

SENATE, No. 1147

STATE OF NEW JERSEY

219th LEGISLATURE

INTRODUCED FEBRUARY 3, 2020

Sponsored by:

Senator M. TERESA RUIZ

District 29 (Essex)

Senator NILSA CRUZ-PEREZ

District 5 (Camden and Gloucester)

SYNOPSIS

Requires lead paint inspection prior to home purchases and tenant turnover; establishes educational program on lead hazards.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 2/10/2020)

1 AN ACT concerning lead paint inspections prior to home purchases
2 and tenant turnover, establishing an educational program on lead
3 hazards, supplementing P.L.2003, c.311 (C.52:27D-437.1 et al.),
4 and amending various parts of the statutory law.
5

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

9 1. (New section) a. Every contract of sale of real property that
10 has not been certified as lead-safe under subsection c. of this
11 section shall include a provision requiring, as a condition of the
12 sale, the seller to hire a lead evaluation contractor, certified to
13 provide lead paint inspection services by the Department of
14 Community Affairs, to inspect any dwelling located on the real
15 property for lead-based paint hazards.

16 b. Closing of title on the sale of the real property shall not
17 occur unless both the buyer and the seller have received and
18 reviewed a copy of the inspection results. At closing, the buyer and
19 seller both shall certify, in writing, that they have received and
20 reviewed the inspection results.

21 c. If a lead evaluation contractor finds that no lead hazards
22 exist in a dwelling upon conducting an inspection pursuant to this
23 section, then the lead evaluation contractor shall certify the
24 dwelling as lead-safe on a form prescribed by the Department of
25 Community Affairs.

26 d. Notwithstanding this section or any other provisions of
27 P.L. , c. (C.) (pending before the Legislature as this bill)
28 to the contrary, a dwelling shall not be subject to inspection and
29 evaluation for the presence of lead-based paint hazards if the
30 dwelling was constructed during or after 1978.
31

32 2. (New section) a. As used in this section:

33 "Dust wipe sampling" means a sample collected by wiping a
34 representative surface and tested in accordance with a method
35 approved by the United States Department of Housing and Urban
36 Development.

37 "Self-inspection" means evaluation of a dwelling unit by the
38 unit's owner, or the owner's designee, in accordance with evaluation
39 and control methods approved by the Department of Community
40 Affairs.

41 "Tenant turnover" means the time at which all existing occupants
42 vacate a dwelling unit and all new tenants move into the dwelling
43 unit.

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

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 b. (1) In a municipality that maintains a permanent local
2 agency for the purpose of conducting inspections and enforcing
3 laws, ordinances, and regulations concerning buildings and
4 structures within the municipality, the permanent local agency shall
5 inspect every single-family, two-family, and multiple rental
6 dwelling located within the municipality at tenant turnover for lead-
7 based paint hazards. The municipality shall charge the dwelling
8 owner or landlord a fee sufficient to cover the cost of the
9 inspection.

10 (2) In a municipality that does not maintain a permanent local
11 agency for the purpose of conducting inspections and enforcing
12 laws, ordinances, and regulations concerning buildings and
13 structures within the municipality, the municipality shall hire a lead
14 evaluation contractor, certified to provide lead paint inspection
15 services by the Department of Community Affairs, to inspect every
16 single-family, two-family, and multiple rental dwelling located
17 within the municipality at tenant turnover for lead-based paint
18 hazards. The municipality shall charge the dwelling owner or
19 landlord a fee sufficient to cover the cost of the inspection,
20 including the cost of hiring the lead evaluation contractor.

21 (3) A permanent local agency or lead evaluation contractor with
22 the duty to inspect single-family, two-family, and multiple rental
23 dwellings pursuant to this section may consult with the local health
24 board, the Department of Health, or the Department of Community
25 Affairs concerning the criteria for the inspection and identification
26 of areas and conditions involving a high risk of lead poisoning in
27 dwellings, methods of detection of lead in dwellings, and standards
28 for the repair of dwellings containing lead paint.

29 (4) Fees established pursuant to this subsection shall be
30 dedicated to meeting the costs of implementing and enforcing this
31 subsection and shall not be used for any other purpose.

32 c. Notwithstanding subsection b. of this section to the contrary,
33 a dwelling unit in a single-family, two-family, or multiple rental
34 dwelling shall not be subject to inspection and evaluation for the
35 presence of lead hazards if the unit:

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

37 (2) was constructed during or after 1978;

38 (3) is a seasonal rental unit which is rented for less than six
39 months' duration each year; or

40 (4) has been certified as lead-safe by a certified lead evaluation
41 contractor or permanent local agency pursuant to this section, or the
42 Bureau of Housing Inspection in the Department of Community
43 Affairs during a cyclical inspection under the "Hotel and Multiple
44 Dwelling Law," P.L.1967, c.76 (C.55:13A-1 et seq.), within the
45 preceding year.

46 d. (1) If a lead evaluation contractor or permanent local
47 agency finds that a lead hazard exists in a dwelling unit upon
48 conducting an inspection pursuant to this section, then the owner of

1 the dwelling unit shall remediate and dispose of the lead hazard by
2 using abatement or lead hazard control methods, approved in
3 accordance with the provisions of the "Lead Hazard Control
4 Assistance Act," P.L.2003, c.311 (C.52:27D-437.1 et al.). The lead
5 evaluation contractor or permanent local agency shall notify the
6 Commissioner of Community Affairs in accordance with subsection
7 e. of this section.

8 (2) If a lead evaluation contractor or permanent local agency
9 finds that no lead hazards exist in a dwelling unit upon conducting
10 an inspection pursuant to this section, then the lead evaluation
11 contractor or permanent local agency shall certify the dwelling unit
12 as lead-safe on a form prescribed by the Department of Community
13 Affairs. Property owners shall provide evidence of a lead-safe
14 certification obtained pursuant to this section at the time of the
15 cyclical inspection carried out under the "Hotel and Multiple
16 Dwelling Law," P.L.1967, c.76 (C.55:13A-1 et seq.).

17 e. If a lead evaluation contractor or permanent local agency
18 finds that a lead-based paint hazard exists in a dwelling unit upon
19 conducting an inspection pursuant to this section, then the lead
20 evaluation contractor or permanent local agency shall notify the
21 Commissioner of Community Affairs, who shall review the findings
22 in accordance with section 8 of the "Lead Hazard Control
23 Assistance Act," P.L.2003, c.311 (C.52:27D-437.8). If the
24 commissioner determines that the removal and relocation of a
25 household is warranted, then the commissioner shall authorize the
26 payment of relocation assistance pursuant to P.L.2003,
27 c.311 (C.52:27D-437.1 et al.), and shall assist in the relocation of
28 the household to lead-safe housing. The commissioner may
29 authorize the payment of relocation assistance pursuant to P.L.2003,
30 c.311 (C.52:27D-437.1 et al.) to a household that has reached an
31 agreement with a property owner to be the legal inhabitant of a
32 dwelling unit, but has not begun residing in the dwelling unit
33 because an inspection revealed a lead hazard.

34 f. (1) If a dwelling is located in a municipality in which less
35 than three percent of children tested, six years of age or younger,
36 have a blood lead level greater than or equal to five ug/dL,
37 according to the central lead screening database maintained by the
38 Department of Health pursuant to section 5 of P.L.1995,
39 c.328 (C.26:2-137.6), then a lead evaluation contractor or
40 permanent local agency may inspect for lead-based paint hazards
41 through visual assessment.

42 (2) If a dwelling is located in a municipality in which at least
43 three percent of children tested, six years of age or younger, have a
44 blood lead level greater than or equal to five ug/dL, according to the
45 central lead screening database maintained by the Department of
46 Health pursuant to section 5 of P.L.1995, c.328 (C.26:2-137.6), then
47 a lead evaluation contractor or permanent local agency shall inspect
48 for lead-based paint hazards through dust wipe sampling.

1 g. Notwithstanding any provision of this section, the "Lead
2 Hazard Control Assistance Act," P.L.2003, c.311 (C.52:27D-437.1
3 et al.), or the "Hotel and Multiple Dwelling Law," P.L.1967,
4 c.76 (C.55:13A-1 et seq.), to the contrary, rental property owners or
5 designated persons may conduct self-inspections of single-family,
6 two-family, and multiple dwellings at tenant turnover if:

7 (1) The property owner or designated person completed the lead
8 hazard seminar established pursuant to section 3 of P.L. ,
9 c. (C.) (pending before the Legislature as this bill); and

10 (2) A certified lead evaluation contractor or permanent local
11 agency pursuant to this section, or the Bureau of Housing
12 Inspection in the Department of Community Affairs during a
13 cyclical inspection pursuant to the "Hotel and Multiple Dwelling
14 Law," P.L.1967, c.76 (C.55:13A-1 et seq.), certified the single-
15 family, two-family, or multiple dwelling as lead safe within the
16 preceding five years.

17 h. A landlord conducting self-inspections pursuant to
18 subsection g. of this section shall notify all effected tenants and
19 shall certify, in writing, that the landlord or a designee performed a
20 self-inspection and no lead hazards were detected. Failure to
21 conduct self-inspections in good faith shall constitute an unlawful
22 practice under the New Jersey consumer fraud act, P.L.1960,
23 c.39 (C.56:8-1 et seq.).

24 i. In addition to the fees permitted to be charged for inspection
25 of rental housing pursuant to this section, each municipality shall
26 assess an additional fee of \$20 per unit inspected by a certified lead
27 evaluation contractor or permanent local agency for the purposes of
28 the "Lead Hazard Control Assistance Act," P.L.2003,
29 c.311 (C.52:27D-437.1 et al.) concerning lead hazard control work.
30 In a common interest community, any inspection fee charged
31 pursuant to this subsection shall be the responsibility of the unit
32 owner and not the homeowners' association, unless the association
33 is the owner of the unit. The fees collected pursuant to this
34 subsection shall be deposited into the "Lead Hazard Control
35 Assistance Fund" established pursuant to section 4 of P.L.2003,
36 c.311 (C.52:27D-437.4).

37
38 3. (New section) a. The Department of Community Affairs, in
39 consultation with the Department of Health, shall establish a
40 Statewide, multifaceted, ongoing educational program designed to
41 meet the needs of tenants, property owners, realtors and real estate
42 agents, insurers and insurance agents, and local building officials
43 about the nature of lead hazards, the importance of lead hazard
44 control and mitigation, and the responsibilities set forth in P.L. ,
45 c. (C.) (pending before the Legislature as this bill). In
46 developing and coordinating this educational program, the
47 department shall seek the participation and involvement of private

1 industry organizations, including those involved in real estate,
2 insurance, mortgage banking, and pediatrics.

3 b. Within 90 days of the effective date of P.L. ,
4 c. (C.) (pending before the Legislature as this bill), the
5 department shall:

6 (1) Create educational materials outlining the rights and
7 responsibilities of parties subject to the provisions of P.L. ,
8 c. (C.) (pending before the Legislature as this bill).

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

20 (3) Promulgate rules for the dissemination of information about
21 the requirements of P.L. , c. (C.) (pending before the
22 Legislature as this bill) to all prospective owners of pre-1978
23 dwellings during the real estate transaction, settlement, or closing;

24 (4) Solicit requests to enter into ongoing, funded partnerships to
25 provide specific counseling information services to tenants and
26 affected parties on their rights and responsibilities with regard to
27 lead hazards and lead poisoning.

28 c. The lead hazard seminar established pursuant to this section
29 shall not exceed three hours in length. The department shall offer
30 the seminar for a maximum fee of \$50 per participant.

31

32 4. Section 5 of P.L.1995, c.328 (C.26:2-137.6) is amended to
33 read as follows:

34 5. a. The department shall maintain a central **【data base】**
35 database which shall include a record of all lead screening
36 conducted pursuant to this act. The **【data base】** database shall
37 include the name, age and address of the child screened and any
38 other demographic data the department deems necessary. The **【data**
39 **base】** database shall be geographically indexed, by municipality, in
40 order to determine the location of areas of relatively high incidence
41 of lead poisoning.

42 b. The information reported to and compiled by the department
43 pursuant to this act is to be used only by the department and such
44 other agencies as may be designated by the commissioner and shall
45 not otherwise be divulged or made public so as to disclose the
46 identity of any child to whom it relates without written parental
47 consent; and to that end, the information shall not be included under
48 materials available to public inspection pursuant to P.L.1963,

1 c.73 (C.47:1A-1 et seq.). The department may, however, make such
2 statistical reports available using information compiled from the
3 **【data base】** database if the name or other identifying information of
4 the child screened is not revealed.
5 (cf: P.L.1995, c.328, s.5)

6
7 5. Section 2 of P.L.2007, c.251 (C.46:8-28.5) is amended to
8 read as follows:

9 2. a. Except as otherwise provided in subsection b. of this
10 section, every owner of a tenant-occupied single-family or two-
11 family residential property, including, without limitation, a two-
12 family property in which one unit is owner-occupied, shall file a
13 certificate of registration on forms prescribed by the Commissioner
14 of Community Affairs, in accordance with section 2 of P.L.1974,
15 c.50 (C.46:8-28), with the Bureau of Housing Inspection in the
16 Department of Community Affairs. Any such filing shall be
17 accompanied by a filing fee not exceeding the filing for hotels and
18 multiple dwellings established by section 12 of P.L.1967,
19 c.76 (C.55:13A-12).

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

22 (1) has been certified to be free of lead-based paint;
23 (2) was constructed during or after 1978; or
24 (3) **【is a seasonal rental unit which is rented for less than six**
25 **months' duration each year; or】** (Deleted by amendment, P.L. __, c. __)
26 (pending before the Legislature as this bill)

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

29 c. Any owner who fails to comply with an order of the
30 commissioner to register any property subject to this section shall
31 be liable for a penalty of \$200 for each registration ordered by the
32 commissioner. The commissioner may issue a certificate to the
33 clerk of the Superior Court that an owner is indebted to the
34 department for the payment of such penalty and thereupon the clerk
35 shall enter upon the record of docketed judgments the name of the
36 owner, and of the State, a designation of the statute under which the
37 penalty is imposed, the amount of the penalty so certified, and the
38 date of such certification. The making of the entry shall have the
39 same force and effect as the entry of a docketed judgment in the
40 office of such clerk.

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

42
43 6. Section 12 of P.L.2003, c.311 (C.52:27D-437.12) is
44 amended to read as follows:

45 12. a. Notwithstanding any other provisions of this act, a
46 dwelling unit shall not be subject to inspection and evaluation or
47 subject to any fees for the presence of lead-based paint hazards if
48 the unit:

- 1 (1) has been certified to be free of lead-based paint;
2 (2) was constructed during or after 1978;
3 (3) **【**is a seasonal rental unit which is rented for less than six
4 months' duration each year;**】** (Deleted by amendment, P.L. ___, c. __)
5 (pending before the Legislature as this bill)
6 (4) has been certified as having a lead-free interior by a certified
7 inspector; or
8 (5) is occupied by the owner of the dwelling unit.
9 b. In a common interest community, any inspection fee charged
10 shall be the responsibility of the unit owner and not the
11 homeowners' association unless the association is the owner of the
12 unit.
13 (cf: P.L.2003, c.311, s.12)
14
15 7. Section 1 of P.L.2007, c.251 (C.55:13A-12.2) is amended to
16 read as follows:
17 1. a. The commissioner shall inspect every single-family and
18 two-family rental dwelling in accordance with the "Hotel and
19 Multiple Dwelling Law," P.L.1967, c.76 (C.55:13A-1 et seq.), at
20 least once every five years for lead-based paint hazards and shall
21 charge a fee sufficient to cover the cost of such inspection;
22 provided, however, that the fee shall not exceed one-third of the
23 inspection fee for a three-unit multiple dwelling, established
24 pursuant to the "Hotel and Multiple Dwelling Law," P.L.1967,
25 c.76 (C.55:13A-1 et seq.), for each unit inspected.
26 b. Notwithstanding any other provisions of P.L.2007,
27 c.251 (C.55:13A-12.2 et al.) to the contrary, a dwelling unit in a
28 single-family or two-family dwelling shall not be subject to
29 inspection and evaluation for the presence of lead-based paint
30 hazards, or for the fees for such inspection or evaluation, if the unit:
31 (1) has been certified to be free of lead-based paint;
32 (2) was constructed during or after 1978; or
33 (3) **【**is a seasonal rental unit which is rented for less than six
34 months' duration each year; **or】** (Deleted by amendment, P.L. ___,
35 c. __) (pending before the Legislature as this bill)
36 (4) has been certified as having a lead-free interior by a
37 certified inspector.
38 c. The commissioner shall have the power to enforce the
39 corrections of any violations found pursuant to a lead-based paint
40 hazard inspection conducted pursuant to this section as if the rental
41 unit were in a multiple dwelling subject to the requirements of the
42 "Hotel and Multiple Dwelling Law," P.L.1967, c.76 (C.55:13A-1 et
43 seq.).
44 (cf: P.L.2007, c.251, s.1)
45
46 8. This act shall take effect immediately.

STATEMENT

This bill would require every contract of sale of real property to include a provision requiring, as a condition of the sale, a lead evaluation contractor, certified to provide lead paint inspection services by the Department of Community Affairs (DCA), to inspect any dwelling located on the real property for lead-based paint hazards. If a lead evaluation contractor finds that no lead hazards exist in dwellings located on the property, then the lead evaluation contractor would certify the property as lead-safe on a form prescribed by the DCA.

Additionally, this bill would require municipalities to inspect every single-family, two-family, and multiple rental dwelling located within the municipality for lead-based paint hazards at tenant turnover. Municipalities would charge a fee for the inspection at a rate proportional to the current "Hotel and Multiple Dwelling Law" fee schedule. Moreover, 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."

In 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, the permanent local agency would inspect single-family, two-family, and multiple rental dwellings located within the municipality for lead-based paint hazards. If the municipality does not maintain a permanent local agency that conducts inspections and enforces laws, ordinances, and regulations concerning buildings and structures within the municipality, then the municipality would hire a lead evaluation contractor, certified to provide lead paint inspection services by the DCA, to inspect single-family, two-family, and multiple rental dwellings located within the municipality for lead-based paint hazards. A permanent local agency or lead evaluation contractor with the duty to inspect single-family, two-family, and multiple rental dwellings may consult the local health board, the Department of Health, 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.

Dwelling units that pass visual tests for intact paint frequently contain invisible lead dust hazards detectable through dust wipe sampling. Thus, in municipalities that have a higher 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 lower concentration of children with elevated blood lead levels, the bill allows a lead evaluation contractor or permanent

1 local agency to inspect for lead-based paint hazards through visual
2 assessment.

3 Rental properties that have been certified to be free of lead-based
4 paint or lead-safe, properties that were constructed during or after
5 1978, and seasonal rental units would be exempt from the
6 inspection and registration requirements. However, the bill
7 eliminates the exemption for seasonal rentals from the cyclical
8 inspections required under the "Hotel and Multiple Dwelling Act."

9 Lastly, the bill requires the DCA, in consultation with the
10 Department of Health, to establish a Statewide, multifaceted,
11 ongoing educational program designed to meet the needs of tenants,
12 property owners, realtors and real estate agents, insurers and
13 insurance agents, and local building officials about the nature of
14 lead hazards, the importance of lead hazard control and mitigation,
15 and the responsibilities set forth in this bill. The bill requires the
16 DCA to establish guidelines and a trainer's manual for a lead hazard
17 seminar for rental property owners. The lead hazard seminar
18 established under this bill would not exceed three hours in length
19 and would be offered for a maximum fee of \$50 per participant.
20 Property owners who complete the lead hazard seminar may be
21 eligible to self-inspect their properties under this bill. In order to
22 self-inspect, the Department of Community Affairs, a permanent
23 local agency, or a certified lead evaluation contractor would have
24 had to certify the dwelling as lead-safe within the preceding five
25 years.