

CHAPTER 182

AN ACT concerning certain lead-based paint hazards, and residential rental property, and establishing lead-based paint hazard programs, supplementing P.L.2003, c.311 (C.52:27D-437.1 et al.), amending various parts of the statutory law, and making an appropriation.

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

C.52:27D-437.16 Definitions relative to lead-based paint hazards.

1. a. As used in this section:

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

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

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

b. (1) Subject to subsection c. of this section, 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, two-family, and multiple rental dwelling located within the municipality at tenant turnover for lead-based paint hazards or within two years of the effective date of P.L.2021, c.182 (C.52:27D-437.16 et al.), whichever is earlier. Thereafter, all such units shall be inspected for lead-based paint hazards the earlier of every three years or upon tenant turnover, except that an inspection upon tenant turnover shall not be required if the owner has a valid lead-safe certification pursuant to this section. The municipality shall charge the dwelling owner or landlord a fee sufficient to cover the cost of the inspection.

(2) Subject to subsection c. of this section, 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, two-family, and multiple rental dwelling located within the municipality at tenant turnover for lead-based paint hazards or within two years of the effective date of P.L.2021, c.182 (C.52:27D-437.16 et al.), whichever is earlier. Thereafter, all such units shall be inspected for lead-based paint hazards the earlier of every three years or upon tenant turnover, except that an inspection upon tenant turnover shall not be required if the owner has a valid lead-safe certification pursuant to this section. The municipality shall charge the dwelling owner or landlord a fee sufficient to cover the cost of the inspection, including the cost of hiring the lead evaluation contractor.

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

(4) A permanent local agency or lead evaluation contractor with the duty to inspect single-family, two-family, and multiple 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.

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

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

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

(2) was constructed during or after 1978;

(3) is in a multiple dwelling that has been registered with the Department of Community Affairs as a multiple dwelling for at least 10 years, either under the current or a previous owner, and has no outstanding lead violations from the most recent cyclical inspection performed on the multiple dwelling under the "Hotel and Multiple Dwelling Law," P.L.1967, c.76 (C.55:13A-1 et seq.);

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

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

d. (1) If a lead evaluation contractor or permanent local agency finds that a lead-based paint hazard exists in a dwelling unit upon conducting an inspection pursuant to this section, then the owner of the dwelling unit shall remediate the lead-based paint hazard by using abatement or lead-based paint hazard control methods, approved in accordance with the provisions of the "Lead Hazard Control Assistance Act," P.L.2003, c.311 (C.52:27D-437.1 et al.). Upon the remediation of the lead-based paint hazard, the lead evaluation contractor or permanent local agency shall conduct an additional inspection of the unit to certify that the hazard no longer exists.

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

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

(1) provide evidence of a valid lead-safe certification obtained pursuant to this section as well as evidence of the most recent tenant turnover 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.), unless not required to have had an inspection by a lead evaluation contractor or permanent local agency pursuant to paragraph (1), (2), or (3) of subsection c. of this section;

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

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

f. If a lead evaluation contractor or permanent local agency finds that a lead-based paint hazard exists in a dwelling unit upon conducting an inspection pursuant to this section, then the lead evaluation contractor or permanent local agency shall notify the Commissioner of Community Affairs, who shall review the findings in accordance with section 8 of the "Lead Hazard Control Assistance Act," P.L.2003, c.311 (C.52:27D-437.8).

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

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

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

h. In addition to the fees permitted to be charged for inspection of rental housing pursuant to this section, each municipality shall assess an additional fee of \$20 per unit inspected by a certified lead evaluation contractor or permanent local agency for the purposes of the "Lead Hazard Control Assistance Act," P.L.2003, c.311 (C.52:27D-437.1 et al.) concerning lead hazard control work, unless the unit owner demonstrates that the Department of Community Affairs has already assessed an additional inspection fee of \$20 pursuant to the provisions of section 10 of P.L. 2003, c. 311 (C.52:27D-437.10). 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).

C.52:27D-437.17 Statewide multifaceted, ongoing educational program relative to lead-based paint hazards.

2. a. The Department of Community Affairs, in consultation with the Department of Health, shall 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-based paint hazards, the importance of lead-based paint hazard control and mitigation, and the responsibilities set forth in P.L.2021, c.182 (C.52:27D-437.16 et al.). In developing and coordinating this educational program, the department shall seek the participation and involvement of private industry organizations, including those involved in real estate, insurance, mortgage banking, and pediatrics.

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

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

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

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

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

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

C.52:27D-437.18 Disclosure requirement prohibition for application for lead remediation funding.

3. In association with an application for lead remediation funding provided pursuant to the "Lead Hazard Control Assistance Fund" established pursuant to section 4 of P.L.2003, c.311 (C.52:27D-437.4), or any other program administered for lead remediation purposes by the Department of Community Affairs, the department shall not request or require that a property owner disclose the social security number of any person renting the property or otherwise associated with the inspected property other than the property owner. This disclosure requirement prohibition shall apply to an application for assistance, funded and administered by the State, for lead remediation purposes.

C.52:27D-437.19 Investigations of complaint; penalties.

4. a. Upon the filing of a complaint with the department or of the commissioner's own accord, the commissioner shall be authorized to conduct investigations and issue penalties against a municipality for its failure to comply with subsection b. of section 1 of P.L.2021, c.182 (C.52:27D-437.16).

b. A municipality or its permanent local agency shall be authorized to conduct investigations and issue penalties not inconsistent with this subsection to enforce a property owner's failure to comply with paragraph (1) of subsection d. of section 1, or subsection e. of section 1 of P.L.2021, c.182 (C.52:27D-437.16). If the municipality or permanent local agency determines that a property owner has failed to comply with a provision of P.L.2021, c.182 (C.52:27D-437.16 et al.) with respect to a rental dwelling unit owned by the property owner, the property owner shall 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 shall 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.

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

C.26:2-137.6 Central database maintained; confidentiality.

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

b. The information reported to and compiled by the department pursuant to this act is to be used only by the department and such other agencies as may be designated by the commissioner and shall not otherwise be divulged or made public so as to disclose the identity of any child to whom it relates without written parental consent; and to that end, the information shall not be included under materials available to public inspection pursuant to P.L.1963, c.73 (C.47:1A-1 et seq.). The department may, however, make such statistical reports available using information compiled from the database if the name or other identifying information of the child screened is not revealed and in accordance with all other federal and State laws regarding the protection of medical information.

6. Section 1 of P.L.2007, c.251 (C.55:13A-12.2) is amended to read as follows:

C.55:13A-12.2 Lead paint inspection requirements for single and two-family rental dwellings.

1. a. The commissioner shall inspect every single-family and two-family rental dwelling in accordance with the "Hotel and Multiple Dwelling Law," P.L.1967, c.76 (C.55:13A-1 et seq.), at least once every five years for lead-based paint hazards and shall charge a fee sufficient to cover the cost of such inspection; provided, however, that the fee shall not exceed one-third of the inspection fee for a three-unit multiple dwelling, established pursuant to the "Hotel and Multiple Dwelling Law," P.L.1967, c.76 (C.55:13A-1 et seq.), for each unit inspected.

b. Notwithstanding any other provisions of P.L.2007, c.251 (C.55:13A-12.2 et al.) 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; or
- (3) is a seasonal rental unit which is rented for less than six months' duration each year;

or

(4) has a valid lead-safe certification issued in accordance with section 1 of P.L.2021, c.182 (C.52:27D-437.16).

c. The commissioner 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.).

7. Section 5 of P.L.2003, c.311 (C.52:27D-437.5) is amended to read as follows:

C.52:27D-437.5 Grants, loans.

5. a. The department is hereby authorized to provide financial assistance in the form of grants or loans, or a combination thereof, with moneys available from the fund to eligible owners of multifamily housing and to eligible owners of single-family and two-family homes, whether or not utilized as rental housing, for lead hazard control work, in compliance with the terms of P.L.2003, c.311 (C.52:27D-437.1 et al.) and subject to the conditions set forth in this section. "Eligible owner" shall mean an owner who provides proof to the satisfaction of the department of the presence of a lead-based paint hazard on the owner's property.

b. Financial assistance in the form of a loan may be provided to an eligible owner of multifamily housing, a single-family home or a two-family home based on the owner's ability to repay the loan as determined by the department.

c. Financial assistance shall be provided for a period to be determined by the department.

d. The department may provide financial assistance, upon application therefor, for up to 100% of the costs of lead hazard control work, including associated lead evaluation costs, and for temporary relocation assistance, except that no award of financial assistance for a dwelling unit may exceed \$150,000.

e. Financial assistance provided in the form of a loan shall be secured by a lien upon the real property on which the lead hazard control work is performed, with respect to which the financial assistance is made and other such collateral as the department may consider necessary to secure the interests of the fund in accordance with the provisions and purposes of P.L.2003, c.311 (C.52:27D-437.1 et al.). The department may, if it deems necessary, require the financial assistance to be secured by a personal loan guarantee by the owner of the property or by a lien upon other real property belonging to the person to whom the loan is made. The department may authorize a loan in conjunction with an award of a grant for a partial or the total amount of the costs of lead hazard control work.

f. The department shall establish a program to provide the grants authorized pursuant to this section, including grants to remediate lead-based paint hazards identified by a permanent local agency or lead evaluation contractor during an inspection conducted pursuant to P.L.2021, c.182 (C.52:27D-437.16 et al.). Grants shall not be made available to owners of multiple dwellings comprising more than four separate dwelling units. Priority shall not be granted to any applicant on the basis of the location of the housing. Priority may be given, however, to those residences in which children under the age of six reside, as well as for remediation for lead-based paint hazards identified by a permanent local agency or lead evaluation contractor during an inspection conducted pursuant to P.L.2021, c.182 (C.52:27D-437.16 et al.). The department may award the grants on a pro-rata basis to the applicants, if there is an insufficient amount in the fund to award grants for the full amount of the projected cost of the lead hazard control work.

C.52:27D-437.20 Rules, regulations.

8. a. The Commissioner of Community Affairs, in accordance with the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), shall adopt rules and regulations to effectuate the provisions of P.L.2021, c.182 (C.52:27D-437.16 et al.). Additionally, as soon as possible following the enactment of P.L.2021, c.182 (C.52:27D-437.16 et al.), the

commissioner shall take steps necessary to ensure that municipal officials are informed of the responsibilities of municipalities established by P.L.2021, c.182 (C.52:27D-437.16 et al.).

b. Notwithstanding the limitations established in section 1 of P.L. 2011, c.215 (C.52:14B-3a) on the use of regulatory guidance documents, the commissioner shall prepare and disseminate regulatory guidance documents as defined in subsection d. of section 1 of P.L. 2011, c.215 (C.52:14B-3a), in advance of the adoption of regulations as necessary for the administration of P.L.2021, c.182 (C.52:27D-437.16 et al.), for purposes including but not limited to: (1) providing guidance on the procedures required for lead inspection and remediation, and (2) the existing certifications, or educational requirements, that shall qualify a person as a lead evaluation contractor.

9. There is appropriated from the General Fund to the Department of Community Affairs the sum of \$3,900,000 to effectuate the purposes of P.L.2021, c.182 (C.52:27D-437.16 et al.).

10. This act shall take effect one year following enactment, but the department and municipalities are authorized to take any anticipatory actions necessary to prepare for the implementation of the provisions of this act.

Approved July 22, 2021.