

SENATE, No. 3368

STATE OF NEW JERSEY

221st LEGISLATURE

INTRODUCED JUNE 3, 2024

Sponsored by:

Senator M. TERESA RUIZ

District 29 (Essex and Hudson)

Senator ANGELA V. MCKNIGHT

District 31 (Hudson)

SYNOPSIS

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

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 6/3/2024)

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.