

N.J. Stat. § 52:27D-437.16

Current through New Jersey 220th Second Annual Session, L. 2023, c. 36 and J.R. 2

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

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

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

Annotations

Notes

Effective Dates

N.J. Stat. § 52:27D-437.16

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

- 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

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

Annotations

Notes

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

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

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

Annotations

Notes

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

- 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

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

Annotations

Notes

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

- 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

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

Annotations

Notes

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.