the local health board, the
27 Department of Health, or the DCA concerning the criteria for the
28 inspection and identification of areas and conditions involving a high
29 risk of lead poisoning in dwellings, methods of detection of lead in
30 dwellings, and standards for the repair of dwellings containing lead
31 paint.

32 Dwelling units that pass visual tests for intact paint frequently
33 contain invisible lead dust hazards detectable through dust wipe
34 sampling. Thus, in municipalities that have a higher concentration of
35 children with elevated blood lead levels, the bill requires a lead
36 evaluation contractor or permanent local agency to inspect for lead-
37 based paint hazards through dust wipe sampling. In municipalities
38 with a lower concentration of children with elevated blood lead levels,
39 the bill allows a lead evaluation contractor or permanent local agency
40 to inspect for lead-based paint hazards through visual assessment.

41 Rental properties that have been certified to be free of lead-based
42 paint or lead-safe, properties that were constructed during or after
43 1978, and seasonal rental units would be exempt from the inspection
44 and registration requirements. However, the bill eliminates the
45 exemption for seasonal rentals from the cyclical inspections required
46 under the "Hotel and Multiple Dwelling Act."

47 Lastly, the bill requires the DCA, in consultation with the
48 Department of Health, to establish a Statewide, multifaceted, ongoing

A1372 HOLLEY, WIMBERLY

10

1 educational program designed to meet the needs of tenants, property
2 owners, realtors and real estate agents, insurers and insurance agents,
3 and local building officials about the nature of lead hazards, the
4 importance of lead hazard control and mitigation, and the
5 responsibilities set forth in this bill. The bill requires the DCA to
6 establish guidelines and a trainer's manual for a lead hazard seminar
7 for rental property owners. The lead hazard seminar established under
8 this bill would not exceed three hours in length and would be offered
9 for a maximum fee of \$50 per participant. Property owners who
10 complete the lead hazard seminar may be eligible to self-inspect their
11 properties under this bill. In order to self-inspect, the Department of
12 Community Affairs, a permanent local agency, or a certified lead
13 evaluation contractor would have had to certify the dwelling as lead-
14 safe within the preceding five years.