SENATE, No. 1282

STATE OF NEW JERSEY

219th LEGISLATURE

INTRODUCED FEBRUARY 10, 2020

Sponsored by:
Senator SHIRLEY K. TURNER
District 15 (Hunterdon and Mercer)
Senator NELLIE POU
District 35 (Bergen and Passaic)

SYNOPSIS

Requires municipalities to conduct lead paint inspections in single- and two-family dwellings; requires reporting of inspection results to State.

CURRENT VERSION OF TEXT

As introduced.

(Sponsorship Updated As Of: 3/25/2021)

AN ACT concerning lead paint inspection requirements in single- and two-family dwellings, requiring reporting of inspection results, supplementing P.L.2003, c.311 (C.52:27D-437.1 et al.), amending various parts of the statutory law, and repealing section 1 of P.L.2007, c.251.

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

1. (New section) a. (1) 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 shall inspect every single-family and two-family rental dwelling located within the municipality at least once every five years for lead-based paint hazards, except the permanent local agency shall inspect single-family and two-family rental dwellings on which encapsulation has been performed to remediate lead-based paint hazards at least once every two years. The municipality shall charge a fee sufficient to cover the cost of the inspection.

(2) In a municipality that does not maintain a permanent local agency for the purpose of conducting inspections and enforcing laws, ordinances, and regulations concerning buildings and structures within the municipality, the municipality shall hire a lead evaluation contractor, certified to provide lead paint inspection services by the Department of Community Affairs, to inspect every single-family and two-family rental dwelling located within the municipality at least once every five years for lead-based paint hazards, except a lead evaluation contractor shall inspect single-family and two-family rental dwellings on which encapsulation has been performed to remediate lead-based paint hazards at least once every two years. The municipality shall charge a fee sufficient to cover the cost of the inspection, including the cost of hiring the lead evaluation contractor.

(3) A permanent local agency or lead evaluation contractor with the duty to inspect single-family and two-family rental dwellings pursuant to this section may consult with the local health board, the Department of Health, or the Department of Community Affairs 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.

(4) A permanent local agency or lead evaluation contractor with the duty to inspect single-family and two-family rental dwellings pursuant to this section shall annually report the number of

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 <u>thus</u> is new matter.

inspections conducted and identify areas that have a high risk of lead exposure to the Department of Community Affairs using an electronic system established by the Department of Community Affairs for this purpose. The Department of Community Affairs shall compile the reports and make them available to the public on the department's Internet website in a searchable format.

(5) The Department of Community Affairs shall submit an annual report to the Department of Health and to the Governor and the Legislature, pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1), detailing Statewide lead inspection activity and including recommendations for more efficient lead hazard detection and abatement.

b. Notwithstanding subsection a. of this section or any other provisions of P.L. , c. (C.) (pending before the Legislature as this bill) to the contrary, a dwelling unit in a single-family or two-family dwelling shall not be subject to inspection and evaluation for the presence of lead-based paint hazards, or for the fees for such inspection or evaluation, if the unit:

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

(2) was constructed during or after 1978;

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

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

c. A municipality shall have the power to enforce the corrections of any violations found pursuant to a lead-based paint hazard inspection conducted pursuant to this section as if the rental unit were in a multiple dwelling subject to the requirements of the "Hotel and Multiple Dwelling Law," P.L.1967, c.76 (C.55:13A-1 et seq.).

d. In addition to the fees permitted to be charged for inspection of single-family and two-family rental housing pursuant to this section, a municipality shall assess an additional fee of $20 per unit inspected for the purposes of P.L.2003, c.311 (C.52:27D-437.1 et al.) concerning lead hazard control work. In a common interest community, any inspection fee charged pursuant to this subsection shall be the responsibility of the unit owner and not the homeowners' association, unless the association is the owner of the unit. The fees collected pursuant to this subsection shall be deposited into the "Lead Hazard Control Assistance Fund" established pursuant to section 4 of P.L.2003, c.311 (C.52:27D-437.4).

e. As used in this section:

"Encapsulation" means a process that makes lead-based paint inaccessible by using a liquid-applied coating or an adhesively bonded covering material to provide a barrier between the lead-based paint and the surrounding environment.

2. Section 6 of P.L.1971, c.366 (C.24:14A-6) is amended to read as follows:

6. The board in each municipality or other area of jurisdiction, shall have the primary responsibility for investigation of violations under P.L.1971, c.366 (C.24:14A-1 et seq.) and the enforcement of P.L.1971, c.366 (C.24:14A-1 et seq.), except as provided otherwise in accordance with P.L.2003, c.311 (C.52:27D-437.1 et al.) and section 1 of P.L. , c. (C.) (pending before the Legislature as this bill), and shall make reports of all such violations and enforcement procedures to the State Department of Health [and Senior Services] and the Department of Community Affairs when relocation assistance is required pursuant to P.L.2003, c.311.

(cf: P.L.2003, c.311, s.13)

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

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

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

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

(2) was constructed during or after 1978;

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

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

c. Any owner who fails to comply with an order of [the commissioner] a municipality to register any property subject to this section shall be liable for a penalty of $200 for each registration ordered by the [commissioner] municipality. [The commissioner] A municipality may issue a certificate to the clerk of the Superior Court that an owner is indebted to the [department] municipality for the payment of such penalty and thereupon the clerk shall enter upon the record of docketed judgments the name of the owner, and of the [State] municipality, a designation of the statute under which the penalty is imposed, the amount of the penalty so certified, and

the date of such certification. The making of the entry shall have the same force and effect as the entry of a docketed judgment in the office of such clerk.
(cf: P.L.2007, c.251, s.2)

4. Section 6 of P.L.2003, c.311 (C.52:27D-437.6) is amended to read as follows:

6. The Commissioner of Community Affairs shall adopt, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), rules and regulations necessary to effectuate the provisions of P.L.2003, c.311 (C.52:27D-437.1 et al.), including, but not limited to: the issuance of loans and grants, lead-based paint hazard inspections and evaluations, lead hazard control work, and training courses for persons engaged in lead-safe maintenance work or lead hazard control work. These regulations shall allow for certified third party risk assessors to provide assurance that rental properties meet the standards established for subsection (w) of section 7 of P.L.1967, c.76 (C.55:13A-7) as added by P.L.2003, c.311. Property owners using such third party risk assessors shall provide evidence of compliance at the time of the cyclical inspection carried out under the "Hotel and Multiple Dwelling Law," P.L.1967, c.76 (C.55:13A-1 et seq.) or under section 1 of **[**P.L.2007, c.251 (C.55:13A-12.2)**]** P.L. , c. (C.) (pending before the Legislature as this bill). Notwithstanding this intent the department shall maintain existing authority to respond to tenant complaints related to subsection (w) of section 7 of P.L.1967, c.76 (C.55:13A-7) as added by P.L.2003, c.311.
(cf: P.L.2007, c.251, s.3)

5. Section 10 of P.L.2003, c.311 (C.52:27D-437.10) is amended to read as follows:

10. In addition to the fees permitted to be charged for inspection of multiple dwellings pursuant to section 13 of P.L.1967, c.76 (C.55:13A-13) **[**and the fees that the commissioner shall establish for the inspection of single-family and two-family rental housing pursuant to P.L.2007, c.251 (C.55:13A-12.2 et al.)**]**, the department shall assess an additional fee of $20 per unit inspected for the purposes of P.L.2003, c.311 (C.52:27D-437.1 et al.) concerning lead hazard control work. In a common interest community, any inspection fee charged pursuant to this section shall be the responsibility of the unit owner and not the homeowners' association unless the association is the owner of the unit. The fees collected pursuant to this section shall be deposited into the "Lead Hazard Control Assistance Fund" established pursuant to section 4 of P.L.2003, c.311 (C.52:27D-437.4).
(cf: P.L.2007, c.251, s.4)

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

7. This act shall take effect immediately.

STATEMENT

This bill would require municipalities to inspect every single-family and two-family rental dwelling located within the municipality for lead-based paint hazards at least once every five years, except municipalities would inspect single-family and two-family rental dwellings on which encapsulation has been performed to remediate lead-based paint hazards at least once every two years. Municipalities would charge a fee for the inspection at a rate proportional to the current "Hotel and Multiple Dwelling Law" fee schedule. In addition, municipalities would be required to impose an additional fee of $20 per unit inspected 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 and two-family 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 Department of Community Affairs (DCA), to inspect single-family and two-family 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 and two-family rental dwellings may consult the local health board, the Department of Health, or the Department of Community Affairs 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.

Furthermore, this bill would require a permanent local agency or lead evaluation contractor with the duty to inspect single-family and two-family rental dwellings to report annually the number of inspections conducted and identify areas that have a high risk of lead exposure to the Department of Community Affairs. The department would establish an electronic system for this purpose. The bill would require the department to compile the reports and make them available to the public on the department's Internet website in a searchable format. The department would submit an annual report to the Department of Health, the Governor, and the Legislature detailing

Statewide lead inspection activity and including recommendations for more efficient lead hazard detection and abatement.

Under this bill, municipalities would be responsible for conducting inspections of single-family and two-family rental dwellings for lead-based paint hazards, but the DCA would remain responsible for the promulgation of regulations concerning the presence of lead-based paint hazards in single-family and two-family rental dwellings pursuant to subsection (w) of section 7 of P.L.1967, c.76 (C.55:13A-7).

The bill would also require owners of tenant-occupied single-family and two-family residential property to file a certificate of registration with the clerk of the municipality, or with such other municipal official as is designated by the clerk, in which the residential property is situated. Properties that have been certified to be free of lead-based paint or of having a lead-free interior, properties that were constructed during or after 1978, and seasonal rental units would be exempt from the inspection and registration requirements. These exemptions are consistent with provisions of current law governing multiple dwellings.

Under current law, the DCA must inspect single-family and two-family rental dwellings for lead-based paint hazards at least once every five years. Currently, owners of tenant-occupied single-family and two-family residential property must also file a certificate of registration with the DCA. This bill would shift inspection and registration duties from the DCA to the municipality in which the rental property is situated.