

SENATE, No. 856

STATE OF NEW JERSEY 218th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2018 SESSION

Sponsored by:

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District 15 (Hunterdon and Mercer)

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SYNOPSIS

Requires municipalities to conduct lead paint inspections in single- and two-family dwellings; requires reporting of inspection results to State.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.



1 AN ACT concerning lead paint inspection requirements in single-
2 and two-family dwellings, requiring reporting of inspection
3 results, supplementing P.L.2003, c.311 (C.52:27D-437.1 et al.),
4 amending various parts of the statutory law, and repealing
5 section 1 of P.L.2007, c.251.

6

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

9

10 1. (New section) a. (1) In a municipality that maintains a
11 permanent local agency for the purpose of conducting inspections
12 and enforcing laws, ordinances, and regulations concerning
13 buildings and structures within the municipality, the permanent
14 local agency shall inspect every single-family and two-family rental
15 dwelling located within the municipality at least once every five
16 years for lead-based paint hazards, except the permanent local
17 agency shall inspect single-family and two-family rental dwellings
18 on which encapsulation has been performed to remediate lead-based
19 paint hazards at least once every two years. The municipality shall
20 charge a fee sufficient to cover the cost of the inspection.

21 (2) In a municipality that does not maintain a permanent local
22 agency for the purpose of conducting inspections and enforcing
23 laws, ordinances, and regulations concerning buildings and
24 structures within the municipality, the municipality shall hire a lead
25 evaluation contractor, certified to provide lead paint inspection
26 services by the Department of Community Affairs, to inspect every
27 single-family and two-family rental dwelling located within the
28 municipality at least once every five years for lead-based paint
29 hazards, except a lead evaluation contractor shall inspect single-
30 family and two-family rental dwellings on which encapsulation has
31 been performed to remediate lead-based paint hazards at least once
32 every two years. The municipality shall charge a fee sufficient to
33 cover the cost of the inspection, including the cost of hiring the lead
34 evaluation contractor.

35 (3) A permanent local agency or lead evaluation contractor with
36 the duty to inspect single-family and two-family rental dwellings
37 pursuant to this section may consult with the local health board, the
38 Department of Health, or the Department of Community Affairs
39 concerning the criteria for the inspection and identification of areas
40 and conditions involving a high risk of lead poisoning in dwellings,
41 methods of detection of lead in dwellings, and standards for the
42 repair of dwellings containing lead paint.

43 (4) A permanent local agency or lead evaluation contractor with
44 the duty to inspect single-family and two-family rental dwellings
45 pursuant to this section shall annually report the number of

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 inspections conducted and identify areas that have a high risk of
2 lead exposure to the Department of Community Affairs using an
3 electronic system established by the Department of Community
4 Affairs for this purpose. The Department of Community Affairs
5 shall compile the reports and make them available to the public on
6 the department's Internet website in a searchable format.

7 (5) The Department of Community Affairs shall submit an
8 annual report to the Department of Health and to the Governor and
9 the Legislature, pursuant to section 2 of P.L.1991, c.164 (C.52:14-
10 19.1), detailing Statewide lead inspection activity and including
11 recommendations for more efficient lead hazard detection and
12 abatement.

13 b. Notwithstanding subsection a. of this section or any other
14 provisions of P.L. , c. (C.) (pending before the Legislature
15 as this bill) to the contrary, a dwelling unit in a single-family or
16 two-family dwelling shall not be subject to inspection and
17 evaluation for the presence of lead-based paint hazards, or for the
18 fees for such inspection or evaluation, if 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; or

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

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

31 d. In addition to the fees permitted to be charged for inspection
32 of single-family and two-family rental housing pursuant to this
33 section, a municipality shall assess an additional fee of \$20 per unit
34 inspected for the purposes of P.L.2003, c.311 (C.52:27D-437.1 et
35 al.) concerning lead hazard control work. In a common interest
36 community, any inspection fee charged pursuant to this subsection
37 shall be the responsibility of the unit owner and not the
38 homeowners' association, unless the association is the owner of the
39 unit. The fees collected pursuant to this subsection shall be
40 deposited into the "Lead Hazard Control Assistance Fund"
41 established pursuant to section 4 of P.L.2003, c.311 (C.52:27D-
42 437.4).

43 e. As used in this section:

44 "Encapsulation" means a process that makes lead-based paint
45 inaccessible by using a liquid-applied coating or an adhesively
46 bonded covering material to provide a barrier between the lead-
47 based paint and the surrounding environment.

1 2. Section 6 of P.L.1971, c.366 (C.24:14A-6) is amended to read
2 as follows:

3 6. The board in each municipality or other area of jurisdiction,
4 shall have the primary responsibility for investigation of violations
5 under P.L.1971, c.366 (C.24:14A-1 et seq.) and the enforcement of
6 P.L.1971, c.366 (C.24:14A-1 et seq.), except as provided otherwise
7 in accordance with P.L.2003, c.311 (C.52:27D-437.1 et al.) and
8 section 1 of P.L. , c. (C.) (pending before the Legislature
9 as this bill), and shall make reports of all such violations and
10 enforcement procedures to the State Department of Health **【and**
11 **Senior Services】** and the Department of Community Affairs when
12 relocation assistance is required pursuant to P.L.2003, c.311.
13 (cf: P.L.2003, c.311, s.13)
14

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

17 2. a. Except as otherwise provided in subsection b. of this
18 section, every owner of a tenant-occupied single-family or two-
19 family residential property, including, without limitation, a two-
20 family property in which one unit is owner-occupied, shall file a
21 certificate of registration on forms prescribed by the Commissioner
22 of Community Affairs, in accordance with section 2 of P.L.1974,
23 c.50 (C.46:8-28), with **【the Bureau of Housing Inspection in the**
24 **Department of Community Affairs】** the clerk of the municipality, or
25 with such other municipal official as is designated by the clerk, in
26 which the residential property is situated. Any such filing shall be
27 accompanied by a filing fee not exceeding the filing for hotels and
28 multiple dwellings established by section 12 of P.L.1967, c.76
29 (C.55:13A-12).

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

- 32 (1) has been certified to be free of lead-based paint;
33 (2) was constructed during or after 1978;
34 (3) is a seasonal rental unit which is rented for less than six
35 months' duration each year; or
36 (4) has been certified as having a lead-free interior by a certified
37 inspector.

38 c. Any owner who fails to comply with an order of **【the**
39 **commissioner】** a municipality to register any property subject to
40 this section shall be liable for a penalty of \$200 for each registration
41 ordered by the **【commissioner】** municipality. **【The commissioner】**
42 A municipality may issue a certificate to the clerk of the Superior
43 Court that an owner is indebted to the **【department】** municipality
44 for the payment of such penalty and thereupon the clerk shall enter
45 upon the record of docketed judgments the name of the owner, and
46 of the **【State】** municipality, a designation of the statute under which
47 the penalty is imposed, the amount of the penalty so certified, and

1 the date of such certification. The making of the entry shall have
2 the same force and effect as the entry of a docketed judgment in the
3 office of such clerk.

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

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6 4. Section 6 of P.L.2003, c.311 (C.52:27D-437.6) is amended to
7 read as follows:

8 6. The Commissioner of Community Affairs shall adopt,
9 pursuant to the "Administrative Procedure Act," P.L.1968, c.410
10 (C.52:14B-1 et seq.), rules and regulations necessary to effectuate
11 the provisions of P.L.2003, c.311 (C.52:27D-437.1 et al.),
12 including, but not limited to: the issuance of loans and grants, lead-
13 based paint hazard inspections and evaluations, lead hazard control
14 work, and training courses for persons engaged in lead-safe
15 maintenance work or lead hazard control work. These regulations
16 shall allow for certified third party risk assessors to provide
17 assurance that rental properties meet the standards established for
18 subsection (w) of section 7 of P.L.1967, c.76 (C.55:13A-7) as added
19 by P.L.2003, c.311. Property owners using such third party risk
20 assessors shall provide evidence of compliance at the time of the
21 cyclical inspection carried out under the "Hotel and Multiple
22 Dwelling Law," P.L.1967, c.76 (C.55:13A-1 et seq.) or under
23 section 1 of **[P.L.2007, c.251 (C.55:13A-12.2)] P.L. , c. (C.)**
24 (pending before the Legislature as this bill). Notwithstanding this
25 intent the department shall maintain existing authority to respond to
26 tenant complaints related to subsection (w) of section 7 of
27 P.L.1967, c.76 (C.55:13A-7) as added by P.L.2003, c.311.

28 (cf: P.L.2007, c.251, s.3)

29

30 5. Section 10 of P.L.2003, c.311 (C.52:27D-437.10) is amended
31 to read as follows:

32 10. In addition to the fees permitted to be charged for inspection
33 of multiple dwellings pursuant to section 13 of P.L.1967, c.76
34 (C.55:13A-13) **[and the fees that the commissioner shall establish**
35 **for the inspection of single-family and two-family rental housing**
36 **pursuant to P.L.2007, c.251 (C.55:13A-12.2 et al.)],** the department
37 shall assess an additional fee of \$20 per unit inspected for the
38 purposes of P.L.2003, c.311 (C.52:27D-437.1 et al.) concerning
39 lead hazard control work. In a common interest community, any
40 inspection fee charged pursuant to this section shall be the
41 responsibility of the unit owner and not the homeowners'
42 association unless the association is the owner of the unit. The fees
43 collected pursuant to this section shall be deposited into the "Lead
44 Hazard Control Assistance Fund" established pursuant to section 4
45 of P.L.2003, c.311 (C.52:27D-437.4).

46 (cf: P.L.2007, c.251, s.4)

47

48 6. Section 1 of P.L.2007, c.251 (C.55:13A-12.2) is repealed.

1 7. This act shall take effect immediately.

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STATEMENT

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6 This bill would require municipalities to inspect every single-
7 family and two-family rental dwelling located within the municipality
8 for lead-based paint hazards at least once every five years, except
9 municipalities would inspect single-family and two-family rental
10 dwellings on which encapsulation has been performed to remediate
11 lead-based paint hazards at least once every two years. Municipalities
12 would charge a fee for the inspection at a rate proportional to the
13 current "Hotel and Multiple Dwelling Law" fee schedule. In addition,
14 municipalities would be required to impose an additional fee of \$20
15 per unit inspected for deposit into the "Lead Hazard Control
16 Assistance Fund."

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

37 Furthermore, this bill would require a permanent local agency or
38 lead evaluation contractor with the duty to inspect single-family and
39 two-family rental dwellings to report annually the number of
40 inspections conducted and identify areas that have a high risk of lead
41 exposure to the Department of Community Affairs. The department
42 would establish an electronic system for this purpose. The bill would
43 require the department to compile the reports and make them available
44 to the public on the department's Internet website in a searchable
45 format. The department would submit an annual report to the
46 Department of Health, the Governor, and the Legislature detailing
47 Statewide lead inspection activity and including recommendations for
48 more efficient lead hazard detection and abatement.

1 Under this bill, municipalities would be responsible for conducting
2 inspections of single-family and two-family rental dwellings for lead-
3 based paint hazards, but the DCA would remain responsible for the
4 promulgation of regulations concerning the presence of lead-based
5 paint hazards in single-family and two-family rental dwellings
6 pursuant to subsection (w) of section 7 of P.L.1967, c.76 (C.55:13A-
7 7).

8 The bill would also require owners of tenant-occupied single-
9 family and two-family residential property to file a certificate of
10 registration with the clerk of the municipality, or with such other
11 municipal official as is designated by the clerk, in which the residential
12 property is situated. Properties that have been certified to be free of
13 lead-based paint or of having a lead-free interior, properties that were
14 constructed during or after 1978, and seasonal rental units would be
15 exempt from the inspection and registration requirements. These
16 exemptions are consistent with provisions of current law governing
17 multiple dwellings.

18 Under current law, the DCA must inspect single-family and two-
19 family rental dwellings for lead-based paint hazards at least once every
20 five years. Currently, owners of tenant-occupied single-family and
21 two-family residential property must also file a certificate of
22 registration with the DCA. This bill would shift inspection and
23 registration duties from the DCA to the municipality in which the
24 rental property is situated.