

LEGISLATIVE FISCAL ESTIMATE
SENATE COMMITTEE SUBSTITUTE FOR
SENATE, No. 1147
STATE OF NEW JERSEY
219th LEGISLATURE

DATED: JUNE 29, 2021

SUMMARY

- Synopsis:** Requires lead paint inspection on certain residential rental property, including upon tenant turnover; establishes lead-based paint hazard education program; appropriates \$3,900,000.
- Type of Impact:** Annual State expenditure and revenue increases.
Annual municipal expenditure and revenue increases.
- Agencies Affected:** Department of Community Affairs, Department of Health, and municipalities.

Office of Legislative Services Estimate

Fiscal Impact	<u>Year 1</u>	<u>Year 2</u>	<u>Year 3</u>
State Cost Increase		Indeterminate	
State Revenue Increase		Indeterminate	
Municipal Cost Increase		Indeterminate	
Municipal Revenue Increase		Indeterminate	

- The Office of Legislative Services (OLS) estimates that the bill would result in increases in municipal expenditures and revenues due to the inspection of residential rental properties for lead-based paint hazards and the collection of inspection and violation fees. Municipalities would be able to collect up to \$1,000 per week in penalties from non-compliant property owners.
- The bill is expected to increase the expenditures and revenues of the Department of Community Affairs (DCA) associated with the establishment of an educational program and training seminar, in consultation with the Department of Health, concerning lead-based paint hazards and administrative requirements and the collection of seminar fees. The bill permits the DCA to charge a maximum fee of \$50 per seminar participant.
- The bill is also expected to increase State revenues associated with the deposit of fee receipts into the Lead Hazard Control Assistance Fund. Under the bill, each municipality is required to assess an additional fee of \$20 per unit inspected for deposit into this State fund unless the dwelling has already been charged a comparable fee by the DCA.

- The OLS also expects the bill to increase in State expenditures and revenues associated with the provision of relocation assistance to certain tenants after the discovery of lead hazards in residential rental properties. As set forth in current law, the OLS assumes that affected property owners would be required to reimburse the State for these costs.
- The bill also appropriates \$3.9 million from the General Fund to the DCA for the purposes of the bill.

BILL DESCRIPTION

The bill would require lead-based paint inspections to be conducted on certain residential rental properties at tenant turnover and certain other times. The bill would also appropriate \$3.9 million from the State General Fund to the DCA for the purposes of the bill.

In addition to the cost of an inspection, the bill requires municipalities to impose an additional fee of \$20 per unit inspected by a certified lead evaluation contractor or permanent local agency for deposit into the “Lead Hazard Control Assistance Fund,” unless the dwelling has already been charged a \$20 fee for deposit into the “Lead Hazard Control Assistance Fund” by DCA for lead hazard inspections conducted by the DCA.

Following the effective date of the bill, a municipality that maintains a permanent local agency for the purpose of conducting inspections and enforcing laws, ordinances, and regulations concerning buildings and structures within the municipality, would be required, through the agency, to inspect single-family, two-family, and multiple rental dwellings for lead-based paint hazards either within two years, or upon tenant turnover, whichever is earlier. Thereafter, all such units would be inspected, with certain exceptions, by the earlier of every three years or upon tenant turnover. Municipalities that do not maintain a permanent local agency, for the purposes described, would be required to hire a lead evaluation contractor, certified to provide lead paint inspection services by the DCA, to inspect the same types of rental dwellings, under the same time requirements. The municipality would charge the dwelling owner a fee sufficient to cover the cost of the inspection, including the cost of hiring the contractor. The bill would also require municipalities to allow an owner to directly hire a lead evaluation contractor as long as the lead evaluation contractor is certified by DCA to provide lead paint inspection services.

Inspectors may consult local health boards, the Department of Health (DOH), or the DCA concerning the criteria for the inspection and identification of areas and conditions involving a high risk of lead poisoning in dwellings, methods of detection of lead in dwellings, and standards for the repair of dwellings containing lead paint.

In municipalities that have a high concentration of children with elevated blood lead levels, the bill requires a lead evaluation contractor or permanent local agency to inspect for lead-based paint hazards through dust wipe sampling. In municipalities with a low concentration of children with elevated blood lead levels, the bill allows a lead evaluation contractor or permanent local agency to inspect for lead-based paint hazards through visual assessment. A lead-safe designation for a dwelling unit that passes the lead inspection would be valid for two years.

Properties that have been certified to be free of lead-based paint or have received a lead-safe certification and properties that were constructed during or after 1978 would be exempt from the inspection and registration requirements. Multiple dwelling units registered with DCA for at least 10 years with no outstanding lead violations from the most recent cyclical inspection would also be exempt. Finally, single- and two-family seasonal rental dwellings rented for less than six months’ durations by tenants without consecutive lease renewals would also be exempt.

If, upon conducting an inspection, a lead-based paint hazard exists in a dwelling unit, the owner would be required to remediate through methods compliant with the "Lead Hazard Control Assistance Act."

Upon the filing of a complaint with the DCA, or on the commissioner's own accord, the DCA would be authorized to conduct investigations and issue penalties against a municipality for a failure to comply with its inspection and remediation responsibilities as established by the bill. Additionally, a municipality or its permanent local agency would be authorized to conduct investigations and issue penalties to enforce a property owner's failure to comply with paragraph its inspection and remediation responsibilities as established by the bill. If the municipality or permanent local agency determines that a property owner has failed to comply with a provision of the bill, the property owner would first be given 30 days to cure any violation by conducting the required inspection or initiate any required remediation efforts. If the property owner has not cured the violation after 30 days, the property owner would be subject to a penalty not to exceed \$1,000 per week until the required inspection has been conducted or remediation efforts have been initiated.

The bill also requires the DCA, in consultation with the DOH, to establish a Statewide, multifaceted, ongoing educational program designed to meet the needs of tenants, property owners, realtors and real estate agents, insurers and insurance agents, and local building officials about the nature of lead hazards, the importance of lead hazard control and mitigation, and the responsibilities set forth in this bill. The bill requires the DCA to establish guidelines and a trainer's manual for a lead hazard seminar for rental property owners. The lead hazard seminar established under this bill is not to exceed three hours in length and be offered for a maximum fee of \$50 per participant.

The bill additionally prohibits the DCA from requesting or requiring a property owner to disclose the social security number of any person renting the property or otherwise associated with the inspected property, other than the actual owner, in association with an application for lead remediation funding provided pursuant to the "Lead Hazard Control Assistance Fund" or any other program administered by the DCA for lead remediation.

The bill directs the DCA to adopt regulations and regulatory guidance documents as determined necessary for the administration of the bill. The bill also directs DCA to ensure that municipal officials are informed of their responsibilities under the bill.

The bill would take effect one year following enactment.

FISCAL ANALYSIS

EXECUTIVE BRANCH

None received.

OFFICE OF LEGISLATIVE SERVICES

The OLS estimates that the bill would result in increases in municipal expenditures and revenues due to the inspection of residential rental properties for lead-based paint hazards and the collection of inspection and violation fees. Municipalities would be able to collect up to \$1,000 per week in penalties from non-compliant property owners.

- The bill is expected to increase the expenditures and revenues of the DCA associated with the establishment of an educational program and training seminar, in consultation with the DOH, concerning lead-based paint hazards and administrative requirements and the collection of seminar fees. The bill permits the DCA to charge a maximum fee of \$50 per seminar participant.
- The bill is also expected to increase State revenues associated with the deposit of fee receipts into the Lead Hazard Control Assistance Fund. Under the bill, each municipality is required to assess an additional fee of \$20 per unit inspected for deposit into this State fund unless the dwelling has already been charged a comparable fee by the DCA.
- The OLS also expects the bill to increase in State expenditures and revenues associated with the provision of relocation assistance to certain tenants after the discovery of lead hazards in residential rental properties. As set forth in current law, the OLS assumes that affected property owners would be required to reimburse the State for these costs.
- The bill also appropriates \$3.9 million from the General Fund to the DCA for the purposes of the bill.

Municipal Lead Inspections

Under the bill, municipalities are responsible for inspecting certain residential rental properties for lead-based paint hazards upon tenant turnover. Consequently, the bill is expected to increase municipal expenditures associated with the inspection of these rental properties. The OLS notes municipalities with a greater number of residential rental properties are expected to incur larger cost increases compared to those with fewer rental properties. The lead-safe certification provided to the property owner by the lead evaluation contractor or permanent local agency would be valid for two years.

However, these inspection costs are expected to vary significantly by municipality depending on the entity that conducts the inspection, the type of inspection that is conducted, and the number of rental units that undergo municipal inspection. As such, the OLS is unable to quantify the total costs that will be incurred by municipalities as a result of the bill. The OLS notes that the bill permits the dwelling owner or landlord to directly hire a certified lead evaluation contractor or conduct self-inspections of a rental property, provided that the person completes the seminar established by the DCA. Also, the OLS expects municipalities that are permitted to conduct visual assessments to experience reduced inspection costs compared to those that use dust wipe sampling.

The OLS notes that any inspection costs that are incurred by a municipality may be partially or wholly offset by the collection of inspection fees. Under the bill, municipalities are required to impose a fee sufficient to cover the costs of the inspection, including the cost of hiring a lead evaluation contractor. The municipality may also impose a penalty, not to exceed \$1,000 per week, on property owners that have not sufficiently cured violations.

DCA Educational Program and Seminar

The bill is expected to result in an indeterminate increase in State expenditures and revenues associated with the establishment of an educational program and training seminar by the DCA and the collection of seminar fees. Absent information from the DCA concerning the manner in which these requirements would be implemented, the OLS is unable to quantify the anticipated increase in State expenditures. However, the OLS notes that these cost increases are expected to be partially or wholly offset by the collection of seminar fees equal to a maximum fee of \$50 per seminar participant.

Provision of Relocation Assistance

The bill would result in increases in State expenditures and revenues associated with the provision of relocation assistance to certain tenants following the discovery of lead hazards in residential rental properties.

Under current law, when relocation assistance is authorized pursuant to the Lead Hazard Control Assistance Act, the DCA may seek reimbursement from the owner of the rental property from which a tenant is removed. Moreover, the DCA is required to seek reimbursement from the rental property owner if a tenant has been removed from the property due to the owner's failure to maintain a lead-safe condition. In this circumstance, all relocation costs are required to be repaid by the owner of the rental property. If these costs are not repaid within ten days of the due date, the law requires interest to accrue on the unpaid balance at a rate of 18 percent per annum until all costs are fully paid.

Assuming that the provision of any relocation assistance mandated under this bill would result from the determination that the rental property owner failed to maintain a lead-safe condition, the OLS anticipates that these costs would be at least partially reimbursed by the owners of affected rental properties. No award of financial relocation assistance may exceed \$150,000.

Section: Local Government

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This legislative fiscal estimate has been produced by the Office of Legislative Services due to the failure of the Executive Branch to respond to our request for a fiscal note.

This fiscal estimate has been prepared pursuant to P.L.1980, c.67 (C.52:13B-6 et seq.).