

[First Reprint]

SENATE, No. 3368

STATE OF NEW JERSEY
221st LEGISLATURE

INTRODUCED JUNE 3, 2024

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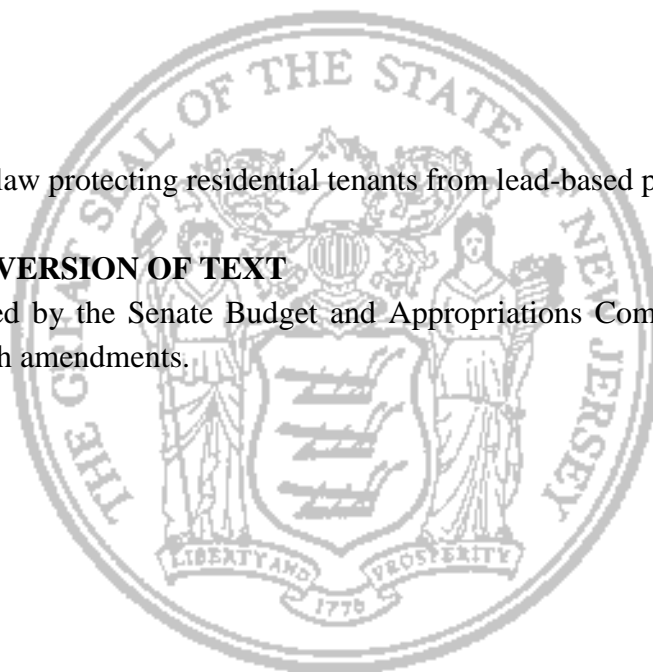
**Senators Turner, Timberlake, Assemblywomen Hall, Donlon, Murphy,
Assemblymen Miller, Atkins, Assemblywoman Speight and Assemblyman
Inganamort**

SYNOPSIS

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

CURRENT VERSION OF TEXT

As reported by the Senate Budget and Appropriations Committee on June 24, 2024, with amendments.



(Sponsorship Updated As Of: 6/28/2024)

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 ¹, in a building consisting of two or three

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.

Matter enclosed in superscript numerals has been adopted as follows:

¹Senate SBA committee amendments adopted June 24, 2024.

1 dwelling units,¹ the common area within each building that contains
2 a rental dwelling unit, and that is located within the municipality
3 **【at tenant turnover】** for lead-based paint hazards; or

4 (b) to provide for the inspection of each rental dwelling unit and
5 ¹, in a building consisting of two or three dwelling units,¹ the
6 common area within each building that contains a rental dwelling
7 unit located within the municipality, the governing body shall enter
8 into a contract with a lead evaluation contractor, certified to provide
9 lead paint inspection services by the Department of Community
10 Affairs, or enter into a shared service agreement with a local unit, to
11 inspect those rental dwelling units and the common areas for lead-
12 based paint hazards.

13 A municipality shall cause the inspection of rental dwelling units
14 and ¹, in a building consisting of two or three dwelling units,¹
15 common areas for lead-based paint hazards at tenant turnover or
16 within **【two】** three years of the effective date of P.L.2021, c.182
17 (C.52:27D-437.16 et al.), whichever is earlier. Thereafter, all such
18 units shall be inspected for lead-based paint hazards the earlier of
19 every three years or upon tenant turnover, except that an inspection
20 upon tenant turnover shall not be required if the owner has a valid
21 lead-safe certification pursuant to this section. The municipality
22 shall charge the dwelling owner or landlord a fee sufficient to cover
23 the cost of the inspection.

24 (2) Subject to subsection c. of this section, in a municipality that
25 does not maintain a permanent local agency for the purpose of
26 conducting inspections and enforcing laws, ordinances, and
27 regulations concerning buildings and structures within the
28 municipality, the **【municipality shall hire】** governing body shall
29 either enter into: a contract with a lead evaluation contractor,
30 certified to provide lead paint inspection services by the
31 Department of Community Affairs, or a shared service agreement
32 with a local unit, to inspect **【every single-family, two-family, and**
33 multiple**】** each rental dwelling unit and ¹, in a building consisting of
34 two or three dwelling units,¹ the common areas within each
35 building that contains a rental dwelling unit, and that is located
36 within the municipality for lead-based paint hazards.

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

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

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

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

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

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

22 (2) was constructed during or after 1978;

23 (3) is in a multiple **【dwelling】** family building that **【has been**
24 **registered with the Department of Community Affairs as a multiple**
25 **dwelling for at least 10 years, either under the current or a previous**
26 **owner, and】** ¹has been registered with the Department of
27 Community Affairs as a multiple family building for at least 10
28 years, either under the current or a previous owner, and¹ has no
29 outstanding lead-based paint violations from the two most recent
30 cyclical **【inspection】** inspections performed **【on the multiple**
31 **dwelling】** under the "Hotel and Multiple Dwelling Law," P.L.1967,
32 c.76 (C.55:13A-1 et seq.);

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

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

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

1 additional inspection of the unit to certify that the hazard no longer
2 exists.

3 (2) If a lead evaluation contractor or permanent local agency
4 finds that no lead-based paint hazards exist in a dwelling unit upon
5 conducting an inspection pursuant to this section or following
6 remediation of a lead-based paint hazard pursuant to paragraph (1)
7 of this subsection, then the lead evaluation contractor or permanent
8 local agency shall certify the dwelling unit as lead-safe on a form
9 prescribed by the Department of Community Affairs as provided for
10 in regulations or guidance promulgated pursuant to section 8 of
11 P.L.2021, c.182 (C.52:27D-437.20). The lead-safe certification
12 provided to the property owner by the lead evaluation contractor or
13 permanent local agency pursuant to this paragraph shall be valid for
14 **【two】** three years.

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

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

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

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

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

1 section, and each dwelling unit determined to contain a lead-based
2 paint hazard. The department shall, pursuant to section 2 of
3 P.L.1991, c.164 (C.52:14-19.1), submit an annual report to the
4 Legislature indicating the number of inspected dwelling units
5 identified to have lead-based paint hazards. The report shall list the
6 number of inspected dwellings and dwelling units identified to have
7 lead-based paint hazards within each county.

8 g. (1) If a dwelling is located in a municipality in which less
9 than three percent of children tested, six years of age or younger,
10 have a blood lead **【level】** reference value greater than or equal to
11 five ug/dL, or any other blood lead level adopted by the Department
12 of Health, according to the central lead screening database
13 maintained by the Department of Health pursuant to section 5 of
14 P.L.1995, c.328 (C.26:2-137.6), or according to other data deemed
15 appropriate by the **【commissioner】** Commissioner of Community
16 Affairs, then a lead evaluation contractor or permanent local agency
17 may inspect for lead-based paint hazards through visual assessment.
18 The Commissioner of Community Affairs may determine an
19 appropriate blood lead reference value on the basis of multiple
20 years of data.

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

36 (3) If a lead hazard is identified in an inspection of one of the
37 dwelling units in a building consisting of two- or three- dwelling
38 units, then the lead evaluation contractor or permanent local agency
39 shall inspect the remainder of the building's dwelling units for lead
40 hazards, with the exception of dwelling units that have been
41 certified to be **【free of lead-based paint】** lead-safe. The lead
42 evaluation contractor or permanent local agency may charge fees in
43 accordance with this section for such additional inspections.

44 ¹(4) If a dwelling owner or landlord directly hires a lead
45 evaluation contractor who is certified to provide lead paint
46 inspection services by the Department of Community Affairs to
47 complete the inspection required under paragraph (1) of this

1 subsection, then the owner may elect to have the inspection
2 performed through dust wipes in lieu of visual examination.¹

3 h. In addition to the fees permitted to be charged for inspection
4 of rental housing pursuant to this section, each municipality shall
5 assess an additional fee of \$20 per unit inspected by a certified lead
6 evaluation contractor or permanent local agency for the purposes of
7 the "Lead Hazard Control Assistance Act," P.L.2003, c.311
8 (C.52:27D-437.1 et al.) concerning lead hazard control work, unless
9 the unit owner demonstrates that the Department of Community
10 Affairs has already assessed an additional inspection fee of \$20
11 pursuant to the provisions of section 10 of P.L. 2003, c. 311
12 (C.52:27D-437.10). In a **【common interest community】** planned
13 real estate development, any inspection fee charged pursuant to this
14 subsection shall be the responsibility of the unit owner and not the
15 homeowners' association, unless the association is the owner of the
16 unit. The fees collected pursuant to this subsection shall be
17 deposited into the "Lead Hazard Control Assistance Fund"
18 established pursuant to section 4 of P.L.2003, c.311 (C.52:27D-
19 437.4).
20 (cf: P.L.2021, c.182, s.1)

21

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

24 2. a. The Department of Community Affairs, in consultation
25 with the Department of Health, shall establish a Statewide **【**
26 **multifaceted, ongoing】** educational program designed to meet the
27 needs of tenants, property owners, realtors and real estate agents,
28 insurers and insurance agents, and local building officials about the
29 nature of lead-based paint hazards, the importance of lead-based
30 paint hazard control and mitigation, and the responsibilities set
31 forth in P.L.2021, c.182 (C.52:27D-437.16 et al.). In developing
32 **【and coordinating】** this **【educational】** program, the department
33 shall **【seek the participation and involvement of private industry**
34 **organizations, including those involved in real estate, insurance,**
35 **mortgage banking, and pediatrics】** ;

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

38 (2) promulgate, pursuant to the "Administrative Procedure Act,"
39 P.L.1968, c.410 (C.52:14B-1 et seq.), rules for the dissemination of
40 information about the requirements of P.L.2021, c.182 (C.52:27D-
41 437.16 et al.) to all prospective owners of pre-1978 dwellings
42 during the real estate transaction, settlement, or closing;

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

46 (4) solicit requests to enter into ongoing, funded partnerships to
47 provide specific counseling information services to tenants and

1 affected parties on their rights and responsibilities with regard to
2 lead-based paint hazards and lead poisoning.

3 b. **【**Prior to the effective date of P.L.2021, c.182 (C.52:27D-
4 437.16 et al.), the department shall:

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

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

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

23 (4) Solicit requests to enter into ongoing, funded partnerships to
24 provide specific counseling information services to tenants and
25 affected parties on their rights and responsibilities with regard to
26 lead-based paint hazards and lead poisoning. **】** (Deleted by
27 amendment, P.L. , c.) (pending before the Legislature as this
28 bill)

29 c. **【**The lead-based paint hazard seminar established pursuant
30 to of this section shall not exceed three hours in length. The
31 department shall offer the seminar for a maximum fee of \$50 per
32 participant. **】** (Deleted by amendment, P.L. , c.) (pending before
33 the Legislature as this bill)

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

35

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

37

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

44 ered into on or after July 22, 2022.