

## [N.J. Stat. § 52:27D-427](#)

Current through New Jersey 220th First Annual Session, L. 2022, c. 130 and J.R. 10

**LexisNexis® New Jersey Annotated Statutes > Title 52. State Government, Departments and Officers (Subts. 1 — 5) > Subtitle 3. Executive and Administrative Departments (Chs. 14 — 27J) > Chapter 27D. Department of Community Affairs (Arts. 1 — 9) > Article 9. Department of Community Affairs Act (§§ 52:27D-32 — 52:27D-520)**

### **§ 52:27D-427. Definitions**

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As used in sections 14 through 24 of *P.L. 1993, c. 288* ([C. 52:27D-427](#) through [C. 52:27D-437](#)):

“Business firm” means and includes any corporation, company, association, society, firm, partnership or joint stock company, or any sole proprietor, engaged in, advertising, or holding itself out to be in the business of lead evaluation or lead abatement.

“Commissioner” means the Commissioner of Community Affairs.

“Department” means the Department of Community Affairs.

“Interim controls” means a set of measures designed to reduce temporarily human exposure or likely exposure to lead-based paint hazards, including specialized cleaning, repairs, maintenance, painting, temporary containment, ongoing monitoring of lead-based paint hazards or potential hazards, and the establishment and operation of management and resident education programs, or as the term is defined under [42 U.S.C. § 4851b](#).

“Lead abatement” means a set of measures designed to permanently eliminate lead-based paint hazards in accordance with standards established by the commissioner in compliance with standards promulgated by the appropriate Federal agencies. Such term includes:

- a. the removal of lead-based paint and lead-contaminated dust, the permanent containment or encapsulation of lead-based paint, the replacement of lead-painted surfaces or fixtures, and the removal or covering of lead contaminated soil; and
- b. all preparation, cleanup, disposal, and post-abatement clearance testing activities associated with such measures.

“Lead evaluation” means a surface-by-surface investigation to determine the presence of lead-based paint and the provision of a report explaining the results of the investigation.

“Lead hazard control work” means work to make housing lead-safe, or to mitigate, through the use of interim controls as permitted under federal law and as defined in [42 U.S.C. § 4851b](#), or to eliminate permanently lead-based paint hazards by abatement on a premises by a business firm certified to perform lead abatement work pursuant to sections 14 through 24 of *P.L. 1993, c. 288* ([C. 52:27D-427](#) et al.).

“Lead-based paint” means paint or other surface coating material that contains lead in excess of 1.0 milligrams per centimeter squared or in excess of 0.5% by weight, or such other level as may be established by federal law.

“Lead-based paint hazard” means any condition that causes exposure to lead from lead-contaminated dust or soil or lead-contaminated paint that is deteriorated or present in surfaces, that would result in adverse human health effects.

“Lead-based paint hazard inspection” means an inspection of a housing unit and the structure’s interior common areas and exterior surface for the presence of lead-based paint hazards.

“Lead safe maintenance work” means those maintenance activities which are necessary to maintain surfaces in a lead safe condition and to prevent lead-based paint hazards from occurring or reoccurring.

“Surface” means an area such as an interior or exterior wall, ceiling, floor, door, door frame, window sill, window frame, porch, stair, handrail and spindle, or other abradable surface, soil, furniture, a carpet, a radiator or a water pipe.

## History

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L. 1993, c. 288, § 14; amended [2003, c. 311](#), § 22, eff. Apr. 19, 2004.

Annotations

## Notes

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### Effective Dates:

Section 26 of L. [2003, c. 311](#) provides: “This act shall take effect 90 days following enactment, except that section 6 shall take effect immediately.” Chapter 311, L. 2003, was approved on January 20, 2004.

## Research References & Practice Aids

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### Cross References:

Definitions, see [26:2Q-2](#).

Development, offering, accreditation of training courses, see [26:2Q-4](#).

Denial, suspension, conditions upon, revocation, refusal to renew certification, see [26:2Q-5](#).

Enforcement by commissioner, representative, see [26:2Q-11](#).

Certification regulations, see [52:27D-429](#).

Enforcement by commissioner, representative, see [52:27D-431](#).

Denial, suspension, conditions upon, revocation, refusal to renew certification, see [52:27D-432](#).

Civil actions for injunctive relief to enforce, prevent violations, see [52:27D-433](#).

Violators guilty of disorderly persons offense, corporate liability, see [52:27D-434](#).

Imposition of administrative civil penalty, violation defined, see [52:27D-435](#).

Regulations, requirements, guidelines, see [52:27D-436](#).

Delegation of administrative, enforcement duties, functions, see [52:27D-437](#).

Definitions relative to lead hazard control, see [52:27D-437.3](#).

**Administrative Code:**

N.J.A.C. 5:48-1.2 (2013), CHAPTER LEAD HAZARD CONTROL ASSISTANCE FUND, Definitions.

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## [N.J. Stat. § 52:27D-428](#)

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### **§ 52:27D-428. Certification of business firms performing lead evaluation, abatement work**

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- a.** A business firm shall neither directly nor indirectly perform lead evaluation or abatement work without first obtaining certification from the department. Certification may be issued to perform lead evaluation or abatement work if the business firm employs or will employ sufficient numbers and types of personnel certified by the Department of Health pursuant to section 3 of *P.L. 1993, c.288* ([C.26:2Q-3](#)) to perform lead abatement work and meets all other requirements that the commissioner may establish pursuant to section 23 of *P.L. 1993, c.288* ([C.52:27D-436](#)). The certification shall be in writing, shall contain an expiration date, and shall be signed by the commissioner.
- b.** A person or business firm shall not undertake a project involving lead abatement work without first obtaining a construction permit for that project pursuant to section 12 of *P.L. 1975, c.217* ([C.52:27D-130](#)). No permit shall be issued for lead abatement work, except to:
- (1)** an owner undertaking work on his own premises using his own employees, if those employees are certified by the Department of Health pursuant to section 3 of *P.L. 1993, c.288* ([C.26:2Q-3](#));
  - (2)** a homeowner proposing to perform lead abatement work himself on a dwelling unit that he owns and occupies as a primary place of residence; or
  - (3)** a business firm certified pursuant to this section to perform such work.

The issuance of a construction permit to an individual homeowner proposing to perform lead abatement work on a dwelling unit that he owns and occupies as a primary place of residence shall be accompanied by written information developed by the department explaining the dangers of improper lead abatement, procedures for conducting safe lead abatement, and the availability of certified lead abatement contractors, or of any available training for homeowners.

**c.** Nothing in this section shall be construed to restrict or otherwise affect the right of any business firm to engage in painting, woodworking, structural renovation, or other indoor or outdoor contracting services that may result in the disturbance of paint, or to engage in lead safe maintenance work or lead hazard control work, but a business firm shall not hold itself out as certified by the department or otherwise represent that it has specialized competency to perform lead evaluation or abatement work unless it has been certified or otherwise specifically authorized pursuant to this section.

A business firm that seeks to engage in lead safe maintenance work or lead hazard control work shall do so using only persons who, prior to engaging in such work, shall have completed such training courses as may be prescribed by the commissioner and provided by a training provider accredited by the Commissioner of Health.

A business firm that utilizes interim controls to reduce the risk of lead-based paint exposure shall utilize only those methods approved by the appropriate federal agencies, including specialized cleaning, repairs,

maintenance, painting, temporary containment, ongoing monitoring of lead-based paint hazards or potential hazards, as may be set forth under [42 U.S.C.s.4851b](#), or those methods set forth in guidelines established by the commissioner, but shall not be required to be certified pursuant to this section unless performing lead abatement.

## History

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L. 1993, c. 288, § 15; amended [2003, c. 311](#), § 23, eff. Apr. 19, 2004; [2012, c. 17](#), § 426, eff. June 29, 2012.

Annotations

## Notes

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### Effective Dates:

Section 26 of L. [2003, c. 311](#) provides: “This act shall take effect 90 days following enactment, except that section 6 shall take effect immediately.” Chapter 311, L. 2003, was approved on January 20, 2004.

### Amendment Note:

2012 amendment, by Chapter 17, substituted “Department of Health” for “Department of Health and Senior Services” in the second sentence of a. and in b.(1); substituted “Commissioner of Health” for “Commissioner of Health and Senior Services” in the second paragraph of the section; and made a stylistic change.

## Research References & Practice Aids

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### Cross References:

Certification regulations, see [52:27D-429](#).

### Administrative Code:

[N.J.A.C. 5:17-2.1](#) (2013), CHAPTER LEAD HAZARD EVALUATION AND ABATEMENT CODE, Certification required.

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## [N.J. Stat. § 52:27D-429](#)

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### **§ 52:27D-429. Certification regulations**

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The certification required pursuant to section 15 of *P.L. 1993, c. 288* ([C.52:27D-428](#)) shall be for a period not to exceed two years and shall not be transferable. A business firm may apply for recertification during the 90-day period before the certification expiration date, or the 90-day period after the certification expiration date; except that if a business firm applies after the certification expiration date, the firm shall not perform any services for which certification is required until the certification is renewed. If a certification has expired for more than 90 days, the business firm is required to obtain a new certification.

A copy of the certification shall be conspicuously displayed for public review in the business office of a business firm engaged in the business of abating lead-based paint hazards or conducting lead evaluations. Additionally, the certification number shall be displayed on all business vehicles and at all lead abatement or lead evaluation jobs in progress.

A certification or recertification shall not be issued until a certification fee has been paid in full to the department. The commissioner shall establish application and certification fees by regulation pursuant to the "Administrative Procedure Act," P.L. 1968, c. 410 ([C.52:14B-1](#) et seq.), in an amount sufficient to cover the costs to the department of administering and enforcing the provisions of sections 14 through 24 of *P.L. 1993, c. 288* ([C.52:27D-427](#) through [C.52:27D-437](#)).

### **History**

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L. 1993, c. 288, § 16.

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## [N.J. Stat. § 52:27D-430](#)

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### **§ 52:27D-430. Regulations, requirements, guidelines**

The commissioner may adopt regulations, including amendments to the Uniform Construction Code, N.J.A.C. 5:23-1.1 et seq., prescribing standards, including appropriate training and certification requirements, governing safe practices for construction work that, although not a lead abatement, may create a lead hazard to an occupant of a building or structure. In addition, the commissioner may adopt any applicable requirements or guidelines established by federal law or regulation.

### **History**

L. 1993, c. 288, § 17.

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## [N.J. Stat. § 52:27D-431](#)

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### **§ 52:27D-431. Enforcement by commissioner, representative**

Sections 14 through 24 of *P.L. 1993, c. 288* ([C.52:27D-427](#) through [C.52:27D-437](#)) shall be enforced by the commissioner or his representative who shall have the right of entry to all premises at which the department has reason to believe that lead abatement or evaluation activities may have taken place or are taking place or to any premises used or occupied by a business firm subject to sections 14 through 24 of *P.L. 1993, c. 288* ([C.52:27D-427](#) through [C.52:27D-437](#)); and the right to review any records for the purposes of inspection or investigation.

### **History**

L. 1993, c. 288, § 18.

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## [N.J. Stat. § 52:27D-432](#)

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### **§ 52:27D-432. Denial, suspension, conditions upon, revocation, refusal to renew certification**

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- a. The department may deny, suspend, impose conditions upon, revoke, or refuse to renew a certification for good cause, including:
- (1) violating, or abetting another to commit a violation of sections 14 through 24 of *P.L. 1993, c.288* ([C.52:27D-427](#) through [C.52:27D-437](#));
  - (2) making a false statement on an application for certification, or in providing other information required by the department;
  - (3) misrepresentation of qualifications, or fraudulently obtaining certification;
  - (4) engaging in practices during lead abatement work contrary to safe procedures established therefor; and
  - (5) employing persons to perform lead abatement or lead evaluation work who are not certified pursuant to section 3 of *P.L. 1993, c.288* ([C.26:2Q-3](#)) to perform such work.
- b. A business firm whose application or certification is denied, suspended, conditionally issued, revoked, or not renewed is entitled to a hearing pursuant to the provisions of the “Administrative Procedure Act,” P.L.1968, c.410 ([C.52:14B-1](#) et seq.).
- c. Denial of, suspension of, the imposition of conditions upon, revocation of, or refusal to renew a certification shall not limit the department from pursuing against the applicant or certificate holder any other lawful remedy available to the department.
- d. A business firm whose certification has been revoked shall be ineligible to apply for certification for three years from the date of revocation. This ineligibility shall extend to any other business firm having any proprietor, officer, director, general partner, or shareholder or limited partner with at least a 10% interest, in common with the business firm whose certification was revoked.

### **History**

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L. 1993, c. 288, § 19.

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## [N.J. Stat. § 52:27D-433](#)

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### **§ 52:27D-433. Civil actions for injunctive relief to enforce, prevent violations**

If the department has reason to believe that a condition exists that poses an imminent threat to the public health, safety or welfare, the department may initiate a civil action in a court of competent jurisdiction for injunctive relief to enforce or prevent a violation of sections 14 through 24 of *P.L. 1993, c.288* ([C.52:27D-427](#) through [C.52:27D-437](#)). The court may proceed in the action in a summary manner.

### **History**

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L. 1993, c. 288, § 20.

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## [N.J. Stat. § 52:27D-434](#)

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### **§ 52:27D-434. Violators guilty of disorderly persons offense, corporate liability**

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Any person who knowingly or purposely:

- a. hinders or delays the department in the enforcement of sections 14 through 24 of *P.L. 1993, c.288* ([C.52:27D-427](#) through [C.52:27D-437](#));
- b. fails to obtain certification required by sections 14 through 24 of *P.L. 1993, c.288* ([C.52:27D-427](#) through [C.52:27D-437](#));
- c. refuses to make his certification accessible to the commissioner; or
- d. otherwise violates any provision of sections 14 through 24 of *P.L. 1993, c.288* ([C.52:27D-427](#) through [C.52:27D-437](#)); is guilty of a disorderly persons offense. If the person is a corporation, all officers, directors, and shareholders owning at least a 10% interest in the corporation may be held liable for any violation by the corporation pursuant to this section.

### **History**

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L. 1993, c. 288, § 21.

Annotations

### **Research References & Practice Aids**

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#### **Cross References:**

Imposition of administrative civil penalty, violation defined, see [52:27D-435](#).

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## [N.J. Stat. § 52:27D-435](#)

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### § 52:27D-435. Imposition of administrative civil penalty, violation defined

As an alternative, or in addition to the provisions of section 21 of *P.L. 1993, c. 288* ([C.52:27D-434](#)), the commissioner may, subject to notice and hearing, impose an administrative civil penalty for a violation set forth in this section not to exceed \$1,000 for the first offense and \$5,000 for each subsequent offense. If the violation is of a continuing nature, each day it continues constitutes an additional and separate violation.

The penalty may be sued for and recovered by and in the name of the commissioner in a civil action in a court of competent jurisdiction by a summary proceeding under “the penalty enforcement law,” [N.J.S. 2A:58-1](#) et seq. For the purposes of this act, the Superior Court and the municipal court shall have jurisdiction to enforce the provisions of “the penalty enforcement law.”

The department may compromise and settle a claim for a penalty under this section in such amount as the department determines to be appropriate and equitable.

- a. As used in this section, a violation shall include the:
  - (1) obstructing, hindering, delaying or interfering by force or otherwise with the commissioner in the exercise of any power or the discharge of any function or duty pursuant to the provisions of sections 14 through 24 of *P.L. 1993, c. 288* ([C.52:27D-427](#) through [C.52:27D-437](#));
  - (2) preparing, uttering or rendering of any false statements, reports, documents, plans or specifications permitted or required pursuant to sections 14 through 24 of *P.L. 1993, c. 288* ([C.52:27D-427](#) through [C.52:27D-437](#)); or
  - (3) refusal or failure to comply with a ruling, action, order or notice of the commissioner pursuant to sections 14 through 24 of *P.L. 1993, c. 288* ([C.52:27D-427](#) through [C.52:27D-437](#)).
- b. A person shall be deemed to have violated or caused to be violated the provisions of sections 14 through 24 of *P.L. 1993, c. 288* ([C.52:27D-427](#) through [C.52:27D-437](#)) if an officer, agent or employee under his control has violated or caused to be violated any provision of sections 14 through 24 of *P.L. 1993, c. 288* ([C.52:27D-427](#) through [C.52:27D-437](#)).
- c. If a person subject to sections 14 through 24 of *P.L. 1993, c. 288* ([C.52:27D-427](#) through [C.52:27D-437](#)) is a corporation, all officers, directors and shareholders having at least a 10% interest shall be jointly and individually liable for any violation by the corporation.

### History

L. 1993, c. 288, § 22.

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## [N.J. Stat. § 52:27D-436](#)

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### § 52:27D-436. Regulations, requirements, guidelines

The department, in consultation with the Department of Health, shall adopt regulations pursuant to the “Administrative Procedure Act,” P.L.1968, c.410 ([C.52:14B-1](#) et seq.) to implement the provisions of sections 14 through 24 of P.L.1993, c.288 ([C.52:27D-427](#) through [C.52:27D-437](#)), including regulations prescribing standards for the performance of lead abatement work. Additionally, the commissioner may adopt any applicable requirements or guidelines established by federal law or regulation, including any requirements or guidelines that apply to homeowners or other property owners, notwithstanding that the requirements or guidelines may be inconsistent with the provisions of sections 14 through 24 of P.L.1993, c.288 ([C.52:27D-427](#) through [C.52:27D-437](#)).

### History

L. 1993, c. 288, § 23.

Annotations

### Research References & Practice Aids

#### **Cross References:**

Certification of business firms performing lead evaluation, abatement work, see [52:27D-428](#).

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## [N.J. Stat. § 52:27D-437](#)

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### § 52:27D-437. Delegation of administrative, enforcement duties, functions

The department shall delegate, by rule or by interagency agreement pursuant to [R.S. 52:14-4](#), to the Department of Labor, its administrative and enforcement duties and functions pursuant to the provisions of sections 14 through 24 of *P.L. 1993, c.288* ([C.52:27D-427](#) through [C.52:27D-437](#)) relating to the certification of business firms to perform lead evaluation or abatement work on public buildings, commercial buildings, bridges or any other buildings or structures that do not contain dwelling units. When the Department of Labor receives such a delegation, the Department of Labor shall be reimbursed by the department in an amount that is sufficient to cover the costs incurred by the Department of Labor in administering and enforcing the provisions of sections 14 through 24 of *P.L. 1993, c.288* ([C.52:27D-427](#) through [C.52:27D-437](#)). The costs incurred by the Department of Labor in administering and enforcing this act shall be annually certified by the Director of the Office of Management and Budget in the Department of the Treasury. The Department of Community Affairs shall have ultimate responsibility for ensuring that lead evaluation and abatement work on all buildings and structures conforms to the requirements of sections 14 through 24 of *P.L. 1993, c.288* ([C.52:27D-427](#) through [C.52:27D-437](#)).

### History

L. 1993, c. 288, § 24.

Annotations

### Research References & Practice Aids

#### **Cross References:**

Development, offering, accreditation of training courses, see [26:2Q-4](#).

Denial, suspension, conditions upon, revocation, refusal to renew certification, see [26:2Q-5](#).

Enforcement by commissioner, representative, see [26:2Q-11](#).

Definitions, see [52:27D-427](#).

Certification regulations, see [52:27D-429](#).

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Enforcement by commissioner, representative, see [52:27D-431](#).

Denial, suspension, conditions upon, revocation, refusal to renew certification, see [52:27D-432](#).

Civil actions for injunctive relief to enforce, prevent violations, see [52:27D-433](#).

Violators guilty of disorderly persons offense, corporate liability, see [52:27D-434](#).

Imposition of administrative civil penalty, violation defined, see [52:27D-435](#).

Regulations, requirements, guidelines, see [52:27D-436](#).

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## [N.J. Stat. § 52:27D-437.1](#)

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### § 52:27D-437.1. Short title [Lead Hazard Control Assistance Act]

This act shall be known and may be cited as the “Lead Hazard Control Assistance Act.”

### History

L. [2003, c. 311](#), § 1, eff. Apr. 19, 2004.

Annotations

### Notes

#### **Effective Dates:**

Section 26 of L. [2003, c. 311](#) provides: “This act shall take effect 90 days following enactment, except that section 6 shall take effect immediately.” Chapter 311, L. 2003, was approved on January 20, 2004.

### Research References & Practice Aids

#### **Cross References:**

Responsibilities of board; enforcement, reports., see [24:14A-6](#).

Order for remediation, disposition of lead-based paint hazard, see [24:14A-7](#).

Notification to owner of hazard, contents, see [24:14A-8](#).

Funding of health care treatment for lead poisoned children, see [26:2H-18.71](#).

“Lead Hazard Control Assistance Fund.”, see [52:27D-437.4](#).

Grants, loans, see [52:27D-437.5](#).

Rules, regulations, see [52:27D-437.6](#).

Registry of loan, grant projects, see [52:27D-437.7](#).

Review of cases of immediate risk by commissioner; liability for relocation costs, see [52:27D-437.8](#).

Additional fee per unit inspected, see [52:27D-437.10](#).

Inapplicability of payment limitations, see [52:27D-437.13](#).

Report to Legislature, see [52:27D-437.14](#).

Modification of regulations concerning lead hazards, see [52:27D-437.15](#).

Rules, regulations, see [55:13A-7](#).

**Administrative Code:**

[N.J.A.C. 8:51-3.2](#) (2013), CHAPTER CHILDHOOD LEAD POISONING, Reporting by local boards of health.

## [N.J. Stat. § 52:27D-437.2](#)

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### § 52:27D-437.2. Findings, declarations relative to lead hazard control

The Legislature finds and declares:

- a. Lead is an element that has been used over the years in many products. The toxicity of lead has been known for several decades, causing its inclusion in products such as gasoline and residential paint to be banned by the federal government.
- b. All animals and people can be negatively affected by lead, depending upon the amount, duration, and promptness of treatment. The range of health effects includes reduced stature, miscarriage, hypertension, and, most notably, neurological damage, particularly in children whose brains are developing.
- c. Although a number of sources of lead exposure have been brought under control, environmental and public health professionals believe that the toxic metal lead is the number one environmental hazard facing children today. A substantial majority of lead exposure is derived from lead-based paint and dust.
- d. Because of the age of New Jersey's housing stock, our State is among the states with the most serious risk of exposure from previous residential use of lead-based paint. It is estimated that there are about two million homes which were constructed in New Jersey prior to 1978, the year in which the sale of lead in paint for residential use was banned.
- e. A comprehensive program to identify lead hazards in residential housing and also to identify housing which is safe from exposure to lead hazards is necessary in order to eradicate the major source of lead exposure to our State's children. The Legislature further finds that children living in rental housing are particularly at risk to exposure from lead because tenants do not have the requisite control over rental units to abate lead hazards from the property. Therefore, the comprehensive program will emphasize methods to safeguard children residing in rental housing and require the State to track the progress of making all of New Jersey's rental housing stock more lead safe.

### History

L. [2003, c. 311](#), § 2, eff. Apr. 19, 2004.

Annotations

### Notes

**Effective Dates:**

Section 26 of L. [2003, c. 311](#) provides: "This act shall take effect 90 days following enactment, except that section 6 shall take effect immediately." Chapter 311, L. 2003, was approved on January 20, 2004.

**Research References & Practice Aids**

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**LAW REVIEWS & JOURNALS:**

[40 Rutgers L.J. 451](#), ARTICLE: PROVIDING MEANINGFUL JUDICIAL REVIEW OF MUNICIPAL REDEVELOPMENT DESIGNATIONS: REDEVELOPMENT IN NEW JERSEY BEFORE AND AFTER GALLENTHIN REALTY DEVELOPMENT, INC. V. BOROUGH OF PAULSBORO.

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## [N.J. Stat. § 52:27D-437.3](#)

Current through New Jersey 220th First Annual Session, L. 2022, c. 130 and J.R. 10

**LexisNexis® New Jersey Annotated Statutes > Title 52. State Government, Departments and Officers (Subts. 1 — 5) > Subtitle 3. Executive and Administrative Departments (Chs. 14 — 27J) > Chapter 27D. Department of Community Affairs (Arts. 1 — 9) > Article 9. Department of Community Affairs Act (§§ 52:27D-32 — 52:27D-520)**

### § 52:27D-437.3. Definitions relative to lead hazard control

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As used in this act:

“Commissioner” means the Commissioner of Community Affairs;

“Department” means the Department of Community Affairs;

“Eligible loan” means a loan made for the purpose of financing lead hazard control work in housing located in the State;

“Financial assistance” means loans and loan guarantees and grants;

“Fund” means the Lead Hazard Control Assistance Fund established pursuant to section 4 of [P.L. 2003, c. 311 \(C. 52:27D-437.4\)](#);

“Interim controls” means a set of measures designed to reduce temporarily human exposure or likely exposure to lead-based paint hazards, including specialized cleaning, repairs, maintenance, painting, temporary containment, ongoing monitoring of lead-based paint hazards or potential hazards, and the establishment and operation of management and resident education programs, or the term as it is defined under [42 U.S.C. § 4851b](#);

“Lead abatement” means a set of measures designed to permanently eliminate lead-based paint hazards in accordance with standards established by the commissioner, provided that such standards shall be consistent with applicable federal standards. The term includes:

- a.** the removal of lead-based paint and lead-contaminated dust, the permanent containment or encapsulation of lead-based paint, the replacement of lead-painted surfaces or fixtures, and the removal or covering of lead contaminated soil; and
- b.** all preparation, cleanup, disposal, and post-abatement clearance testing activities associated with such measures;

“Lead-based paint” means paint or other surface coating material that contains lead in excess of 1.0 milligrams per centimeter squared or in excess of 0.5% by weight, or such other level as may be established by federal law;

“Lead-based paint hazard” means any condition that causes exposure to lead from lead-contaminated dust or soil or lead-contaminated paint that is deteriorated or present in surfaces, that would result in adverse human health effects;

“Lead-based paint hazard inspection” means an inspection of a housing unit and the structure’s interior common areas and exterior surface for the presence of lead-based paint hazards;

“Lead-safe housing” means housing in which a lead-based paint hazard risk has been significantly reduced through the use of interim controls as permitted under federal law and as defined in [42 U.S.C. § 4851b](#), housing that is lead-free or housing in which lead abatement has been performed;

“Lead hazard control work” means work to make housing lead-safe, or to mitigate, through the use of interim controls as permitted under federal law and as defined in [42 U.S.C. § 4851b](#), or to eliminate permanently lead-based paint hazards on a premises by a business firm or person certified to perform lead abatement work pursuant to sections 1 through 12 of *P.L. 1993, c. 288* ([C. 26:2Q-1](#) et seq.) and sections 14 through 24 of *P.L. 1993, c. 288* ([C. 52:27D-427](#) et seq.) and the costs of temporary relocation, determined by the commissioner to be necessary pursuant to rules prescribed by the commissioner, while lead hazard control work is being performed. The determination of the commissioner shall be subject to review and appeal pursuant to the “Administrative Procedure Act,” P.L. 1968, c. 410 ([C. 52:14B-1](#) et seq.);

“Multifamily housing” means a dwelling unit in a multiple dwelling as defined in section 3 of P.L. 1967, c. 76 ([C. 55:13A-3](#));

“Project” means a group of buildings subject to P.L. 1967, c. 76 ([C. 55:13A-1](#) et seq.), as defined in section 3 of P.L. 1967, c. 76 ([C. 55:13A-3](#)).

## History

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L. [2003, c. 311](#), § 3, eff. Apr. 19, 2004.

Annotations

## Notes

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### Effective Dates:

Section 26 of L. [2003, c. 311](#) provides: “This act shall take effect 90 days following enactment, except that section 6 shall take effect immediately.” Chapter 311, L. 2003, was approved on January 20, 2004.

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## [N.J. Stat. § 52:27D-437.4](#)

Current through New Jersey 220th First Annual Session, L. 2022, c. 130 and J.R. 10

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### § 52:27D-437.4. “Lead Hazard Control Assistance Fund.”

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- a. There is hereby established in the department the “Lead Hazard Control Assistance Fund” hereinafter referred to as the “fund,” which shall be continuing and nonlapsing, for the purpose of funding loans and grants authorized pursuant to [P.L. 2003, c. 311](#) ([C. 52:27D-437.1](#) et al.). Moneys in the fund not immediately required for payment or liquid reserves may be invested and reinvested by the department in the same manner in which other department funds may be invested.
- b. There shall be paid into the fund:
  - (1) moneys deposited into the fund as repayment of principal and interest on outstanding loans made from the fund;
  - (2) any income earned upon investment of moneys in the fund by the department pursuant to subsection a. of this section; and
  - (3) any other funds that may be available to the fund through appropriation by the Legislature or otherwise.
- c. Moneys in the fund shall be used exclusively for:
  - (1) funding loans and grants made by the department pursuant to section 5 of [P.L. 2003, c. 311](#) ([C. 52:27D-437.5](#));
  - (2) public education for the prevention of lead poisoning; and
  - (3) defraying the administrative costs of the department in carrying out the purposes and provisions of [P.L. 2003, c. 311](#) ([C. 52:27D-437.1](#) et al.) up to an amount not to exceed 5% of the total moneys appropriated to the fund during the fiscal year. The department shall determine the amounts to be made available from the fund for the purposes of grants and loans, respectively, on an annual basis.
- d. All balances in the Lead Hazard Control Assistance Fund are appropriated for the purposes of the fund.

### **History**

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L. [2003, c. 311](#), § 4, eff. Apr. 19, 2004.

Annotations

### **Notes**

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**Effective Dates:**

Section 26 of L. [2003, c. 311](#) provides: “This act shall take effect 90 days following enactment, except that section 6 shall take effect immediately.” Chapter 311, L. 2003, was approved on January 20, 2004.

**Research References & Practice Aids**

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**Cross References:**

Funding of health care treatment for lead poisoned children, see [26:2H-18.71](#).

Definitions relative to lead hazard control, see [52:27D-437.3](#).

Additional fee per unit inspected, see [52:27D-437.10](#).

Credit to fund of certain sales tax on paint, etc, see [52:27D-437.11](#).

Violations, penalties, see [55:13A-19](#).

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## [N.J. Stat. § 52:27D-437.5](#)

Current through New Jersey 220th First Annual Session, L. 2022, c. 130 and J.R. 10

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### **§ 52:27D-437.5. Grants, loans**

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- 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.

### **History**

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L. [2003, c. 311](#), § 5, eff. Apr. 19, 2004; amended by [2021, c. 182](#), § 7, effective July 22, 2022.

Annotations

## Notes

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### Effective Dates:

Section 26 of L. [2003, c. 311](#) provides: “This act shall take effect 90 days following enactment, except that section 6 shall take effect immediately.” Chapter 311, L. 2003, was approved on January 20, 2004.

Section 10 of L. [2021, c. 182](#) provides: “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.” Chapter 182, L. 2021, was approved on July 22, 2021.

### Amendment Notes

2021 amendment, by Chapter 182, in f., added “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.)” in the first sentence and added “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.) in the fourth sentence.

## Research References & Practice Aids

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### Cross References:

“Lead Hazard Control Assistance Fund.”, see [52:27D-437.4](#).

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## [N.J. Stat. § 52:27D-437.6](#)

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### **§ 52:27D-437.6. Rules, regulations**

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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](#)). 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](#).

### **History**

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L. [2003, c. 311](#), § 6, eff. Jan. 20, 2004; amended [2007, c. 251](#), § 3, eff. Jan. 4, 2008.

Annotations

### **Notes**

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#### **Effective Dates:**

Section 26 of L. [2003, c. 311](#) provides: “This act shall take effect 90 days following enactment, except that section 6 shall take effect immediately.” Chapter 311, L. 2003, was approved on January 20, 2004.

#### **Amendment Note:**

2007 amendment, by Chapter 251, added “or under section 1 of P.L.2007, c.251 (C.55:13A-12.2)” to the third sentence.

### **Research References & Practice Aids**

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**Administrative Code:**

[N.J.A.C. 5:48](#) (2013), CHAPTER LEAD HAZARD CONTROL ASSISTANCE FUND, 5, Chapter 48 — Chapter Notes.

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## [N.J. Stat. § 52:27D-437.7](#)

Current through New Jersey 220th First Annual Session, L. 2022, c. 130 and J.R. 10

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### § 52:27D-437.7. Registry of loan, grant projects

Whenever a loan or grant is provided pursuant to [P.L. 2003, c. 311 \(C. 52:27D-437.1](#) et al.), the address of the multifamily housing, single-family home or two-family home and the details concerning the project shall be entered into a registry which shall be maintained by the department. The department shall enter onto the registry information for any other housing which it may have concerning the lead-safe status of such housing. The housing shall be categorized as either:

- a. lead-free, which shall include any housing constructed after 1977 and housing certified to be free of lead-based paint by a certified inspector;
- b. lead-abated, including housing where lead-based paint hazards have been permanently abated;
- c. lead-hazard controlled, including housing in which preventative maintenance practices and interim controls have been implemented; or
- d. lead-free interior, which shall include housing certified to have a lead-free interior by a certified inspector.

The purpose of the registry shall be to supply a list from which lead-safe housing can be easily identified, and through which the State's progress in rendering housing lead hazard controlled may be tracked.

### History

L. [2003, c. 311](#), § 7, eff. Apr. 19, 2004.

Annotations

### Notes

#### **Effective Dates:**

Section 26 of L. [2003, c. 311](#) provides: "This act shall take effect 90 days following enactment, except that section 6 shall take effect immediately." Chapter 311, L. 2003, was approved on January 20, 2004.

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## [N.J. Stat. § 52:27D-437.8](#)

Current through New Jersey 220th First Annual Session, L. 2022, c. 130 and J.R. 10

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### **§ 52:27D-437.8. Review of cases of immediate risk by commissioner; liability for relocation costs**

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- a. The Commissioner of Community Affairs shall review any case referred to the department in which a lead hazard condition has been found to exist and which poses an immediate risk of continuing exposure to lead hazard for any children living in the housing. If the lead hazard has been found to exist in a rental housing unit, the commissioner shall determine whether the removal of the residents from the rental housing unit containing that lead hazard is warranted.
- b. If the commissioner determines that the removal and relocation of the residents from such housing is warranted, then the commissioner shall authorize the payment of relocation assistance pursuant to [P.L. 2003, c. 311 \(C. 52:27D-437.1](#) et al.), and shall assist in the relocation of such residents to lead-safe housing.
- c. Whenever relocation assistance is authorized pursuant to this section, the commissioner may determine to seek reimbursement for payments made for relocation assistance from the owner of the rental housing from which the tenants were moved. The commissioner shall seek reimbursement if the owner of such rental housing had failed to maintain the housing in a lead-safe condition.
- d. In the case of any displacement of a household from a unit of rental housing that has been found, in a final administrative or judicial determination, not to be maintained in lead-safe condition in accordance with standards established by rule of the Department of Community Affairs or by municipal ordinance, all relocation costs incurred by a public agency to relocate that household shall be paid by the owner of the rental housing to the public agency making relocation payments upon presentation to the owner by the public agency of a statement of those relocation costs and of the date upon which the relocation costs are due and payable.
- e. In the event that the relocation costs to be paid to the public agency are not paid within ten days after the due date, interest shall accrue and be due to the public agency on the unpaid balance at the rate of 18% per annum until the costs, and the interest thereon, shall be fully paid to the public agency.
- f. In the event that the relocation costs to be paid to a public agency shall not be paid within ten days after the date due, the unpaid balance thereof and all interest accruing thereon shall be a lien on the parcel in which the dwelling unit from which displacement occurred is located. To perfect the lien granted by this section, a statement showing the amount and due date of the unpaid balance and identifying the parcel, which identification shall be sufficiently made by reference to the municipal assessment map, shall be recorded with the clerk or register of the county in which the affected property is located and, upon recording, the lien shall have the priority of a mortgage lien. Whenever relocation costs with regard to the parcel and all interest accrued thereon shall have been fully paid to the public agency, the statement shall be promptly withdrawn or canceled by the public agency.

**g.** In the event that relocation costs to be paid to a public agency are not paid as and when due, the unpaid balance thereof and all interest accrued thereon, together with attorney's fees and costs, may be recovered by the public agency in a civil action as a personal debt of the owner of the property. If the owner is a corporation, the directors, officers and any shareholders who each control more than 5% of the total voting shares of the corporation, shall be personally liable, jointly and severally, for the relocation costs.

**h.** All rights and remedies granted by this section for the collection and enforcement of relocation costs shall be cumulative and concurrent.

## History

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L. [2003, c. 311](#), § 8, eff. Apr. 19, 2004.

Annotations

## Notes

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### Effective Dates:

Section 26 of L. [2003, c. 311](#) provides: "This act shall take effect 90 days following enactment, except that section 6 shall take effect immediately." Chapter 311, L. 2003, was approved on January 20, 2004.

## Research References & Practice Aids

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### Administrative Code:

[N.J.A.C. 8:51-7.1](#) (2013), CHAPTER CHILDHOOD LEAD POISONING, Responsibility for abatement and/or interim controls of lead hazards and ongoing maintenance.

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## [N.J. Stat. § 52:27D-437.9](#)

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### § 52:27D-437.9. Emergency Lead Poisoning Relocation Fund

- a. There is created in the State Treasury an account which shall be called the Emergency Lead Poisoning Relocation Fund. There is appropriated, from the funds in the “Catastrophic Illness in Children Relief Fund,” established pursuant to section 3 of P.L. 1987, c. 370 ([C. 26:2-150](#)), \$1,000,000 for the purpose of emergency relocation assistance for lead poisoned children for deposit into the Emergency Lead Poisoning Relocation Fund.
- b. Whenever a child who has tested positive for lead poisoning is removed from his dwelling unit in connection with an order to abate a lead-based paint hazard from a local or State health official, or upon the order of the Commissioner of Community Affairs, payments from the fund created pursuant to this section shall be authorized for the purpose of providing emergency relocation assistance to that child and the child’s family.
- c. All balances in the Emergency Lead Poisoning Relocation Fund are appropriated for the purposes of that fund.
- d. Notwithstanding any other provision of law to the contrary, a payment made from the funds appropriated from the “Catastrophic Illness in Children Relief Fund” for the purposes in this section shall be authorized regardless of whether the relocation assistance is covered by any other State or federal program or any insurance contract and regardless of whether such expense will exceed 10% of the first \$100,000 of annual income of a family plus 15% of the excess income over \$100,000 provided that if reimbursement is received from the landlord, federal or State sources or from insurance proceeds, such reimbursement shall be directed to reimburse the fund for expenses paid under this section. Payment limitations set forth in the “Relocation Assistance Act,” P.L. 1971, c. 362 ([C. 20:4-1](#) et seq.) shall not apply to payments under this section.

### History

L. [2003, c. 311](#), § 9, eff. Apr. 19, 2004.

Annotations

### Notes

**Effective Dates:**

Section 26 of L. [2003, c. 311](#) provides: "This act shall take effect 90 days following enactment, except that section 6 shall take effect immediately." Chapter 311, L. 2003, was approved on January 20, 2004.

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## [N.J. Stat. § 52:27D-437.11](#)

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### § 52:27D-437.11. Credit to fund of certain sales tax on paint, etc

- a. There shall be credited to the “Lead Hazard Control Assistance Fund,” established pursuant to section 4 of [P.L. 2003, c. 311](#) ([C. 52:27D-437.4](#)), for each State fiscal year commencing on and after July 1, 2004, an amount equivalent to the greater of \$7,000,000 or the amount of revenue required to be set aside pursuant to subsection b. of this section.
- b. There shall be set aside from the State revenue collected from the State tax imposed under the “Sales and Use Tax Act,” pursuant to P.L. 1966, c. 30 ([C. 54:32B-1](#) et seq.), as amended and supplemented, or any other subsequent law of similar effect, an amount equal to the lesser of \$0.50 or the tax imposed on every retail sale of a container of paint, or other surface coating material, which shall include any pigmented, liquid substance to be applied to surfaces by brush, roller, spray or other means, including but not limited to, white base paint and colorants; provided, however, that the total amount set aside pursuant to this section shall not exceed \$14,000,000 annually.
- c. The Director of the Division of Taxation shall adopt, pursuant to the “Administrative Procedure Act,” P.L. 1968, c. 410 ([C. 52:14B-1](#) et seq.), rules and regulations necessary to implement the provisions of this section.

### History

L. [2003, c. 311](#), § 11, eff. Apr. 19, 2004.

Annotations

### Notes

#### **Effective Dates:**

Section 26 of L. [2003, c. 311](#) provides: “This act shall take effect 90 days following enactment, except that section 6 shall take effect immediately.” Chapter 311, L. 2003, was approved on January 20, 2004.

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## [N.J. Stat. § 52:27D-437.12](#)

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### **§ 52:27D-437.12. Exemptions from inspection**

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- a. Notwithstanding any other provisions of this act, a dwelling unit shall not be subject to inspection and evaluation or subject to any fees 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 a seasonal rental unit which is rented for less than six months' duration each year;
  - (4) has been certified as having a lead-free interior by a certified inspector; or
  - (5) is occupied by the owner of the dwelling unit.
- b. In a common interest community, any inspection fee charged shall be the responsibility of the unit owner and not the homeowners' association unless the association is the owner of the unit.

### **History**

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L. [2003, c. 311](#), § 12, eff. Apr. 19, 2004.

Annotations

### **Notes**

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#### **Effective Dates:**

Section 26 of L. [2003, c. 311](#) provides: "This act shall take effect 90 days following enactment, except that section 6 shall take effect immediately." Chapter 311, L. 2003, was approved on January 20, 2004.

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## [N.J. Stat. § 52:27D-437.10](#)

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### **§ 52:27D-437.10. Additional fee per unit inspected**

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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](#)).

### **History**

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L. [2003, c. 311](#), § 10, eff. Apr. 19, 2004; amended [2007, c. 251](#), § 4, eff. Jan. 4, 2008.

Annotations

### **Notes**

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#### **Effective Dates:**

Section 26 of L. [2003, c. 311](#) provides: "This act shall take effect 90 days following enactment, except that section 6 shall take effect immediately." Chapter 311, L. 2003, was approved on January 20, 2004.

#### **Amendment Note:**

2007 amendment, by Chapter 251, inserted "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.)" in the first sentence.

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## [N.J. Stat. § 52:27D-437.13](#)

Current through New Jersey 220th First Annual Session, L. 2022, c. 130 and J.R. 10

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### **§ 52:27D-437.13. Inapplicability of payment limitations**

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The payment limitations set forth in the “Relocation Assistance Act,” P.L. 1971, c. 362 ([C. 20:4-1](#) et seq.) shall not apply to payments made from the “Catastrophic Illness in Children Relief Fund,” established pursuant to section 3 of P.L. 1987, c. 370 ([C. 26:2-150](#)) for the purposes of relocating a lead-poisoned child pursuant to [P.L. 2003, c. 311](#) ([C. 52:27D-437.1](#) et al.).

### **History**

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L. [2003, c. 311](#), § 16, eff. Apr. 19, 2004.

Annotations

### **Notes**

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#### **Effective Dates:**

Section 26 of L. [2003, c. 311](#) provides: “This act shall take effect 90 days following enactment, except that section 6 shall take effect immediately.” Chapter 311, L. 2003, was approved on January 20, 2004.

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## [N.J. Stat. § 52:27D-437.14](#)

Current through New Jersey 220th First Annual Session, L. 2022, c. 130 and J.R. 10

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### **§ 52:27D-437.14. Report to Legislature**

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On or before the last day of the 24th month ending after the effective date of [P.L. 2003, c. 311 \(C. 52:27D-437.1 et al.\)](#), and each two years thereafter, the Commissioner of Community Affairs shall issue a report to the Legislature on the effectiveness of the provisions of [P.L. 2003, c. 311 \(C. 52:27D-437.1 et al.\)](#), which report shall include:

- a. Details on the number and amounts of loans and grants provided and the households served;
- b. Information obtained and entered on the housing registry created pursuant to [P.L. 2003, c. 311 \(C. 52:27D-437.1 et al.\)](#); and
- c. The costs incurred and the revenues derived by the department in administering [P.L. 2003, c. 311 \(C. 52:27D-437.1 et al.\)](#), including information regarding any fees which may be authorized to be charged or increased pursuant to [P.L. 2003, c. 311 \(C. 52:27D-437.1 et al.\)](#).

### **History**

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L. [2003, c. 311](#), § 21, eff. Apr. 19, 2004.

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## [N.J. Stat. § 52:27D-437.15](#)

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### § 52:27D-437.15. Modification of regulations concerning lead hazards

The Commissioner of Banking and Insurance and the Commissioner of Health shall consult with the Commissioner of Community Affairs and shall modify all regulations concerning lead hazards in accordance with the provisions of [P.L.2003, c.311](#) ([C.52:27D-437.1](#) et al.), to recognize lead hazard control work as an authorized alternative method to lead abatement in control of lead hazards.

### History

L. [2003, c. 311](#), § 24, eff. Apr. 19, 2004; amended [2012, c. 17](#), § 427, eff. June 29, 2012.

Annotations

### Notes

#### **Effective Dates:**

Section 26 of L. [2003, c. 311](#) provides: “This act shall take effect 90 days following enactment, except that section 6 shall take effect immediately.” Chapter 311, L. 2003, was approved on January 20, 2004.

#### **Amendment Note:**

2012 amendment, by Chapter 17, substituted “Commissioner of Health” for “Commissioner of Health and Senior Services.”

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## [N.J. Stat. § 52:27D-437.16](#)

Current through New Jersey 220th First Annual Session, L. 2022, c. 130 and J.R. 10

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### **§ 52:27D-437.16. Lead-based paint hazards; definitions**

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**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 [July 22, 2022] 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 \(C.52:27D-437.4\)](#).

## History

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L. [2021, c. 182](#), § 1, effective July 22, 2022.

Annotations

## Notes

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Effective Dates

Section 10 of L. [2021, c. 182](#) provides: “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.” Chapter 182, L. 2021, was approved on July 22, 2021.

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## [N.J. Stat. § 52:27D-437.17](#)

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

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- 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 [July 22, 2022] 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.

### **History**

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L. [2021, c. 182](#), § 2, effective July 22, 2022.

Annotations

## Notes

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### Effective Dates

Section 10 of L. [2021, c. 182](#) provides: “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.” Chapter 182, L. 2021, was approved on July 22, 2021.

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## [N.J. Stat. § 52:27D-437.18](#)

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### **§ 52:27D-437.18. Disclosure requirement prohibition for application for lead remediation funding**

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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.

### **History**

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L. [2021, c. 182](#), § 3, effective July 22, 2022.

Annotations

### **Notes**

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#### **Effective Dates**

Section 10 of L. [2021, c. 182](#) provides: “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.” Chapter 182, L. 2021, was approved on July 22, 2021.

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## [N.J. Stat. § 52:27D-437.19](#)

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### **§ 52:27D-437.19. Investigations of complaint; penalties**

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- 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.

### **History**

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L. [2021, c. 182](#), § 4, effective July 22, 2022.

Annotations

### **Notes**

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#### **Effective Dates**

Section 10 of L. [2021, c. 182](#) provides: "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." Chapter 182, L. 2021, was approved on July 22, 2021.

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## [N.J. Stat. § 52:27D-437.20](#)

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### **§ 52:27D-437.20. Rules, regulations**

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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.

### **History**

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L. [2021, c. 182](#), § 8, effective July 22, 2022.

Annotations

### **Notes**

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#### **Effective Dates**

Section 10 of L. [2021, c. 182](#) provides: “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.” Chapter 182, L. 2021, was approved on July 22, 2021.

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