

**ASSEMBLY, No. 4623**

**STATE OF NEW JERSEY**  
**221st LEGISLATURE**

INTRODUCED JUNE 24, 2024

**Sponsored by:**

**Assemblyman CLINTON CALABRESE**

**District 36 (Bergen and Passaic)**

**SYNOPSIS**

Concerns law protecting residential tenants from lead-based paint hazards.

**CURRENT VERSION OF TEXT**

As introduced.



A4623 CALABRESE

2

1 AN ACT concerning lead-based paint hazards in residential rental  
2 property, including establishing lead-based paint hazard  
3 programs, amending P.L.2021, c.182, and repealing section 1 of  
4 P.L.2007, c.251.

5

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

8

9 1. Section 1 of P.L.2021, c.182 (C.52:27D-437.16) is amended  
10 to read as follows:

11 1. a. As used in this section:

12 "Common area" means the interior portions of a building used  
13 for residential rental purposes that are generally accessible to  
14 residential tenants, but not including the interior of individual  
15 dwelling units. Common areas shall include, but not be limited to  
16 hallways, stairs, foyers, basements, laundry rooms, and the interior  
17 of attached or detached garages, if the areas are generally accessible  
18 to residential tenants, and the areas are not located within the  
19 interior of an individual dwelling unit.

20 "Dust wipe sampling" means a sample collected by wiping a  
21 representative surface and tested in accordance with a method  
22 approved by the United States Department of Housing and Urban  
23 Development.

24 "Dwelling unit" means a single-family living space, including a  
25 single family home, or an apartment, room, or rooms within a two-  
26 family or multiple-family building, that is occupied or intended to  
27 be occupied for sleeping or dwelling purposes by one or more  
28 persons living independently of persons in similar dwelling units.

29 "Planned real estate development" means a planned real estate  
30 development, as defined by section 3 of P.L.1977, c.419 (C.45:22A-  
31 23).

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

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

37 b. (1) Subject to subsection c. of this section, in a municipality  
38 that maintains a permanent local agency for the purpose of  
39 conducting inspections and enforcing laws, ordinances, and  
40 regulations concerning buildings and structures within the  
41 municipality, either:

42 (a) the permanent local agency shall inspect [every single-  
43 family, two-family, and multiple rental dwelling] each rental  
44 dwelling unit, and the common area within each building that

**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 contains a rental dwelling unit, and that is located within the  
2 municipality [at tenant turnover] for lead-based paint hazards; or  
3 (b) to provide for the inspection of each rental dwelling unit and  
4 the common area within each building that contains a rental  
5 dwelling unit located within the municipality, the governing body  
6 shall enter into a contract with a lead evaluation contractor, certified  
7 to provide lead paint inspection services by the Department of  
8 Community Affairs, or enter into a shared service agreement with a  
9 local unit, to inspect those rental dwelling units and the common  
10 areas for lead-based paint hazards.

11 A municipality shall cause the inspection of rental dwelling units  
12 and common areas for lead-based paint hazards at tenant turnover or  
13 within [two] three years of the effective date of P.L.2021, c.182  
14 (C.52:27D-437.16 et al.), whichever is earlier. Thereafter, all such  
15 units shall be inspected for lead-based paint hazards the earlier of  
16 every three years or upon tenant turnover, except that an inspection  
17 upon tenant turnover shall not be required if the owner has a valid  
18 lead-safe certification pursuant to this section. The municipality  
19 shall charge the dwelling owner or landlord a fee sufficient to cover  
20 the cost of the inspection.

21 (2) Subject to subsection c. of this section, in a municipality that  
22 does not maintain a permanent local agency for the purpose of  
23 conducting inspections and enforcing laws, ordinances, and  
24 regulations concerning buildings and structures within the  
25 municipality, the [municipality shall hire] governing body shall  
26 either enter into: a contract with a lead evaluation contractor,  
27 certified to provide lead paint inspection services by the  
28 Department of Community Affairs, or a shared service agreement  
29 with a local unit, to inspect [every single-family, two-family, and  
30 multiple] each rental dwelling unit and the common areas within  
31 each building that contains a rental dwelling unit, and that is located  
32 within the municipality for lead-based paint hazards.

33 A municipality shall cause the inspection of rental dwelling units  
34 for lead-based paint hazards at tenant turnover [for lead-based paint  
35 hazards] or within [two] three years of the effective date of  
36 P.L.2021, c.182 (C.52:27D-437.16 et al.), whichever is earlier.  
37 Thereafter, all such units shall be inspected for lead-based paint  
38 hazards the earlier of every three years or upon tenant turnover,  
39 except that an inspection upon tenant turnover shall not be required  
40 if the owner has a valid lead-safe certification pursuant to this  
41 section. The municipality shall charge the dwelling owner or  
42 landlord a fee sufficient to cover the cost of the inspection,  
43 including the cost of hiring the lead evaluation contractor.

44 (3) A municipality shall permit the dwelling owner or landlord  
45 to directly hire a lead evaluation contractor who is certified to  
46 provide lead paint inspection services by the Department of

1 Community Affairs to satisfy the requirements of paragraph (1) or  
2 (2) of this subsection.

3 (4) A permanent local agency or lead evaluation contractor with  
4 the duty to inspect single-family, two-family, and multiple rental  
5 dwellings pursuant to this section may consult with the local health  
6 board, the Department of Health, or the Department of Community  
7 Affairs concerning the criteria for the inspection and identification  
8 of areas and conditions involving a high risk of lead poisoning in  
9 dwellings, methods of detection of lead in dwellings, and standards  
10 for the repair of dwellings containing lead paint.

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

14 c. Notwithstanding subsection b. of this section to the contrary,  
15 a dwelling unit **【in a single-family, two-family, or multiple rental**  
16 **dwelling】** shall not be subject to inspection and evaluation for the  
17 presence of lead-based paint hazards if the unit:

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

19 (2) was constructed during or after 1978;

20 (3) is in a multiple **【dwelling】** family building that **【has been**  
21 registered with the Department of Community Affairs as a multiple  
22 dwelling for at least 10 years, either under the current or a previous  
23 owner, and**】** has no outstanding lead-based paint violations from the  
24 two most recent cyclical 【inspection】 inspections performed **【on**  
25 **the multiple dwelling】** under the "Hotel and Multiple Dwelling  
26 Law," P.L.1967, c.76 (C.55:13A-1 et seq.);

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

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

32 d. (1) 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 owner of  
35 the dwelling unit shall remediate the lead-based paint hazard by  
36 using abatement or lead-based paint hazard control methods,  
37 approved in accordance with the provisions of the "Lead Hazard  
38 Control Assistance Act," P.L.2003, c.311 (C.52:27D-437.1 et al.).  
39 Upon the remediation of the lead-based paint hazard, the lead  
40 evaluation contractor or permanent local agency shall conduct an  
41 additional inspection of the unit to certify that the hazard no longer  
42 exists.

43 (2) If a lead evaluation contractor or permanent local agency  
44 finds that no lead-based paint hazards exist in a dwelling unit upon  
45 conducting an inspection pursuant to this section or following  
46 remediation of a lead-based paint hazard pursuant to paragraph (1)  
47 of this subsection, then the lead evaluation contractor or permanent

1 local agency shall certify the dwelling unit as lead-safe on a form  
2 prescribed by the Department of Community Affairs as provided for  
3 in regulations or guidance promulgated pursuant to section 8 of  
4 P.L.2021, c.182 (C.52:27D-437.20). The lead-safe certification  
5 provided to the property owner by the lead evaluation contractor or  
6 permanent local agency pursuant to this paragraph shall be valid for  
7 ~~two~~ three years.

8 e. Beginning on the effective date of P.L.2021, c.182  
9 (C.52:27D-437.16 et al.), property owners shall:

10 (1) ~~provide evidence of a valid lead-safe certification obtained~~  
11 ~~pursuant to this section as well as evidence of the most recent tenant~~  
12 ~~turnover at the time of the cyclical inspection carried out under the~~  
13 ~~"Hotel and Multiple Dwelling Law," P.L.1967, c.76 (C.55:13A-1 et~~  
14 ~~seq.), unless not required to have had an inspection by a lead~~  
15 ~~evaluation contractor or permanent local agency pursuant to~~  
16 ~~paragraph (1), (2), or (3) of subsection c. of this section;~~ (Deleted  
17 by amendment, P.L. , c. ) (pending before the Legislature as this  
18 bill)

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

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

32 f. ~~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)] Each  
39 municipality shall deliver to the Department of Community Affairs  
40 a list identifying each dwelling unit inspected pursuant to this  
41 section, and each dwelling unit determined to contain a lead-based  
42 paint hazard. The department shall, pursuant to section 2 of  
43 P.L.1991, c.164 (C.52:14-19.1), submit an annual report to the  
44 Legislature indicating the number of inspected dwelling units  
45 identified to have lead-based paint hazards. The report shall list the  
46 number of inspected dwellings and dwelling units identified to have  
47 lead-based paint hazards within each county.~~

1 g. (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]** reference value greater than or equal to  
4 five ug/dL, or any other blood lead level adopted by the Department  
5 of Health, according to the central lead screening database  
6 maintained by the Department of Health pursuant to section 5 of  
7 P.L.1995, c.328 (C.26:2-137.6), or according to other data deemed  
8 appropriate by the **[commissioner]** Commissioner of Community  
9 Affairs, then a lead evaluation contractor or permanent local agency  
10 may inspect for lead-based paint hazards through visual assessment.  
11 The Commissioner of Community Affairs may determine an  
12 appropriate blood lead reference value on the basis of multiple  
13 years of data.

14 (2) If a dwelling unit is located in a municipality in which at  
15 least three percent of children tested, six years of age or younger,  
16 have a blood lead **[level]** reference value greater than or equal to  
17 five ug/dL, or any other blood lead level adopted by the Department  
18 of Health, according to the central lead screening database  
19 maintained by the Department of Health pursuant to section 5 of  
20 P.L.1995, c.328 (C.26:2-137.6), or according to other data deemed  
21 appropriate by the **[commissioner]** Commissioner of Community  
22 Affairs, then a lead evaluation contractor or permanent local agency  
23 shall inspect for lead-based paint hazards through dust wipe  
24 sampling. The Commissioner of Community Affairs may  
25 determine an appropriate blood lead reference value on the basis of  
26 multiple years of data. The disclosure of this data for the purposes  
27 of this section shall not constitute the disclosure of the identity of a  
28 child pursuant to section 5 of P.L.1995, c.328 (C.26:2-137.6).

29 (3) If a lead hazard is identified in an inspection of one of the  
30 dwelling units in a building consisting of two- or three- dwelling  
31 units, then the lead evaluation contractor or permanent local agency  
32 shall inspect the remainder of the building's dwelling units for lead  
33 hazards, with the exception of dwelling units that have been  
34 certified to be **[free of lead-based paint]** lead-safe. The lead  
35 evaluation contractor or permanent local agency may charge fees in  
36 accordance with this section for such additional inspections.

37 h. In addition to the fees permitted to be charged for inspection  
38 of rental housing pursuant to this section, each municipality shall  
39 assess an additional fee of \$20 per unit inspected by a certified lead  
40 evaluation contractor or permanent local agency for the purposes of  
41 the "Lead Hazard Control Assistance Act," P.L.2003, c.311  
42 (C.52:27D-437.1 et al.) concerning lead hazard control work, unless  
43 the unit owner demonstrates that the Department of Community  
44 Affairs has already assessed an additional inspection fee of \$20  
45 pursuant to the provisions of section 10 of P.L. 2003, c. 311  
46 (C.52:27D-437.10). In a **[common interest community]** planned  
47 real estate development, 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 (cf: P.L.2021, c.182, s.1)

8  
9 2. Section 2 of P.L.2021, c.182 (C.52:27D-437.17) is amended  
10 to read as follows:

11 2. a. The Department of Community Affairs, in consultation  
12 with the Department of Health, shall establish a Statewide **【**  
13 **multifaceted, ongoing】** educational program designed to meet the  
14 needs of tenants, property owners, realtors and real estate agents,  
15 insurers and insurance agents, and local building officials about the  
16 nature of lead-based paint hazards, the importance of lead-based  
17 paint hazard control and mitigation, and the responsibilities set  
18 forth in P.L.2021, c.182 (C.52:27D-437.16 et al.). In developing  
19 **【and coordinating】** this **【educational】** program, the department  
20 shall **【seek the participation and involvement of private industry**  
21 **organizations, including those involved in real estate, insurance,**  
22 **mortgage banking, and pediatrics】** :

23 (1) create an electronic version of the program which shall be  
24 available on the Internet. The program shall not exceed three hours;

25 (2) promulgate, pursuant to the "Administrative Procedure Act,"  
26 P.L.1968, c.410 (C.52:14B-1 et seq.), rules for the dissemination of  
27 information about the requirements of P.L.2021, c.182 (C.52:27D-  
28 437.16 et al.) to all prospective owners of pre-1978 dwellings  
29 during the real estate transaction, settlement, or closing;

30 (3) provide updated educational materials regarding  
31 amendments to P.L.2021, c.182 or changes to the regulations  
32 adopted pursuant thereto; and

33 (4) solicit requests to enter into ongoing, funded partnerships to  
34 provide specific counseling information services to tenants and  
35 affected parties on their rights and responsibilities with regard to  
36 lead-based paint hazards and lead poisoning.

37 b. **【**Prior to the effective date of P.L.2021, c.182 (C.52:27D-  
38 437.16 et al.), the department shall:

39 (1) Create educational materials outlining the rights and  
40 responsibilities of parties subject to the provisions of P.L.2021,  
41 c.182 (C.52:27D-437.16 et al.).

42 (2) Establish guidelines and a trainer's manual for a lead-based  
43 paint hazard seminar for rental property owners or designated  
44 persons, which the department shall forward to all public and  
45 private colleges and universities in New Jersey, to other  
46 professional training facilities, and to professional associations and  
47 community organizations with a training capacity. The department

1 shall approve proposals to offer the seminar from institutions;  
2 provided that the proposals are consistent with the guidelines. The  
3 department shall create an electronic version of the lead-based paint  
4 hazard seminar accessible on the Internet. The seminar shall be  
5 available to tenants, property owners, and other interested parties.

6 (3) Promulgate rules for the dissemination of information about  
7 the requirements of P.L.2021, c.182 (C.52:27D-437.16 et al.) to all  
8 prospective owners of pre-1978 dwellings during the real estate  
9 transaction, settlement, or closing.

10 (4) Solicit requests to enter into ongoing, funded partnerships to  
11 provide specific counseling information services to tenants and  
12 affected parties on their rights and responsibilities with regard to  
13 lead-based paint hazards and lead poisoning. ~~]( Deleted by  
14 amendment, P.L. , c. ) (pending before the Legislature as this  
15 bill)~~

16 c. ~~][The lead-based paint hazard seminar established pursuant  
17 to of this section shall not exceed three hours in length. The  
18 department shall offer the seminar for a maximum fee of \$50 per  
19 participant.]( Deleted by amendment, P.L. , c. ) (pending before  
20 the Legislature as this bill)~~

21 (cf: P.L.2021, c.182, s.2)

22

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

24

25 4. This act shall take effect immediately, however, the  
26 provisions of subsection b. of section 1 of P.L.2021, c.182  
27 (C.52:27D-437.16) which authorize a municipal governing body to  
28 provide lead-based paint inspection services by contract or shared  
29 service agreement shall apply retroactively to authorize an  
30 agreement entered into on or after July 22, 2022.

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32

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#### STATEMENT

34

35 This bill amends provisions of P.L.2021, c.192 (C.52:27D-  
36 437.16 et. al) to clarify the laws that require inspections of certain  
37 residential rental properties for lead-based paint hazards.  
38 Additionally, the bill would repeal a section of the "Hotel and  
39 Multiple Dwelling Law" (HMDL), P.L.2007, c.251, s.1 (C.55:13A-  
40 12.2), which requires the Department of Community Affairs (DCA)  
41 to inspect single-family and two-family rental dwellings for lead-  
42 based paint hazards.

43 Under current law, if a municipality maintains a permanent local  
44 construction code enforcement agency, the local agency is required  
45 to inspect certain residential rental dwellings for lead-based paint  
46 hazards, however, if a municipality does not maintain a permanent  
47 local agency, the municipality is required to hire a lead evaluation  
48 contractor to conduct inspections. This bill provides municipalities



1 that maintain a local code enforcement agency the option of either  
2 conducting inspections in-house or hiring a certified lead evaluation  
3 contractor to perform the inspections. Alternatively, the bill  
4 proposes allowing any municipality to satisfy the lead-based paint  
5 inspection requirements through entry into a shared service  
6 agreement with another local unit.

7 Current law exempts units within a multiple dwelling that have  
8 been registered with DCA for at least 10 years, and which have no  
9 outstanding lead violations from the most recent HMDL cyclical  
10 inspection. This bill replaces reference to a dwelling's registration  
11 with an exclusion from lead-based paint inspection requirements for  
12 multiple dwellings that have no outstanding lead-based paint  
13 violations from the two most recent HMDL cyclical inspections.

14 Current law excepts certain types of dwelling units from lead-  
15 based paint inspection requirements. One such exception is for  
16 dwelling units within a multiple dwelling, which multiple dwelling  
17 has been registered with DCA for at least 10 years, and which has  
18 no outstanding lead violations from the most recent HMDL cyclical  
19 inspection. DCA has indicated that current law's reference to being  
20 "registered" with DCA is problematic and leads to confusion in  
21 administering the law. To address this concern, the bill proposes  
22 deleting reference to a dwelling's registration with DCA and instead  
23 exclude a multiple dwelling from lead-based paint inspection  
24 requirements if the multiple dwelling has no outstanding lead-based  
25 paint violations from the two most recent HMDL cyclical  
26 inspections.

27 Under current law, a "lead-safe certification" provided to a  
28 property owner by a lead evaluation contractor or a permanent local  
29 construction code enforcement agency is valid for two years. This  
30 bill extends validity of a lead-safe certification to three years so the  
31 certification period will run together with lead inspection  
32 timeframes.

33 Under current law, if an inspection identifies a lead-based paint  
34 hazard within a dwelling unit, the inspector is required to notify  
35 DCA, and DCA is required to review those findings for the purpose  
36 of determining whether the lead-based paint hazard warrants the  
37 removal and relocation of residents and provision of assistance.  
38 Current law does not specify or establish a funding mechanism for  
39 DCA to fund this relocation assistance. Therefore, the bill amends  
40 current law to only require a municipality to deliver to DCA a list  
41 identifying each dwelling unit inspected, and each dwelling unit  
42 determined to contain a lead-based paint hazard. Additionally, the  
43 bill requires DCA to submit an annual report to the Legislature  
44 indicating the number of inspected dwelling units identified to have  
45 lead-based paint hazards within each county.

46 Current law specifies child blood-lead levels which trigger  
47 certain lead paint inspection modalities. The bill instead provides  
48 the Department of Health with the power to adopt other blood-lead

1 level standards, and empowers DCA to identify other data  
2 appropriate for distinguishing between whether an inspection must  
3 include a dust-wipe sampling or may be accomplished through a  
4 visual inspection.

5 Current law requires DCA to establish an educational program  
6 on lead-based paint hazard control and mitigation. One component  
7 of this program is establishment of a lead-based paint hazard  
8 seminar, designed specifically for rental property owners, but  
9 available to tenants, property owners, and other interested parties.  
10 The bill proposes amending this requirement to specify that DCA is  
11 to create an electronic version of the lead-based paint educational  
12 program, that the program not exceed three hours in length and be  
13 available on the Internet. Additionally, the bill proposes requiring  
14 DCA: to adopt rules for the dissemination of information about the  
15 bill's requirements to prospective owners of pre-1978 dwellings  
16 during the real estate transaction, settlement, or closing; to provide  
17 updated educational materials regarding amendments to the lead-  
18 based paint hazard laws or changes to the regulations adopted  
19 pursuant thereto; and to solicit requests to enter into funded  
20 partnerships to provide information and counseling to tenants and  
21 affected parties on their rights and responsibilities with regard to  
22 lead-based paint hazards and lead poisoning.

23 Finally, the bill proposes repealing a provision of current law  
24 that provides for lead-based paint inspections by DCA as part of the  
25 five-year cyclical inspection process under the HMDL. DCA has  
26 recommended the repeal of this section, asserting that it is  
27 unnecessary in light of provisions of the 2021 enactment, which  
28 provided for lead-based paint inspections by local enforcing  
29 agencies and private contractors. Additionally, the bill deletes a  
30 related provision that currently requires property owners to provide  
31 evidence of a valid lead-safe certification at the time of the cyclical  
32 HMDL inspection.

33 The bill would take effect immediately upon adoption, however,  
34 the bill provisions which authorize a municipal governing body to  
35 provide lead-based paint inspection services by contract or shared  
36 service agreement would apply retroactively to authorize an  
37 agreement entered into on or after July 22, 2022.