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NEWSPAPER ARTICLES:

Yes

"New law funds lead paint testing," 1-21-2004 Courier-News, p.A3

"Lead paint-removal fund set up," 1-21-2004 Home News & Tribune, pA4

"State starts lead-paint cleanup fund," 1-21-2004 Star-Ledger, p.16

"Governor signs lead-paint law," 1-21-2004 Asbury Park Press. A8

"Lead inspections, cleanup money Okd," 1-21-2004 Philadelphia Inquirer, p.B4

§§1-12,16,21,24 -
C.52:27D-437.1
to 52:27D-437.15
§25 - Approp.
§26 - Note to §§1-25

P.L. 2003, CHAPTER 311, *approved January 20, 2004*
Senate, No. 1348 (*Third Reprint*)

1 AN ACT providing financial assistance for certain lead hazard control
2 work, establishing the Lead Hazard Control Assistance Fund,
3 supplementing ³[²Title 20,²]³ Title 52 ¹[and Title 55]¹ ³[²and
4 Title 55²]³ of the Revised Statutes, amending various parts of the
5 statutory law, and making an appropriation.

6

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

9

10 1. (New section) This act shall be known and may be cited as the
11 "Lead Hazard Control Assistance Act."

12

13 2. (New section) The Legislature finds and declares:

14 a. Lead is an element that has been used over the years in many
15 products. The toxicity of lead has been known for several decades,
16 causing its inclusion in products such as gasoline and residential paint
17 to be banned by the federal government.

18 b. All animals and people can be negatively affected by lead,
19 depending upon the amount, duration, and promptness of treatment.
20 The range of health effects includes reduced stature, miscarriage,
21 hypertension, and, most notably, neurological damage, particularly in
22 children whose brains are developing.

23 c. Although a number of sources of lead exposure have been
24 brought under control, environmental and public health professionals
25 believe that the toxic metal lead is the number one environmental
26 hazard facing children today. A substantial majority of lead exposure
27 is derived from lead-based paint and dust.

28 d. Because of the age of New Jersey's housing stock, our State is
29 among the states with the most serious risk of exposure from previous
30 residential use of lead-based paint. It is estimated that there are about
31 two million homes which were constructed in New Jersey prior to
32 1978, the year in which the sale of lead in paint for residential use was
33 banned.

34 e. A comprehensive program to identify lead hazards in residential
35 housing and also to identify housing which is safe from exposure to

EXPLANATION - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹ Senate SCU committee amendments adopted March 21, 2002.

² Senate SBA committee amendments adopted June 30, 2003.

³ Assembly AHO committee amendments adopted January 8, 2004.

1 lead hazards is necessary in order to eradicate the major source of lead
2 exposure to our State's children. The Legislature further finds that
3 children living in rental housing are particularly at risk to exposure
4 from lead because tenants do not have the requisite control over rental
5 units to abate lead hazards from the property. Therefore, the
6 comprehensive program will emphasize methods to safeguard children
7 residing in rental housing and require the State to track the progress
8 of making all of New Jersey's rental housing stock more lead safe.

9

10 3. (New section) As used in this act:

11 ¹["Agency" means the New Jersey Housing and Mortgage Finance
12 Agency established by P.L.1983, c.530 (C.55:14K-1 et seq.);]¹

13 "Commissioner" means the Commissioner of Community Affairs;

14 "Department" means the Department of Community Affairs;

15 "Eligible loan" means a loan made for the purpose of financing lead
16 hazard control work in ²[residential]² housing located in the State;

17 "Financial assistance" means loans and loan guarantees and grants;

18 "Fund" means the Lead Hazard Control Assistance Fund
19 established pursuant to section 4 of P.L. , c. (C.)(now before
20 the Legislature as this bill);

21 "Interim controls" means a set of measures designed to reduce
22 temporarily human exposure or likely exposure to lead-based paint
23 hazards, including specialized cleaning, repairs, maintenance, painting,
24 temporary containment, ongoing monitoring of lead-based paint
25 hazards or potential hazards, and the establishment and operation of
26 management and resident education programs, or the term as it is
27 defined under 42 U.S.C.s.4851b;

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

32 a. the removal of lead-based paint and lead-contaminated dust, the
33 permanent containment or encapsulation of lead-based paint, the
34 replacement of lead-painted surfaces or fixtures, and the removal or
35 covering of lead contaminated soil; and

36 b. all preparation, cleanup, disposal, and post-abatement clearance
37 testing activities associated with such measures;

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

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

46 "Lead-based paint hazard inspection" means an inspection of

1 ²[residential] a ² housing ²unit² and the structure's interior common
2 areas and exterior surface for the presence of lead-based paint hazards;

3 "Lead-safe housing" means ²[residential]² housing in which a lead-
4 based paint hazard risk has been significantly reduced through the use
5 of interim controls as permitted under federal law and as defined in
6 42 U.S.C. s.4851b¹, housing that is lead-free or housing in which lead
7 abatement has been performed¹;

8 "Lead hazard control work" means work to make ²[residential]²
9 housing lead-safe, or to mitigate ,through the use of interim controls
10 as permitted under federal law and as defined in 42 U.S.C.s.4851b, or
11 to eliminate permanently lead-based paint hazards on a premises by a
12 ¹business firm or¹ person certified to perform lead abatement work
13 pursuant to ²sections 1 through 12 of² P.L.1993, c.288 (C.26:2Q-1 et
14 seq.) ¹and ²sections 14 through 24 of² P.L.1993, c.288, (C.52:27D-
15 427 et seq.)¹ and the costs of temporary relocation, determined by the
16 commissioner to be necessary pursuant to rules prescribed by the
17 commissioner, while lead hazard control work is being performed.
18 The determination of the commissioner shall be subject to review and
19 appeal pursuant to the "Administrative Procedure Act." P.L.1968,
20 c.410 (C.52:14B-1 et seq.) ²[:

21 "Relocation assistance related to lead hazard" means financial
22 assistance provided to a tenant to relocate to alternative housing which
23 is lead safe.

24 "Residential housing" means a dwelling unit in a multiple dwelling
25 as defined in section 3 of P.L.1967, c.76 (C.55:13A-3).];

26 "Multifamily housing" means a dwelling unit in a multiple dwelling
27 as defined in section 3 of P.L.1967, c.76 (C.55:13A-3);

28 "Project" means a group of buildings subject to P.L.1967, c.76
29 (C.55:13A-1 et seq.), as defined in section 3 of P.L.1967, c.76
30 (C.55:13A-3.)²

31

32 4. (New section) a. There is hereby established in the ¹[agency]
33 department¹ the "Lead Hazard Control Assistance Fund" hereinafter
34 referred to as the "fund," which shall be continuing and nonlapsing, for
35 the purpose of funding loans and grants authorized pursuant
36 to P.L. , c. (C.) (now before the Legislature as this bill).
37 Moneys in the fund not immediately required for payment or liquid
38 reserves may be invested and reinvested by the ¹[agency] department¹
39 in the same manner in which other ¹[agency] department¹ funds may
40 be invested.

41 b. There shall be paid into the fund:

42 (1) ¹[all proceeds from the sale of bonds pursuant to section 5 of
43 P.L. , c. (C.) (now before the Legislature as this bill);

44 (2) fees received pursuant to P.L. , c. (C.) (now before the
45 Legislature as this bill);

1 (3)]¹ moneys deposited into the fund as repayment of principal and
2 interest on outstanding loans made from the fund;
3 ¹[(4)] (2)¹ any income earned upon investment of moneys in the
4 fund by the ²[agency] department² pursuant to subsection a. of this
5 section; and
6 ¹[(5)] (3)¹ any other funds that may be available to the fund
7 through appropriation by the Legislature or otherwise.
8 c. Moneys in the fund shall be used exclusively for:
9 (1) funding loans and ¹[loan guarantees by the agency pursuant to
10 section 6 of P.L. , c. (C.) (now before the Legislature as this
11 bill);
12 (2) making payments in fulfillment of the terms of loan guarantees
13 entered into pursuant to section 6 of P.L. , c. (C.) (now
14 before the Legislature as this bill);
15 (3) funding]¹ grants ¹made by the department¹ pursuant to section
16 5 of P.L. , c. (C.) (now before the Legislature as this bill);
17 ¹[(4)] (2)¹ public education for the prevention of lead poisoning;
18 and
19 ¹[(5)] (3)¹ defraying the administrative costs of the department
20 ¹[and agency]¹ in carrying out the purposes and provisions of
21 P.L. , c. (C.) (now before the Legislature as this bill) up to an
22 amount not to exceed 5% of the total moneys appropriated to the fund
23 during the fiscal year. The department ¹[and the agency]¹ shall
24 ¹[jointly]¹ determine the amounts to be made available from the fund
25 for the purposes of grants and loans, respectively, on an annual basis.
26 d. ¹[Fees for the issuance of loans authorized shall be established
27 by the agency at the lowest rate compatible with the integrity of the
28 fund and its proper administration, maintenance of adequate reserves
29 for actuarially sound funding, and the ability of the agency to pay the
30 interest upon and repay the principal of bonds issued pursuant to
31 section 5 of P.L. , c. (C.) (now before the Legislature as this
32 bill).] All balances in the Lead Hazard Control Assistance Fund are
33 appropriated for the purposes of the fund.¹
34
35 ¹[5. (New Section) a. In addition to the bonding authority
36 conferred by section 20 of P.L.1983, c.530 (C.55:14K-20), the agency
37 is hereby authorized to issue bonds in an amount not to exceed
38 \$25,000,000 for the exclusive purpose of funding loans in the manner
39 and to the extent provided in P.L. , c. (C.) (now before the
40 Legislature as this bill).
41 b. Except as otherwise explicitly authorized in P.L. , c. (C.)
42 (now before the Legislature as this bill), any bonds issued or to be
43 issued pursuant to this section shall be subject to all the requirements,
44 conditions and restrictions of P.L.1983, c.530 (C.55:14K-1 et seq.)
45 upon the bonding authority of the agency.

1 c. The interest rate and other terms upon which bonds are issued
2 pursuant to this section shall not create a prospective obligation of the
3 agency in excess of the amount of revenues that can reasonably be
4 expected from the fees that the agency can reasonably expect to
5 charge pursuant to subsection f. of section 6 of P.L. , c. (C.)
6 (now before the Legislature as this bill).]¹

7
8 ¹5. (New section) a. The department is hereby authorized to
9 provide financial assistance in the forms of grants or loans, or a
10 combination thereof, with moneys available from the fund to eligible
11 owners of multifamily housing and to eligible owners of single-
12 family and two-family homes, whether or not utilized as rental
13 housing, for lead hazard control work, in compliance with the terms
14 of P.L. , c. (C.) (now before the Legislature as this bill) and
15 subject to the conditions set forth in this section. "Eligible owner"
16 shall mean an owner who provides proof to the satisfaction of the
17 department of the presence of a lead-based paint hazard on ²[his] the
18 owner's ² property.

19 b. Financial assistance in the form of a loan may be provided to an
20 eligible owner of ²[residential] multifamily² housing, a single-family
21 home or a two-family home based on the owner's ability to repay the
22 loan as determined by the department.

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

25 d. The department may provide financial assistance, upon
26 application therefore, for up to 100% of the costs of lead hazard
27 control work, including associated lead evaluation costs, and for
28 temporary relocation assistance, except that no award of financial
29 assistance for a ²[dwelling unit] ³[building or project²] dwelling unit³
30 may exceed \$150,000.

31 e. Financial assistance provided in the form of a loan shall be
32 secured by a lien upon the real property on which the lead hazard
33 control work is performed, with respect to which the financial
34 assistance is made and other such collateral as the department may
35 consider necessary to secure the interests of the fund in accordance
36 with the provisions and purposes of P.L. , c. (C.) (now before
37 the Legislature as this bill). The department may, if it deems
38 necessary, require the financial assistance to be secured by a personal
39 loan guarantee by the owner of the property or by a lien upon other
40 real property belonging to the person to whom the loan is made. The
41 department may authorize a loan in conjunction with an award of a
42 grant for a partial or the total amount of the costs of lead hazard
43 control work.

44 f. The department shall establish a program to provide the grants
45 authorized pursuant to this section. Grants shall not be made available
46 to owners of multiple dwellings comprising more than four separate

1 dwelling units. Priority shall not be granted to any applicant on the
2 basis of the location of the housing. Priority may be given, however,
3 to those residences in which children under the age of six reside. The
4 department may award the grants on a pro-rata basis to the applicants,
5 if there is an insufficient amount in the fund to award grants for the
6 full amount of the projected cost of the lead hazard control work.¹

7
8 ¹[6. (New section) a. The agency is hereby authorized to provide
9 financial assistance with moneys from the fund to eligible owners of
10 residential housing for lead hazard control work, in compliance with
11 the terms of P.L. , c. (C.)(now before the Legislature as this
12 bill) and subject to the conditions set forth in this section.

13 b. Financial assistance may be provided only to an eligible owner
14 of residential housing who has the ability to repay the loan as
15 determined by the agency.

16 c. Financial assistance shall be provided for a period to be
17 determined by the agency.

18 d. The agency may provide financial assistance, upon application
19 therefore, for up to 100% of the costs of lead hazard control work,
20 except that no award of financial assistance for a single project may
21 exceed \$150,000.

22 e. Financial assistance provided pursuant to P.L. , c. (C.)
23 (now before the Legislature as this bill) shall be secured by a lien upon
24 the real property on which the lead hazard control work is performed,
25 with respect to which the financial assistance is made and other such
26 collateral as the agency may consider necessary to secure the interests
27 of the fund in accordance with the provisions and purposes of P.L. ,
28 c. (C.) (now before the Legislature as this bill). The agency may,
29 if it deems necessary, require the financial assistance to be secured by
30 a personal loan guarantee by the owner of the property or by a lien
31 upon other real property belonging to the person to whom the loan is
32 made. The agency may, in consultation with the department, authorize
33 a loan in conjunction with an award of a grant for a partial amount of
34 the costs of lead hazard control work.

35 f. Interest upon loans made by or through the fund and fees for the
36 issuance of loan guarantees issued by the fund shall be established by
37 the agency at the lowest rate compatible with the integrity of the fund
38 and its proper administration, and compatible with maintenance of
39 adequate reserves for the actuarially sound funding of guarantee
40 pledges.

41 g. The agency is authorized to contract with institutional lenders
42 to guarantee on behalf of an eligible owner the repayment of the full
43 principal balance of that loan outstanding at the time of any default, if
44 (1) the loan was made for performance of lead hazard control work on
45 residential housing as provided in P.L. , c. (C.) (now before
46 the Legislature as this bill); (2) the amount of the loan and the terms

1 on which it was made conform substantially to the amount and terms
2 then available to the borrower on such a loan; and (3) the regulations
3 of the agency adopted pursuant to subsection i. of this section are
4 complied with.

5 h. The agency shall establish within the fund sufficient reserves and
6 liquid reserves, aside from those moneys required to meet payments of
7 interest and repayments of principal on bonds issued pursuant to
8 section 5 of P.L. , c. (C.) (now before the Legislature as this
9 bill), to provide a sufficient and actuarially sound basis for its pledges
10 contained in any loan guarantee contract entered into pursuant to
11 subsection a. of this section.

12 i. The agency shall adopt, pursuant to the "Administrative
13 Procedure act," P.L.1968, c.410 (C.52:14B-1 et seq.) rules and
14 regulations governing the issuance of loan guarantees pursuant to this
15 section, including:

16 (1) procedures for the submission of requests for such guarantees;

17 (2) standards and requirements governing the allocation of
18 guarantees to applicant institutional lenders, and determining the fees
19 to be charged therefor and the manner of payment of those fees;

20 (3) restrictions as to the maturities and interest rates of any loan,
21 or the return realized therefrom by the institutional lender, upon which
22 a guarantee is to be issued;

23 (4) requirements as to commitments by institutional lenders with
24 respect to loans upon which guarantees may be issued; and

25 (5) any other matters related to the duties and the exercise of the
26 powers of the agency under this section.]¹

27

28 ¹[7. (New section) a. The New Jersey Housing and Mortgage
29 Finance Agency shall refer to the department those applications which
30 did not qualify for a loan under section 6 of P.L. , c. (C.)(now
31 before the Legislature as this bill) because of the lack of financial
32 ability on the part of the applicant to repay a loan as determined by
33 the agency.

34 b. The department shall consider each application forwarded, and
35 determine whether the applicant is eligible for a grant for lead hazard
36 control work.

37 c. The department shall establish a program to provide the grants
38 authorized pursuant to this section. Grants shall not be made available
39 to owners of multiple dwellings comprising more than four separate
40 dwelling units. Priority shall not be granted to any residential housing
41 on the basis of its location. Priority may be given, however, to those
42 residences in which children under the age of six reside. Individual
43 grant amounts shall be limited to no more than the projected costs to
44 abate the lead condition. The department may award the grants on a
45 pro-rata basis to the applicants, if there is an insufficient amount in the
46 fund to award grants for the full amount of the projected cost of the

1 lead hazard control work.

2 d. The department shall provide and coordinate public education
3 efforts concerning the provisions of P.L. , c. (C.)(now before
4 the Legislature as this bill), in conjunction with the Office for
5 Prevention of Mental Retardation and Developmental Disabilities in
6 the Department of Human Services.]¹

7
8 ¹[8.] 6.¹ (New section) The Commissioner of Community Affairs
9 ²[, in consultation with the New Jersey Housing and Mortgage
10 Finance Agency,]² shall adopt, pursuant to the "Administrative
11 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), ²[any]² rules
12 and regulations necessary to effectuate the provisions of P.L. , c.
13 (C.) (now before the Legislature as this bill), including, but not
14 limited to ²: the issuance of loans and grants², lead-based paint hazard
15 inspections and evaluations, ²[and]² lead hazard control work ², and
16 training courses for persons engaged in lead-safe maintenance work or
17 lead hazard control work². These regulations shall allow for certified
18 third party risk assessors to provide assurance that rental properties
19 meet the standards established for subsection (w) of section 7 of
20 P.L.1967, c.76 (C.55:13A-7)) ³as added by P.L. , c. (C.)
21 (pending before the Legislature as this bill)³. Property owners using
22 such third party risk assessors shall provide evidence of compliance at
23 the time of the cyclical inspection carried out under the "Hotel and
24 Multiple Dwelling Law," P.L.1967, c.76 (C.55:13A-1 et seq.) ³[²or
25 under section 12 of P.L. , c. (C.) (now before the Legislature
26 as this bill)²]³. Notwithstanding this intent the department shall
27 maintain existing authority to respond to tenant complaints related to
28 subsection (w) of section 7 of P.L.1967, c.76 (C.55:13A-7) ³as added
29 by P.L. , c. (C.)³ ²(pending before the Legislature as this
30 bill)².

31
32 ¹[9.] 7.¹ (New section) Whenever a loan or grant is provided
33 pursuant to P.L. , c. (C.)(now before the Legislature as this
34 bill), the address of the ²[residential] multifamily² housing¹, single-
35 family home or two-family home¹ and the details concerning the
36 project shall be entered into a registry which shall be maintained by the
37 department. The department shall enter onto the registry information
38 for any other housing which it may have concerning the lead-safe
39 status of such housing. The housing shall be categorized as either:

40 a. lead-free, which shall include any housing constructed ²[¹during
41 or]² after ²[1978] 1977² and housing ²[found] certified² to be free
42 of lead-based paint ²by a certified inspector²;

43 b. lead-abated, including housing where lead-based paint hazards
44 have been permanently abated; ¹[or]¹

45 c. lead-hazard controlled, including housing in which preventative

1 maintenance practices and interim controls have been implemented¹;
2 or

3 d. lead-free interior, which shall include housing ²[found]
4 certified² to have a lead-free interior by a certified inspector¹.

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

9
10 ¹[10.] §.1 (New section) a. The Commissioner of Community
11 Affairs shall review any case referred to the department in which a lead
12 hazard condition has been found to exist and which poses an
13 immediate risk of continuing exposure to lead hazard for any children
14 living in the housing. If the lead hazard has been found to exist in ¹a
15 ²[residential¹]² rental ²housing² ¹[housing] unit¹, the commissioner
16 shall determine whether the removal of the residents from the
17 ²[residential]² rental ²housing² ¹[housing] unit¹ containing that lead
18 hazard is ¹[the most expedient method of eliminating lead hazard risk]
19 warranted¹.

20 b. If the commissioner determines that the removal and relocation
21 of the residents from such housing is ¹[the most expedient method of
22 eliminating lead hazard risk] warranted¹ ³[²and that residents have a
23 need for relocation assistance due to economic hardship²]³, then the
24 commissioner shall authorize the payment of relocation assistance
25 pursuant to P.L. , c. (C.) (now pending before the Legislature
26 as this bill), and shall assist in the relocation of such residents to lead-
27 safe housing.

28 c. Whenever relocation assistance is authorized pursuant to this
29 section, the commissioner may determine to seek reimbursement for
30 payments made for relocation assistance from the owner of the rental
31 housing from which the tenants were moved. The commissioner shall
32 seek reimbursement if the owner of such rental housing had failed to
33 maintain the housing in a lead-safe condition.

34 d. In the case of any displacement of a household ²[with a child or
35 a woman of childbearing age]² from a unit of rental housing that has
36 been found, in a final administrative or judicial determination, not to
37 be maintained in lead-safe condition in accordance with standards
38 established by rule of the Department of Community Affairs or by
39 municipal ordinance, all relocation costs incurred by a public agency
40 to relocate that household shall be paid by the owner of the rental
41 housing to the public agency making relocation payments upon
42 presentation to the owner by the public agency of a statement of those
43 relocation costs and of the date upon which the relocation costs are
44 due and payable.

45 e. In the event that the relocation costs to be paid to the public

1 agency are not paid within ten days after the due date, interest shall
2 accrue and be due to the public agency on the unpaid balance at the
3 rate of 18% per annum until the costs, and the interest thereon, shall
4 be fully paid to the public agency.

5 f. In the event that the relocation costs to be paid to a public
6 agency shall not be paid within ten days after the date due, the unpaid
7 balance thereof and all interest accruing thereon shall be a lien on the
8 parcel in which the dwelling unit from which displacement occurred is
9 located. To perfect the lien granted by this section, a statement
10 showing the amount and due date of the unpaid balance and identifying
11 the parcel, which identification shall be sufficiently made by reference
12 to the municipal assessment map, shall be recorded with the clerk or
13 register of the county in which the affected property is located and,
14 upon recording, the lien shall have the priority of a mortgage lien.
15 Whenever relocation costs with regard to the parcel and all interest
16 accrued thereon shall have been fully paid to the public agency, the
17 statement shall be promptly withdrawn or canceled by the public
18 agency.

19 g. In the event that relocation costs to be paid to a public agency
20 are not paid as and when due, the unpaid balance thereof and all
21 interest accrued thereon, together with attorney's fees and costs, may
22 be recovered by the public agency in a civil action as a personal debt
23 of the owner of the property. If the owner is a corporation, the
24 directors, officers and any shareholders who each control more than
25 5% of the total voting shares of the corporation, shall be personally
26 liable, jointly and severally, for the relocation costs.

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

30
31 ¹[11. (New section) Whenever the commissioner has authorized
32 relocation assistance for the elimination of a lead hazard risk pursuant
33 section 10 of P.L. , c. (C.)(now before the Legislature as this
34 bill) the payment of the assistance shall be deemed to be a medical
35 payment eligible for payment from the "Catastrophic Illness in
36 Children Relief Fund," established pursuant to P.L.1987, c.370
37 (C.26:2-150).

38 Notwithstanding any other provision of law to the contrary, a
39 payment made from the "Catastrophic Illness in Children Relief Fund"
40 for the purposes in this section shall be authorized regardless of
41 whether the relocation assistance is covered by any other State or
42 federal program or any insurance contract and regardless of whether
43 such expense will exceed 10% of the first \$100,000 of annual income
44 of a family plus 15% of the excess income over \$100,000 provided
45 that if reimbursement is received from federal or State sources or from
46 insurance proceeds, such reimbursement shall be directed to reimburse

1 the fund for expenses paid under this section.]]¹

2

3 19. (New section) a. There is created in the State Treasury an
 4 account which shall be called the Emergency Lead Poisoning
 5 Relocation Fund. There is appropriated, from the funds in the
 6 "Catastrophic Illness in Children Relief Fund," established pursuant to
 7 section 3 of P.L.1987, c.370 (C.26:2-150), \$1,000,000 for the purpose
 8 of emergency relocation assistance for lead poisoned children for
 9 deposit into the Emergency Lead Poisoning Relocation Fund.

10 b. Whenever a child who has tested positive for lead poisoning is
 11 removed from his dwelling unit in connection with an order to abate
 12 a lead-based paint hazard from a local or State health official, or upon
 13 the order of the Commissioner of Community Affairs, payments from
 14 the fund created pursuant to this section shall be authorized for the
 15 purpose of providing emergency relocation assistance to that child and
 16 the child's family.

17 c. All balances in the Emergency Lead Poisoning Relocation Fund
 18 are appropriated for the purposes of that fund.

19 d. Notwithstanding any other provision of law to the contrary, a
 20 payment made from the funds appropriated from the "Catastrophic
 21 Illness in Children Relief Fund" for the purposes in this section shall
 22 be authorized regardless of whether the relocation assistance is
 23 covered by any other State or federal program or any insurance
 24 contract and regardless of whether such expense will exceed 10% of
 25 the first \$100,000 of annual income of a family plus 15% of the excess
 26 income over \$100,000 provided that if reimbursement is received from
 27 the landlord,² federal or State sources or from insurance proceeds,
 28 such reimbursement shall be directed to reimburse the fund for
 29 expenses paid under this section.¹ ²Payment limitations set forth in the
 30 "Relocation Assistance Act," P.L.1971, c.362 (C.20:4-1 et seq.) shall
 31 not apply to payments under this section.²

32

33 ¹[12.] ¹⁰ (New section) In addition to the fees permitted to be
 34 charged for inspection of multiple dwellings pursuant to section 13 of
 35 P.L.1967, c.76 (C.55:13A-13), ³[²and the fees that the commissioner
 36 shall establish for the inspection of single-family and two-family rental
 37 housing pursuant to P.L. (C.) (now before the Legislature as
 38 this bill).²]³ the department shall assess an additional fee of ¹[\$2]
 39 ²[\$10¹] \$20² per unit inspected for the purposes of P.L. , c.
 40 (C.) (now before the Legislature as this bill) concerning lead
 41 hazard control work. ³In a common interest community, any
 42 inspection fee charged pursuant to this section shall be the
 43 responsibility of the unit owner and not the homeowners' association
 44 unless the association is the owner of the unit.³ The fees collected
 45 pursuant to this section shall be deposited into the "Lead Hazard
 46 Control Assistance Fund" established pursuant to section 4 of P.L. ,

1 c. (C.) (now before the Legislature as this bill). ²[¹The fee
2 established pursuant to this section shall not be assessed to any unit
3 located in a common interest community in this State, including but
4 not limited to units located in planned unit developments; community,
5 homeowner or condominium associations; and cooperatives. ¹]²

6
7 ¹[13. (New section) a. Beginning on the effective date of P.L. ,
8 c. (C.) (now before the Legislature as this bill), every seller of
9 paint within the State shall collect a surcharge of \$.50 on each one
10 gallon can of paint sold, and shall remit the proceeds of the surcharge
11 collection in a manner and form to be prescribed by the State
12 Treasurer.

13 b. The State Treasurer shall segregate those funds collected
14 pursuant to the surcharge established under this section, and shall
15 deposit all funds so segregated into the "Lead Hazard Control
16 Assistance Fund" established pursuant to section 4 of P.L. , c.
17 (C.) (now before the Legislature as this bill).]¹

18
19 ¹11. (New section) ²a. ² There shall be credited to the "Lead
20 Hazard Control Assistance Fund," established pursuant to section 4 of
21 P.L. , c. (C.) (now before the Legislature as this bill), for
22 each State fiscal year commencing on and after July 1, ²[2002]
23 ³[²2003, ² 2004, ³ an amount equivalent to the ³[first] greater of³
24 \$7,000,000 ³[of] or the amount of³ revenue ³[derived from
25 ²[\$0.50] the amount]³ required to be set aside pursuant to subsection
26 b. of this section.

27 b. There shall be set aside² from the State revenue collected from
28 the State tax imposed under the "Sales and Use Tax Act,"
29 ²[pursuant]² ³pursuant³ to P.L.1966, c.30 (C.54:32B-1 et seq.), as
30 amended and supplemented, or any other subsequent law of similar
31 effect, ³an amount equal to the lesser of \$0.50 or the tax imposed³ on
32 every retail sale of a ³[gallon] container³ of paint, or other surface
33 coating material, which shall include any pigmented, liquid substance
34 to be applied to surfaces by brush, roller, spray or other means,
35 including but not limited to, white base paint and colorants ³[², an
36 amount equal to \$0.50 per gallon of paint sold, or a proportional
37 amount on smaller or larger containers of paint, such that an amount
38 equivalent to \$0.50 per gallon of paint sold is set aside for crediting to
39 the "Lead Hazard Control Assistance Fund²"] ; provided, however,
40 that the total amount set aside pursuant to this section shall not exceed
41 \$14,000,000 annually ³.¹ ³[²"]³

42 c. The Director of the Division of Taxation shall adopt, pursuant
43 to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1
44 et seq.), rules and regulations necessary to implement the provisions
45 of this section.²

1 ²[¹12. There is appropriated from the Tobacco Settlement Fund
2 established pursuant to section 53 of P.L.2001, c.130, \$50,000,000 to
3 the "Lead Hazard Control Assistance Fund" established pursuant to
4 section 4 of P.L. _____, c. (C. _____)(now before the Legislature as this
5 bill). That sum in the "Lead Hazard Control Assistance Fund" is
6 appropriated for the purposes of the "Lead Hazard Control Assistance
7 Fund."¹]²

8

9 ²[¹13. (New section) a. The annual appropriations act for each
10 State fiscal year commencing with fiscal year 2003 shall appropriate
11 and distribute during the fiscal year the balance from the "Lead Hazard
12 Control Assistance Fund" established pursuant to section 4 of P.L. _____,
13 c. (C. _____)(now before the Legislature as this bill), for the purposes
14 of that fund.

15 b. If the provisions of subsection a. of this section are not met on
16 the effective date of an annual appropriations act for the State fiscal
17 year, or if an amendment or supplement to an annual appropriations
18 act for the State fiscal year should violate the provisions of subsection
19 a. of this section, the Director of the Division of Budget and
20 Accounting in the Department of the Treasury shall, not later than five
21 days after the enactment of the annual appropriations act, or an
22 amendment or supplement thereto, that violates the provisions of
23 subsection a. of this section, certify to the Director of the Division of
24 Taxation that the requirements of subsection a. of this section have not
25 been met.

26 c. The Director of the Division of Taxation shall, no later than five
27 days after certification by the Director of the Division of Budget and
28 Accounting in the Department of the Treasury pursuant to subsection
29 b. of this section that the provisions of subsection a. of this section
30 have not been met or have been violated by an amendment or
31 supplement to the annual appropriations act, notify all vendors and
32 persons required to collect any tax imposed under the "Sales and Use
33 Tax Act," pursuant to P.L.1966, c.30 (C.54:32B-1 et seq.) during the
34 previous calendar year, other than taxpayers that are gas, electric, and
35 gas and electric, or telecommunications public utilities as defined
36 pursuant to subsection (q) of section 4 of P.L.1945, c.162
37 (C.54:10A-4) pursuant to the amendment to that section 4 made in
38 section 2 of P.L.1997, c.162, that the vendor and person required to
39 collect any tax shall have no responsibility to collect any tax, and no
40 customer or occupant shall have any liability, pursuant to the
41 provisions of P.L.1966, c.30 for any sales and use tax for the current
42 fiscal year, notwithstanding any other provision of law to the
43 contrary.¹]²

44

45 ²[14. (New section) Notwithstanding any other provisions of this
46 act, ¹[a rental dwelling unit, whether or not it is in a multiple

1 dwelling,] residential housing¹ shall not be subject to inspection and
 2 evaluation ¹or subject to any fees¹ for the presence of lead-based paint
 3 hazards if the unit:

4 a. has been certified to be free of lead-based paint;

5 b. was constructed during or after 1978; ¹[or]¹

6 c. is a seasonal rental unit which is rented for less than six months'
 7 duration each year¹;

8 d. has been certified as having a lead-free interior by a certified
 9 inspector; or

10 e. is located within a common interest community, including but
 11 not limited to units located within planned unit developments;
 12 community, homeowner or condominium associations; or
 13 cooperatives¹.]²

14

15 ³[²12. (New section) a. The commissioner shall inspect every
 16 single-family and two-family rental dwelling, exclusive of owner-
 17 occupied dwelling units, in accordance with the "Hotel and Multiple
 18 Dwelling Law," P.L.1967, c.76 (C.55:13A-1 et seq.), at least once
 19 every five years for lead-based paint hazards and shall charge a fee
 20 sufficient to cover the cost of such inspection; provided, however, that
 21 the fee shall not exceed one-third of the inspection fee for a three-unit
 22 multiple dwelling, established pursuant to the "Hotel and Multiple
 23 Dwelling Law," P.L.1967, c.76 (C.55:13A-1 et seq.), for each unit
 24 inspected.

25 b. Notwithstanding any other provisions of P.L. C. (C.)
 26 (now before the Legislature as this bill) to the contrary, multifamily,
 27 single-family or two-family housing shall not be subject to inspection
 28 and evaluation for the presence of lead-based paint hazards, or for the
 29 fees for such inspection or evaluation, if the unit:

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

31 (2) was constructed after 1977;

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

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

36 c. The commissioner shall have the power to enforce the
 37 corrections of any violations found pursuant to a lead-based paint
 38 hazard inspection conducted pursuant to this section as if the rental
 39 unit were in a multiple dwelling subject to the requirements of the
 40 "Hotel and Multiple Dwelling Law," P.L.1967, c.76 (C.55:13A-1 et
 41 seq.).²]³

42

43 ³12. (New section) a. Notwithstanding any other provisions of
 44 this act, a dwelling unit shall not be subject to inspection and
 45 evaluation or subject to any fees for the presence of lead-based paint
 46 hazards if the unit:

- 1 (1) has been certified to be free of lead-based paint;
2 (2) was constructed during or after 1978;
3 (3) is a seasonal rental unit which is rented for less than six
4 months' duration each year;
5 (4) has been certified as having a lead-free interior by a certified
6 inspector; or
7 (5) is occupied by the owner of the dwelling unit.
8 b. In a common interest community, any inspection fee charged
9 shall be the responsibility of the unit owner and not the homeowners'
10 association unless the association is the owner of the unit.³

11

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

14 The board in each municipality or other area of jurisdiction, shall
15 have the primary responsibility for investigation of violations under
16 [this act] P.L.1971, c.366 (C.24:14A-1 et seq.) and the enforcement
17 of [this act] P.L.1971, c.366 (C.24:14A-1 et seq.), except as provided
18 otherwise in accordance with P.L. , c. (C.)(now before the
19 Legislature as this bill) and shall make reports of all such violations
20 and enforcement procedures to the State Department of Health and
21 the Department of Community Affairs when relocation assistance is
22 required pursuant to P.L. , c. (C.)(now before the Legislature
23 as this bill).³

24 (cf: P.L.1971, c.366, s.6)

25

26 ³14. Section 7 of P.L.1971, c.366 (C.24:14A-7) is amended to read
27 as follows:

28 7. When the board of health having primary jurisdiction under [this
29 act] P.L.1971, c.366 (C.24:14A-1 et seq.) finds that there is [lead] a
30 lead-based paint hazard on the interior walls, ceilings, doors, floors,
31 baseboards or window sills and frames of any dwelling, or any exterior
32 surface that is readily accessible to children it may order the[removal]
33 remediation and appropriate disposition of such [lead] lead-based
34 paint hazard by using abatement or lead hazard control methods
35 approved in accordance with the provisions of P.L. , c. (C.)
36 (now before the Legislature as this bill), under such safety conditions
37 as it may specify, and as shall be approved by the department.³

38 (cf: P.L.1976, c.116, s.5)

1 ³15. Section 8 of P.L.1971, c.366 (C.24:14A-8) is amended to read
2 as follows:

3 8. When the board of health having primary jurisdiction hereunder
4 finds that there is [~~lead~~] a lead-based paint hazard on the interior
5 walls, ceilings, doors, floors, baseboards or window sills and frames
6 of any dwelling or any exterior surface that is readily accessible to
7 children and further finds a person occupying or using such dwelling
8 is an unequivocal case of lead poisoning or at high risk of lead
9 intoxication as defined by department regulation it shall at once notify
10 the owner that he is maintaining a public nuisance and order him to
11 [~~abate~~] remediate the nuisance [~~and refinish such interior surface of~~
12 ~~the dwelling or exterior surface that is readily available to children~~
13 ~~within 10 days in accordance with regulations specified by the~~
14 ~~commissioner, and dispose of any lead paint residues in an approved~~
15 ~~area. In lieu of removal of the lead paint the accessible surface may be~~
16 ~~covered by such a durable material and in a manner approved by the~~
17 ~~department. Repainting a surface with a nonleaded paint without~~
18 ~~complete removal of the existing lead paint shall not be deemed to be~~
19 ~~satisfactory compliance with this act]~~ by using abatement or lead
20 hazard control methods approved in accordance with P.L. _____, c. _____
21 (C. _____)(now before the Legislature as this bill) and in accordance with
22 the following:

23 a. In the event of the identification of a lead-poisoned child, the
24 interior of the residence of the child shall be evaluated for lead-based
25 paint hazard.

26 b. If no lead-based paint hazard is found in the interior of the
27 residence, then the exterior of the residence shall be evaluated.

28 c. If no lead-based paint hazard is discovered in either the interior
29 or exterior of the residence, then the soil on the property on which the
30 residence and other structures, if any, are located shall be examined for
31 lead hazards.

32 A duplicate of the notice shall be left with one or more of the
33 tenants or occupants of the dwelling. If the owner resides out of the
34 State or cannot be so notified speedily, a notice left at the house or
35 premises shall suffice.³

36 (cf: P.L.1976, c.116, s.6)

37

38 ³[²13.] ³16.³ (New section) The payment limitations set forth in
39 the "Relocation Assistance Act," P.L.1971, c.362 (C.20:4-1 et seq.)
40 shall not apply to payments made from the "Catastrophic Illness in
41 Children Relief Fund," established pursuant to section 3 of P.L. 1987,
42 c. 370 (C.26:2-150) for the purposes of relocating a lead-poisoned
43 child pursuant to P.L. _____, c. _____ (C. _____) (now before the Legislature
44 as this bill).²

45

46 ²[15.] ³[14.²] ³17.³ Section 2 of P.L.1993, c.288 (C.26:2Q-2) is

1 amended to read as follows:

2 2. As used in sections 1 through 12 of P.L.1993, c.288 (C.26:2Q-1
3 through C.26:2Q-12):

4 "Commissioner" means the Commissioner of Health ²and Senior
5 Services².

6 "Department" means the Department of Health ²and Senior
7 Services².

8 "Interim controls" means a set of measures designed to reduce
9 temporarily human exposure or likely exposure to lead-based paint
10 hazards, including specialized cleaning, repairs, maintenance, painting,
11 temporary containment, ongoing monitoring of lead-based paint
12 hazards or potential hazards, and the establishment and operation of
13 management and resident education programs, or as the term is
14 defined under 42 U.S.C.s.4851b.

15 "Lead abatement" means a [process] set of measures designed
16 [either to mitigate or to eliminate permanently lead-based paint
17 hazards on a premises and includes, but is not limited to: the removal
18 of lead-based paint and lead-contaminated dust; the containment or
19 encapsulation of lead-based paint; the replacement of lead-painted
20 surfaces or fixtures; the removal or covering of lead-contaminated soil;
21 and all preparation, cleanup, disposal and post-abatement clearance
22 testing activities associated with such measures] to permanently
23 eliminate lead-based paint hazards in accordance with standards
24 established by the ²[commissioner] Commissioner of Community
25 Affairs² in compliance with standards promulgated by the appropriate
26 Federal agencies. Such term includes:

27 a. the removal of lead-based paint and lead-contaminated dust, the
28 permanent containment or encapsulation of lead-based paint, the
29 replacement of lead-painted surfaces or fixtures, and the removal or
30 covering of lead contaminated soil; and

31 b. all preparation, cleanup, disposal, and post-abatement clearance
32 testing activities associated with such measures.

33 "Lead evaluation" means a surface-by-surface investigation to
34 determine the presence of lead-based paint and the provision of a
35 report explaining the results of the investigation.

36 "Lead hazard control work" means work to make housing lead-safe,
37 or to mitigate, through the use of interim controls as permitted under
38 federal law and as defined in 42 U.S.C.s.4851b, or to eliminate
39 permanently lead-based paint hazards by abatement on a premises by
40 a person certified to perform lead abatement work pursuant to
41 sections 1 through 12 of ²P.L.1993, c.288 (C.26:2Q-1 et seq.) ² and
42 sections 14 through 24 of P.L.1993, c.288 (C.52:27D-427 et seq.)² .

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

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

5 "Lead-based paint hazard inspection" means an inspection of
6 residential housing and the structure's interior common areas and
7 exterior surface for the presence of lead-based paint hazards.

8 "Lead safe maintenance work" means those maintenance activities
9 which are necessary to maintain surfaces ¹ [on which lead mitigation
10 has been performed] ¹ in a lead safe condition and to prevent lead-
11 based paint hazards from occurring or reoccurring.

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

16 (cf: P.L.1993, c.288, s.2)

17

18 ²[16.] ³[15.²] 18.³ Section 3 of P.L.1993, c.288 (C.26:2Q-3) is
19 amended to read as follows:

20 3. a. A person shall not perform a lead evaluation or lead
21 abatement work unless the person is certified by the department
22 pursuant to this act.

23 b. The commissioner shall establish a certification program to
24 assure the competency of persons to perform lead evaluations or lead
25 abatement work in a safe and reliable manner. The commissioner may
26 establish different classes of certification reflecting the different types
27 and complexities of lead evaluation and abatement activities.

28 c. The commissioner shall certify a person who satisfactorily
29 completes the certification training course required pursuant to this
30 act, passes an examination prescribed by the department and meets any
31 other requirements for certification that may be established by the
32 commissioner or by federal law.

33 d. The certification shall be in writing with a photo identification,
34 signed and dated by the commissioner. It shall be carried upon the
35 person while performing evaluation or abatement services.

36 e. Notwithstanding the provisions of subsection a. of this section
37 to the contrary, a person who is certified to conduct lead evaluations
38 or perform lead abatement work in a jurisdiction outside of New
39 Jersey is entitled to receive a New Jersey certification from the
40 department if the person demonstrates successful completion of a
41 training and certification program in that jurisdiction that is at least as
42 rigorous and comprehensive as the State training and certification
43 program.

44 f. Lead evaluation and lead abatement certifications shall be for a
45 period not to exceed two years and shall be non-transferable. A person
46 may apply for recertification during the 90-day period before the

1 certification expiration date or the 90-day period after the certification
2 expiration date; except that if a person applies after the certification
3 expiration date, he shall not perform any services for which
4 certification is required until the certification is renewed. If a
5 certification has expired for more than 90 days, the person is required
6 to obtain a new certification.

7 g. Nothing in this section shall be construed to restrict or otherwise
8 affect the right of any person to engage in painting, woodworking,
9 structural renovation or other indoor or outdoor contracting services
10 that may result in the disturbance of paint, or to engage in lead safe
11 maintenance work or lead hazard control work, but a person shall not
12 hold himself out as certified by the department or otherwise represent
13 that he has specialized competency to perform lead evaluation or
14 abatement work, unless he has been certified or otherwise specifically
15 authorized pursuant to sections 1 through 12 of P.L.1993, c.288
16 (C.26:2Q-1 through C.26:2Q-12).

17 ²A person ³for hire³ who seeks to engage in lead safe maintenance
18 work or lead hazard control work shall, prior to doing so, complete
19 such training course as may be prescribed by the Commissioner of
20 Community Affairs and provided by a training provider accredited by
21 the commissioner.²

22 A person who utilizes interim controls to reduce the risk of lead-
23 based paint exposure shall utilize only those methods approved by the
24 appropriate federal agencies, including specialized cleaning, repairs,
25 maintenance, painting, temporary containment, ongoing monitoring of
26 lead-based paint hazards or potential hazards, as may be set forth
27 under 42 U.S.C.s.4851b or those methods set forth in guidelines
28 established by the Commissioner of Community Affairs, but shall not
29 be required to be certified pursuant to this section unless performing
30 lead abatement.

31 (cf: P.L.1993, c.288, s.3)

32

33 ²[17.] ³[16.²] 19.³ Section 7 of P.L.1967, c.76 (C.55:13A-7) is
34 amended to read as follows:

35 7. The commissioner shall issue and promulgate, in the manner
36 specified in section 8 of [this act] P.L.1967, c.76 (C.55:13A-8), such
37 regulations as [he] the commissioner may deem necessary to assure
38 that any hotel or multiple dwelling will be [constructed and]
39 maintained in such manner as is consistent with, and will protect, the
40 health, safety and welfare of the occupants or intended occupants
41 thereof, or of the public generally.

42 Any such regulations issued and promulgated by the commissioner
43 pursuant to this section shall provide standards and specifications for
44 such [construction, conversion and alteration and] maintenance
45 materials, methods and techniques, fire warning and extinguisher
46 systems, elevator systems, emergency egresses, and such other

1 protective equipment as the commissioner shall deem reasonably
 2 necessary to the health, safety and welfare of the occupants or
 3 intended occupants of any units of dwelling space in any hotel or
 4 multiple dwelling, including but not limited to:

- 5 (a) Structural adequacy ratings;
- 6 (b) Methods of egress, including fire escapes, outside fireproof
 7 stairways, independent stairways, and handrails, railings, brackets,
 8 braces and landing platforms thereon, additional stairways, and treads,
 9 winders, and risers thereof, entrances and ramps;
- 10 (c) Bulkheads and scuttles, partitions, walls, ceilings and floors;
- 11 (d) Garbage and refuse collection and disposal, cleaning and
 12 janitorial services, repairs, and extermination services;
- 13 (e) Electrical wiring and outlets, and paints and the composition
 14 thereof;
- 15 (f) Doors, and the manner of opening thereof;
- 16 (g) Transoms, windows, shafts and beams;
- 17 (h) Chimneys, flues and central heating units;
- 18 (i) Roofing and siding materials;
- 19 (j) Lots, yards, courts and garages, including the size and location
 20 thereof;
- 21 (k) Intakes, open ducts, offsets and recesses;
- 22 (l) Windows, including the size and height thereof;
- 23 (m) Rooms, including the area and height thereof, and the
 24 permissible number of occupants thereof;
- 25 (n) Stairwells, skylights and alcoves;
- 26 (o) Public halls, including the lighting and ventilation thereof;
- 27 (p) Accessory passages to rooms;
- 28 (q) Cellars, drainage and air space;
- 29 (r) Water-closets, bathrooms and sinks;
- 30 (s) Water connections, including the provision of drinking and hot
 31 and cold running water;
- 32 (t) Sewer connections, privies, cesspools, and private sewers;
- 33 (u) Rain water and drainage conductors; **[and]**
- 34 (v) Entrances and ramps; and
- 35 (w) Presence of lead-based paint hazards ²in multiple dwellings
 36 ³[and in single-family and two-family dwellings]³, exclusive of owner-
 37 occupied dwelling units, subject to P.L. . . , c. . . (C. . .) (now before
 38 the Legislature as this bill ³[.]²). In a common interest community,
 39 any inspection fee for and violation found within a unit which is solely
 40 related to this subsection shall be the responsibility of the unit owner
 41 and not the homeowners' association, unless the association is the
 42 owner of the unit³ .

43 (cf: P.L.1967, c.76, s.7)

44

45 ²[18.] ³[17.²] 20. ³ Section 19 of P.L.1967, c.76 (C.55:13A-19)
 46 is amended to read as follows:

1 19. (a) No person shall

2 (1) Obstruct, hinder, delay or interfere with, by force or otherwise,
3 the commissioner in the exercise of any power or the discharge of any
4 function or duty under the provisions of this act; or

5 (2) Prepare, utter or render any false statement, report, document,
6 plans or specifications permitted or required to be prepared, uttered
7 or rendered under the provisions of this act; or

8 (3) Render ineffective or inoperative any protective equipment
9 installed, or intended to be installed, in any hotel or multiple dwelling;
10 or

11 (4) Refuse or fail to comply with any lawful ruling, action, order
12 or notice of the commissioner; or

13 (5) Violate, or cause to be violated, any of the provisions of this
14 act.

15 (b) Any person who violates, or causes to be violated, any
16 provision of subsection (a) of this section shall be liable to a penalty
17 of not less than \$50.00 nor more than \$500.00 for each violation, and
18 a penalty of not less than \$500.00 nor more than \$5,000.00 for each
19 continuing violation. Where any violation of subsection (a) of this
20 section is of a continuing nature, each day during which such
21 continuing violation remains unabated after the date fixed by the
22 commissioner in any order or notice for the correction or termination
23 of such continuing violation, shall constitute an additional, separate
24 and distinct violation, except during the time an appeal from said order
25 may be taken or is pending. The commissioner, in the exercise of his
26 administrative authority pursuant to this act, may levy and collect
27 penalties in the amounts set forth in this section. Where the
28 administrative penalty order has not been satisfied within 30 days of
29 its issuance the penalty may be sued for, and recovered by and in the
30 name of the commissioner in a civil action by a summary proceeding
31 under the Penalty Enforcement Law (N.J.S.2A:58-1 et seq.) in the
32 Superior Court.

33 (c) Any person shall be deemed to have violated, or to have caused
34 to be violated, any provision of subsection (a) of this section whenever
35 any officer, agent or employee thereof, under the control of and with
36 the knowledge of said person shall have violated or caused to be
37 violated any of the provisions of subsection (a) of this section.

38 (d) The commissioner may cancel and revoke any permit, approval
39 or certificate required or permitted to be granted or issued to any
40 person pursuant to the provisions of this act if the commissioner shall
41 find that any such person has violated, or caused to be violated, any of
42 the provisions of subsection (a) of this section.

43 (e) Any penalties collected pursuant to this section levied as the
44 result of a violation of subsection (w) of section 7 of P.L.1967, c.76
45 (C.55:13A-7) and which occurred pursuant to inspection for lead-
46 based paint hazards shall be deposited in the Lead Hazard Control

1 Assistance fund established pursuant to section 4 of P.L. , c.
 2 (C.)(now before the Legislature as this bill). Penalties levied as
 3 the result of multiple violations shall be allocated to the Lead Hazard
 4 Control Assistance fund in such proportion as the commissioner shall
 5 prescribe.

6 (cf: P.L.1970, c.138, s.11)

7

8 ²[19.] ³[18.²] ^{21.}³ (New section) On or before the last day of
 9 the ²[24th] ³[48th²] ^{24th}³ month ending after the effective date of
 10 ²[this section] P.L. , c. (C.) (now before the Legislature as
 11 this bill)², and each two years thereafter, the Commissioner of
 12 Community Affairs ²[and the Executive Director of the New Jersey
 13 Housing and Mortgage Finance Agency]² shall ²[jointly]² issue a
 14 report to the Legislature on the effectiveness of the provisions of
 15 P.L. , c. (C.)(now before the Legislature as this bill), which
 16 report shall include:

17 a. Details on the number and amounts of loans and grants provided
 18 and the households served;

19 b. Information obtained and entered on the housing registry created
 20 pursuant to P.L. , c. (C.)(now before the Legislature as this
 21 bill); and

22 c. The costs incurred and the revenues derived by the department
 23 ²[and the agency]² in administering ²[the act] P.L. , c. (C.)
 24 (now before the Legislature as this bill)², including information
 25 regarding any fees which may be authorized to be charged or increased
 26 pursuant to P.L. , c. (C.)(now before the Legislature as this
 27 bill).

28

29 ¹[20. Section 2 of P.L.1974, c.49 (C.2A:18-61.1) is amended to
 30 read as follows:

31 2. No lessee or tenant or the assigns, under-tenants or legal
 32 representatives of such lessee or tenant may be removed by the
 33 Superior Court from any house, building, mobile home or land in a
 34 mobile home park or tenement leased for residential purposes, other
 35 than (1) owner-occupied premises with not more than two rental units
 36 or a hotel, motel or other guest house or part thereof rented to a
 37 transient guest or seasonal tenant; (2) a dwelling unit which is held in
 38 trust on behalf of a member of the immediate family of the person or
 39 persons establishing the trust, provided that the member of the
 40 immediate family on whose behalf the trust is established permanently
 41 occupies the unit; and (3) a dwelling unit which is permanently
 42 occupied by a member of the immediate family of the owner of that
 43 unit, provided, however, that exception (2) or (3) shall apply only in
 44 cases in which the member of the immediate family has a
 45 developmental disability, except upon establishment of one of the
 46 following grounds as good cause and establishment of compliance by

1 the landlord with the registration provisions of section 2 of P.L.1974,
2 c.50, (C.46:8-28) is documented:

3 a. The person fails to pay rent due and owing under the lease
4 whether the same be oral or written; provided that, for the purposes
5 of this section, any portion of rent unpaid by a tenant to a landlord but
6 utilized by the tenant to continue utility service to the rental premises
7 after receiving notice from an electric, gas, water or sewer public
8 utility that such service was in danger of discontinuance based on
9 nonpayment by the landlord, shall not be deemed to be unpaid rent.

10 b. The person has continued to be, after written notice to cease, so
11 disorderly as to destroy the peace and quiet of the occupants or other
12 tenants living in said house or neighborhood.

13 c. The person has willfully or by reason of gross negligence caused
14 or allowed destruction, damage or injury to the premises.

15 d. The person has continued, after written notice to cease, to
16 substantially violate or breach any of the landlord's rules and
17 regulations governing said premises, provided such rules and
18 regulations are reasonable and have been accepted in writing by the
19 tenant or made a part of the lease at the beginning of the lease term.

20 e. (1) The person has continued, after written notice to cease, to
21 substantially violate or breach any of the covenants or agreements
22 contained in the lease for the premises where a right of reentry is
23 reserved to the landlord in the lease for a violation of such covenant
24 or agreement, provided that such covenant or agreement is reasonable
25 and was contained in the lease at the beginning of the lease term.

26 (2) In public housing under the control of a public housing
27 authority or redevelopment agency, the person has substantially
28 violated or breached any of the covenants or agreements contained in
29 the lease for the premises pertaining to illegal uses of controlled
30 dangerous substances, or other illegal activities, whether or not a right
31 of reentry is reserved to the landlord in the lease for a violation of such
32 covenant or agreement, provided that such covenant or agreement
33 conforms to federal guidelines regarding such lease provisions and was
34 contained in the lease at the beginning of the lease term.

35 f. The person has failed to pay rent after a valid notice to quit and
36 notice of increase of said rent, provided the increase in rent is not
37 unconscionable and complies with any and all other laws or municipal
38 ordinances governing rent increases.

39 g. The landlord or owner (1) seeks to permanently board up or
40 demolish the premises because he has been cited by local or State
41 housing inspectors for substantial violations affecting the health and
42 safety of tenants and it is economically unfeasible for the owner to
43 eliminate the violations; (2) seeks to comply with local or State
44 housing inspectors who have cited him for substantial violations
45 affecting the health and safety of tenants and it is unfeasible to so
46 comply without removing the tenant; simultaneously with service of

1 notice of eviction pursuant to this clause, the landlord shall notify the
2 Department of Community Affairs of the intention to institute
3 proceedings and shall provide the department with such other
4 information as it may require pursuant to rules and regulations. The
5 department shall inform all parties and the court of its view with
6 respect to the feasibility of compliance without removal of the tenant
7 and may in its discretion appear and present evidence; (3) seeks to
8 correct an illegal occupancy because he has been cited by local or
9 State housing inspectors or zoning officers and it is unfeasible to
10 correct such illegal occupancy without removing the tenant; or (4) is
11 a governmental agency which seeks to permanently retire the premises
12 from the rental market pursuant to a redevelopment or land clearance
13 plan in a blighted area. In those cases where the tenant is being
14 removed for any reason specified in this subsection, no warrant for
15 possession shall be issued until P.L.1967, c.79 (C.52:31B-1 et seq.)
16 and P.L.1971, c.362 (C.20:4-1 et seq.) have been complied with.

17 h. The owner seeks to retire permanently the residential building
18 or the mobile home park from residential use or use as a mobile home
19 park, provided this subsection shall not apply to circumstances
20 covered under subsection g. of this section.

21 i. The landlord or owner proposes, at the termination of a lease,
22 reasonable changes of substance in the terms and conditions of the
23 lease, including specifically any change in the term thereof, which the
24 tenant, after written notice, refuses to accept; provided that in cases
25 where a tenant has received a notice of termination pursuant to
26 subsection g. of section 3 of P.L.1974, c.49 (C.2A:18-61.2), or has a
27 protected tenancy status pursuant to section 9 of the "Senior Citizens
28 and Disabled Protected Tenancy Act," P.L.1981, c.226
29 (C.2A:18-61.30), or pursuant to the "Tenant Protection Act of 1992,"
30 P.L.1991, c.509 (C.2A:18-61.40 et al.), the landlord or owner shall
31 have the burden of proving that any change in the terms and conditions
32 of the lease, rental or regulations both is reasonable and does not
33 substantially reduce the rights and privileges to which the tenant was
34 entitled prior to the conversion.

35 j. The person, after written notice to cease, has habitually and
36 without legal justification failed to pay rent which is due and owing.

37 k. The landlord or owner of the building or mobile home park is
38 converting from the rental market to a condominium, cooperative or
39 fee simple ownership of two or more dwelling units or park sites,
40 except as hereinafter provided in subsection l. of this section. Where
41 the tenant is being removed pursuant to this subsection, no warrant for
42 possession shall be issued until this act has been complied with. No
43 action for possession shall be brought pursuant to this subsection
44 against a senior citizen tenant or disabled tenant with protected
45 tenancy status pursuant to the "Senior Citizens and Disabled Protected
46 Tenancy Act," P.L.1981, c.226 (C.2A:18-61.22 et al.), or against a

1 qualified tenant under the "Tenant Protection Act of 1992," P.L.1991,
2 c.509 (C.2A:18-61.40 et al.), as long as the agency has not terminated
3 the protected tenancy status or the protected tenancy period has not
4 expired.

5 1. (1) The owner of a building or mobile home park, which is
6 constructed as or being converted to a condominium, cooperative or
7 fee simple ownership, seeks to evict a tenant or sublessee whose initial
8 tenancy began after the master deed, agreement establishing the
9 cooperative or subdivision plat was recorded, because the owner has
10 contracted to sell the unit to a buyer who seeks to personally occupy
11 it and the contract for sale calls for the unit to be vacant at the time of
12 closing. However, no action shall be brought against a tenant under
13 paragraph (1) of this subsection unless the tenant was given a
14 statement in accordance with section 6 of P.L.1975, c.311
15 (C.2A:18-61.9);

16 (2) The owner of three or less condominium or cooperative units
17 seeks to evict a tenant whose initial tenancy began by rental from an
18 owner of three or less units after the master deed or agreement
19 establishing the cooperative was recorded, because the owner seeks to
20 personally occupy the unit, or has contracted to sell the unit to a buyer
21 who seeks to personally occupy it and the contract for sale calls for
22 the unit to be vacant at the time of closing;

23 (3) The owner of a building of three residential units or less seeks
24 to personally occupy a unit, or has contracted to sell the residential
25 unit to a buyer who wishes to personally occupy it and the contract for
26 sale calls for the unit to be vacant at the time of closing.

27 m. The landlord or owner conditioned the tenancy upon and in
28 consideration for the tenant's employment by the landlord or owner as
29 superintendent, janitor or in some other capacity and such employment
30 is being terminated.

31 n. The person has been convicted of or pleaded guilty to, or if a
32 juvenile, has been adjudicated delinquent on the basis of an act which
33 if committed by an adult would constitute an offense under the
34 "Comprehensive Drug Reform Act of 1987," N.J.S.2C:35-1 et al.
35 involving the use, possession, manufacture, dispensing or distribution
36 of a controlled dangerous substance, controlled dangerous substance
37 analog or drug paraphernalia within the meaning of that act within or
38 upon the leased premises or the building or complex of buildings and
39 land appurtenant thereto, or the mobile home park, in which those
40 premises are located, and has not in connection with his sentence for
41 that offense either (1) successfully completed or (2) been admitted to
42 and continued upon probation while completing, a drug rehabilitation
43 program pursuant to N.J.S.2C:35-14; or, being the tenant or lessee of
44 such leased premises, knowingly harbors or harbored therein a person
45 who has been so convicted or has so pleaded, or otherwise permits or
46 permitted such a person to occupy those premises for residential

1 purposes, whether continuously or intermittently, except that this
2 subsection shall not apply to a person harboring or permitting a
3 juvenile to occupy the premises if the juvenile has been adjudicated
4 delinquent upon the basis of an act which if committed by an adult
5 would constitute the offense of use or possession under the said act.
6 No action for removal may be brought pursuant to this subsection
7 more than two years after the date of the adjudication or conviction or
8 more than two years after the person's release from incarceration
9 whichever is the later.

10 o. The person has been convicted of or pleaded guilty to, or if a
11 juvenile, has been adjudicated delinquent on the basis of an act which
12 if committed by an adult would constitute an offense under
13 N.J.S.2C:12-1 or N.J.S.2C:12-3 involving assault, or terroristic threats
14 against the landlord, a member of the landlord's family or an employee
15 of the landlord; or, being the tenant or lessee of such leased premises,
16 knowingly harbors or harbored therein a person who has been so
17 convicted or has so pleaded, or otherwise permits or permitted such
18 a person to occupy those premises for residential purposes, whether
19 continuously or intermittently. No action for removal may be brought
20 pursuant to this subsection more than two years after the adjudication
21 or conviction or more than two years after the person's release from
22 incarceration whichever is the later.

23 p. The person has been found, by a preponderance of the evidence,
24 liable in a civil action for removal commenced under this act for an
25 offense under N.J.S.2C:20-1 et al. involving theft of property located
26 on the leased premises from the landlord, the leased premises or other
27 tenants residing in the leased premises, or N.J.S.2C:12-1 or
28 N.J.S.2C:12-3 involving assault or terroristic threats against the
29 landlord, a member of the landlord's family or an employee of the
30 landlord, or under the "Comprehensive Drug Reform Act of 1987,"
31 N.J.S.2C:35-1 et al., involving the use, possession, manufacture,
32 dispensing or distribution of a controlled dangerous substance,
33 controlled dangerous substance analog or drug paraphernalia within
34 the meaning of that act within or upon the leased premises or the
35 building or complex of buildings and land appurtenant thereto, or the
36 mobile home park, in which those premises are located, and has not in
37 connection with his sentence for that offense either (1) successfully
38 completed or (2) been admitted to and continued upon probation while
39 completing a drug rehabilitation program pursuant to N.J.S.2C:35-14;
40 or, being the tenant or lessee of such leased premises, knowingly
41 harbors or harbored therein a person who committed such an offense,
42 or otherwise permits or permitted such a person to occupy those
43 premises for residential purposes, whether continuously or
44 intermittently, except that this subsection shall not apply to a person
45 who harbors or permits a juvenile to occupy the premises if the
46 juvenile has been adjudicated delinquent upon the basis of an act which

1 if committed by an adult would constitute the offense of use or
2 possession under the said "Comprehensive Drug Reform Act of 1987."

3 q. The person has been convicted of or pleaded guilty to, or if a
4 juvenile, has been adjudicated delinquent on the basis of an act which
5 if committed by an adult would constitute an offense under
6 N.J.S.2C:20-1 et al. involving theft of property from the landlord, the
7 leased premises or other tenants residing in the same building or
8 complex; or, being the tenant or lessee of such leased premises,
9 knowingly harbors therein a person who has been so convicted or has
10 so pleaded, or otherwise permits such a person to occupy those
11 premises for residential purposes, whether continuously or
12 intermittently.

13 For purposes of this section, (1) "developmental disability" means
14 any disability which is defined as such pursuant to section 3 of
15 P.L.1977, c.82 (C.30:6D-3); (2) "member of the immediate family"
16 means a person's spouse, parent, child or sibling, or a spouse, parent,
17 child or sibling of any of them; and (3) "permanently" occupies or
18 occupied means that the occupant maintains no other domicile at
19 which the occupant votes, pays rent or property taxes or at which rent
20 or property taxes are paid on the occupant's behalf.

21 (cf: P.L.2000, c.113, s.3)]¹

22

23 ²[¹20.] ³[^{19.}²] 22.³ Section 14 of P.L.1993, c.288 (C.52:27D-
24 427) is amended to read as follows:

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

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

31 "Commissioner" means the Commissioner of Community Affairs.

32 "Department" means the Department of Community Affairs.

33 "Interim controls" means a set of measures designed to reduce
34 temporarily human exposure or likely exposure to lead-based paint
35 hazards, including specialized cleaning, repairs, maintenance, painting,
36 temporary containment, ongoing monitoring of lead-based paint
37 hazards or potential hazards, and the establishment and operation of
38 management and resident education programs, or as the term is
39 defined under 42 U.S.C.s.4851b.

40 "Lead abatement" means a [process] set of measures designed
41 [either to mitigate or to eliminate permanently lead-based paint
42 hazards on a premises and includes, but is not limited to: the removal
43 of lead-based paint and lead-contaminated dust; the containment or
44 encapsulation of lead-based paint; the replacement of lead-painted
45 surfaces or fixtures; the removal or covering of lead-contaminated soil;
46 and all preparation, cleanup, disposal and post-abatement clearance

1 testing activities associated with such measures] to permanently
 2 eliminate lead-based paint hazards in accordance with standards
 3 established by the commissioner in compliance with standards
 4 promulgated by the appropriate Federal agencies. Such term includes:
 5 a. the removal of lead-based paint and lead-contaminated dust, the
 6 permanent containment or encapsulation of lead-based paint, the
 7 replacement of lead-painted surfaces or fixtures , and the removal or
 8 covering of lead contaminated soil; and
 9 b. all preparation, cleanup, disposal, and post-abatement clearance
 10 testing activities associated with such measures.

11 "Lead evaluation" means a surface-by-surface investigation to
 12 determine the presence of lead-based paint and the provision of a
 13 report explaining the results of the investigation.

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

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

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

28 "Lead-based paint hazard inspection" means an inspection of
 29 ³[residential] a³ housing³ unit³ and the structure's interior common
 30 areas and exterior surface for the presence of lead-based paint hazards.

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

34 "Surface" means an area such as an interior or exterior wall, ceiling,
 35 floor, door, door frame, window sill, window frame, porch, stair,
 36 handrail and spindle, or other abradable surface, soil, furniture, a
 37 carpet, a radiator or a water pipe.¹

38 (cf: P.L.1993, c.288, s.14)

39

40 ²[121.]³ [20.²] 23.³ Section 15 of P.L.1993, c.288 (C.52:27D-
 41 428) is amended to read as follows:

42 15. a. A business firm shall neither directly nor indirectly perform
 43 lead evaluation or abatement work without first obtaining certification
 44 from the department. Certification may be issued to perform lead
 45 evaluation or abatement work if the business firm employs or will
 46 employ sufficient numbers and types of personnel certified by the

1 Department of Health pursuant to section 3 of P.L.1993, c.288
2 (C.26:2Q-3) to perform lead abatement work and meets all other
3 requirements that the commissioner may establish pursuant to section
4 23 of P.L.1993, c.288 (C.52:27D-436). The certification shall be in
5 writing, shall contain an expiration date, and shall be signed by the
6 commissioner.

7 b. A person or business firm shall not undertake a project involving
8 lead abatement work without first obtaining a construction permit for
9 that project pursuant to section 12 of P.L.1975, c.217
10 (C.52:27D-130). No permit shall be issued for lead abatement work,
11 except to:

12 (1) an owner undertaking work on his own premises using his own
13 employees, if those employees are certified by the Department of
14 Health pursuant to section 3 of P.L.1993, c.288 (C.26:2Q-3);

15 (2) a homeowner proposing to perform lead abatement work
16 himself on a dwelling unit that he owns and occupies as a primary
17 place of residence; or

18 (3) a business firm certified pursuant to this section to perform
19 such work.

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

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

36 ²A business firm that seeks to engage in lead safe maintenance work
37 or lead hazard control work shall do so using only persons who, prior
38 to engaging in such work, shall have completed such training courses
39 as may be prescribed by the commissioner and provided by a training
40 provider accredited by the Commissioner of Health and Senior
41 Services.²

42 A business firm that utilizes interim controls to reduce the risk of
43 lead-based paint exposure shall utilize only those methods approved
44 by the appropriate federal agencies, including specialized cleaning,
45 repairs, maintenance, painting, temporary containment, ongoing
46 monitoring of lead-based paint hazards or potential hazards, as may be

1 set forth under 42 U.S.C.s.4851b or those methods set forth in
 2 guidelines established by the commissioner, but shall not be required
 3 to be certified pursuant to this section unless performing lead
 4 abatement.¹

5 (cf: P.L.1993, c.288, s.15)

6
 7 ³[²21. Section 7 of P.L.1997, c.323 (C.45:8-67) is amended to
 8 read as follows:

9 7. a. No person shall provide, nor present, call or represent himself
 10 as able to provide a home inspection for compensation unless licensed
 11 in accordance with the provisions of this act.

12 b. Whenever a home inspection shall include an inspection for the
 13 presence or absence of lead-based paint, which shall be performed by
 14 a person certified by the Department of Health and Senior Services to
 15 perform lead evaluation work, in accordance with section 3 of P.L.
 16 1993, c.288 (C.26:2Q-3), the inspector shall notify the Commissioner
 17 of Community Affairs whenever the home:

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

19 (2) was constructed after 1977.

20 c. An inspector who is not conducting an inspection for the
 21 presence or absence of lead-based paint, but who notes the presence
 22 of peeling or degraded paint in a dwelling unit constructed prior to
 23 1978, shall include a disclosure statement in the home inspection
 24 report regarding the possible presence of lead-based paint hazards.²

25 (cf: P.L.1997, c.323, s.7)]³

26
 27 ¹[^{21.}] ³[^{22.}¹] ^{24.}³ (New section) The Commissioner of Banking
 28 and Insurance ³and the Commissioner of Health and Senior Services³
 29 shall consult with the Commissioner of Community Affairs and shall
 30 modify all regulations concerning lead hazards in accordance with the
 31 provisions of P.L. , c. (C.) (now before the Legislature as this
 32 bill), to recognize lead hazard control work as an authorized
 33 alternative method to lead abatement in control of lead hazards.

34
 35 ¹[^{22.}] ²[^{23.}¹] There is appropriated from the General Fund to the
 36 Department of Community Affairs for deposit into the "Lead Hazard
 37 Control Assistance Fund"the amount of \$2,000,000 for the purpose of
 38 providing grants pursuant to P.L. , c. (C.) (now before the
 39 Legislature as this bill).]²

40
 41 ³[²23. (New section) a. Except as otherwise provided in
 42 subsection b. of this section, every owner of a tenant-occupied single-
 43 family or two-family residential property, including, without limitation,
 44 a two-family property in which one unit is owner-occupied, shall file
 45 a certificate of registration on forms prescribed by the Commissioner
 46 of Community Affairs, in accordance with section 2 of P.L.1974, c.50

1 (C.46:8-28), with the Bureau of Housing Inspection in the Department
 2 of Community Affairs. Any such filing shall be accompanied by a filing
 3 fee not exceeding the filing fee for hotels and multiple dwellings
 4 established by section 12 of P.L.1967, c.76 (C.55:13A-12).

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

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

8 (2) was constructed after 1977;

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

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

13 c. Any owner who shall fail to comply with an order of the
 14 commissioner to register any property subject to this section shall be
 15 liable for a penalty of \$200 for each registration which the
 16 commissioner shall have ordered. The commissioner may issue a
 17 certificate to the clerk of the Superior Court that an owner is indebted
 18 to the department for the payment of such penalty and thereupon the
 19 clerk shall enter upon the record of docketed judgments the name of
 20 the owner, and of the State, a designation of the statute under which
 21 the penalty is imposed, the amount of the penalty so certified, and the
 22 date of such certification. The making of the entry shall have the same
 23 force and effect as the entry of a docketed judgment in the office of
 24 such clerk.^{2]}³

25
 26 ³25. There is appropriated from the Catastrophic Illness in Children
 27 Relief Fund to the Department of Community Affairs for deposit into
 28 the "Lead Hazard Control Assistance Fund" the amount of \$2,000,000
 29 for the purpose of providing grants pursuant to P.L. , c. (C.)
 30 (now before the Legislature as this bill).³

31
 32 ¹[23.] ³[24.1] 26.³ This act shall take effect 90 days following
 33 enactment, except that section ²[8] 6² shall take effect immediately.

34
 35
 36
 37
 38 Establishes lead-safe housing grant and loan program and registry
 39 plan; makes appropriations.

SENATE, No. 1348

STATE OF NEW JERSEY 210th LEGISLATURE

INTRODUCED MARCH 18, 2002

Sponsored by:

Senator RONALD L. RICE

District 28 (Essex)

Senator ANTHONY R. BUCCO

District 25 (Morris)

Co-Sponsored by:

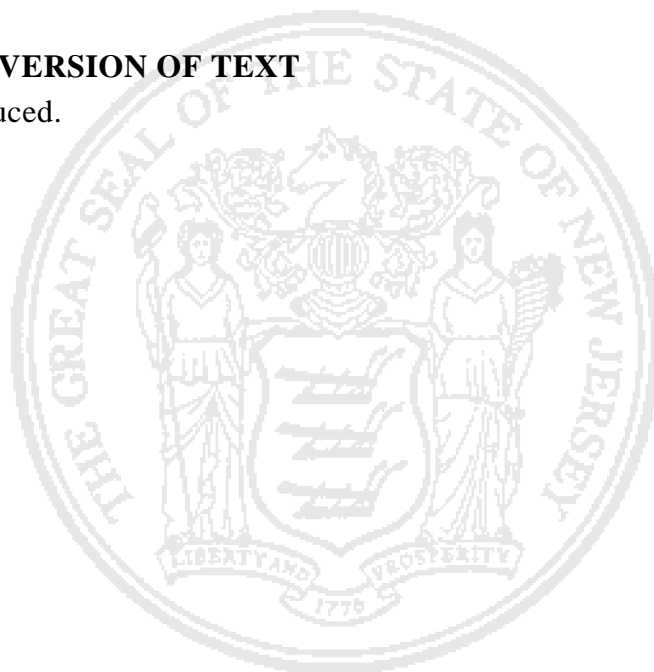
**Senators Cardinale, Connors, B.Smith, Vitale, Singer, Buono, James and
Coniglio**

SYNOPSIS

Establishes lead-safe housing grant and loan program and registry plan;
appropriates \$2 million.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 3/22/2002)

1 AN ACT providing financial assistance for certain lead hazard control
2 work, establishing the Lead Hazard Control Assistance Fund,
3 supplementing Title 52 and Title 55 of the Revised Statutes,
4 amending various parts of the statutory law, and making an
5 appropriation.

6

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

9

10 1. (New section) This act shall be known and may be cited as the
11 "Lead Hazard Control Assistance Act."

12

13 2. (New section) The Legislature finds and declares:

14 a. Lead is an element that has been used over the years in many
15 products. The toxicity of lead has been known for several decades,
16 causing its inclusion in products such as gasoline and residential paint
17 to be banned by the federal government.

18 b. All animals and people can be negatively affected by lead,
19 depending upon the amount, duration, and promptness of treatment.
20 The range of health effects includes reduced stature, miscarriage,
21 hypertension, and, most notably, neurological damage, particularly in
22 children whose brains are developing.

23 c. Although a number of sources of lead exposure have been
24 brought under control, environmental and public health professionals
25 believe that the toxic metal lead is the number one environmental
26 hazard facing children today. A substantial majority of lead exposure
27 is derived from lead-based paint and dust.

28 d. Because of the age of New Jersey's housing stock, our State is
29 among the states with the most serious risk of exposure from previous
30 residential use of lead-based paint. It is estimated that there are about
31 two million homes which were constructed in New Jersey prior to
32 1978, the year in which the sale of lead in paint for residential use was
33 banned.

34 e. A comprehensive program to identify lead hazards in residential
35 housing and also to identify housing which is safe from exposure to
36 lead hazards is necessary in order to eradicate the major source of lead
37 exposure to our State's children. The Legislature further finds that
38 children living in rental housing are particularly at risk to exposure
39 from lead because tenants do not have the requisite control over rental
40 units to abate lead hazards from the property. Therefore, the
41 comprehensive program will emphasize methods to safeguard children
42 residing in rental housing and require the State to track the progress
43 of making all of New Jersey's rental housing stock more lead safe.

EXPLANATION - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 3. (New section) As used in this act:

2 "Agency" means the New Jersey Housing and Mortgage Finance
3 Agency established by P.L.1983, c.530 (C.55:14K-1 et seq.);

4 "Commissioner" means the Commissioner of Community Affairs;

5 "Department" means the Department of Community Affairs;

6 "Eligible loan" means a loan made for the purpose of financing lead
7 hazard control work in residential housing located in the State;

8 "Financial assistance" means loans and loan guarantees and grants;

9 "Fund" means the Lead Hazard Control Assistance Fund
10 established pursuant to section 4 of P.L. , c. (C.)(now before
11 the Legislature as this bill);

12 "Interim controls" means a set of measures designed to reduce
13 temporarily human exposure or likely exposure to lead-based paint
14 hazards, including specialized cleaning, repairs, maintenance, painting,
15 temporary containment, ongoing monitoring of lead-based paint
16 hazards or potential hazards, and the establishment and operation of
17 management and resident education programs, or the term as it is
18 defined under 42 U.S.C.s.4851b;

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

23 a. the removal of lead-based paint and lead-contaminated dust, the
24 permanent containment or encapsulation of lead-based paint, the
25 replacement of lead-painted surfaces or fixtures, and the removal or
26 covering of lead contaminated soil; and

27 b. all preparation, cleanup, disposal, and post-abatement clearance
28 testing activities associated with such measures;

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

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

37 "Lead-based paint hazard inspection" means an inspection of
38 residential housing and the structure's interior common areas and
39 exterior surface for the presence of lead-based paint hazards;

40 "Lead-safe housing" means residential housing in which a lead-
41 based paint hazard risk has been significantly reduced through the use
42 of interim controls as permitted under federal law and as defined in 42
43 U.S.C. s.4851b;

44 "Lead hazard control work" means work to make residential
45 housing lead-safe, or to mitigate ,through the use of interim controls
46 as permitted under federal law and as defined in 42 U.S.C.s.4851b, or

1 to eliminate permanently lead-based paint hazards on a premises by a
2 person certified to perform lead abatement work pursuant to P.L.1993,
3 c.288 (C.26:2Q-1 et seq.) and the costs of temporary relocation,
4 determined by the commissioner to be necessary pursuant to rules
5 prescribed by the commissioner, while lead hazard control work is
6 being performed. The determination of the commissioner shall be
7 subject to review and appeal pursuant to the "Administrative
8 Procedure Act." P.L.1968, c.410 (C.52:14B-1 et seq.):

9 "Relocation assistance related to lead hazard" means financial
10 assistance provided to a tenant to relocate to alternative housing which
11 is lead safe.

12 "Residential housing" means a dwelling unit in a multiple dwelling
13 as defined in section 3 of P.L.1967, c.76 (C.55:13A-3).

14

15 4. (New section) a. There is hereby established in the agency the
16 "Lead Hazard Control Assistance Fund" hereinafter referred to as the
17 "fund," which shall be continuing and nonlapsing, for the purpose of
18 funding loans and grants authorized pursuant to P.L. , c. (C.)
19 (now before the Legislature as this bill). Moneys in the fund not
20 immediately required for payment or liquid reserves may be invested
21 and reinvested by the agency in the same manner in which other
22 agency funds may be invested.

23 b. There shall be paid into the fund:

24 (1) all proceeds from the sale of bonds pursuant to section 5 of
25 P.L. , c. (C.) (now before the Legislature as this bill);

26 (2) fees received pursuant to P.L. , c. (C.) (now before the
27 Legislature as this bill);

28 (3) moneys deposited into the fund as repayment of principal and
29 interest on outstanding loans made from the fund;

30 (4) any income earned upon investment of moneys in the fund by
31 the agency pursuant to subsection a. of this section; and

32 (5) any other funds that may be available to the fund through
33 appropriation by the Legislature or otherwise.

34 c. Moneys in the fund shall be used exclusively for:

35 (1) funding loans and loan guarantees by the agency pursuant to
36 section 6 of P.L. , c. (C.) (now before the Legislature as this
37 bill);

38 (2) making payments in fulfillment of the terms of loan guarantees
39 entered into pursuant to section 6 of P.L. , c. (C.) (now before
40 the Legislature as this bill);

41 (3) funding grants pursuant to section 7 of P.L. , c. (C.) (now
42 before the Legislature as this bill);

43 (4) public education for the prevention of lead poisoning; and

44 (5) defraying the administrative costs of the department and agency
45 in carrying out the purposes and provisions of P.L. , c. (C.) (now
46 before the Legislature as this bill) up to an amount not to exceed 5%

1 of the total moneys appropriated to the fund during the fiscal year.
2 The department and the agency shall jointly determine the amounts to
3 be made available from the fund for the purposes of grants and loans,
4 respectively, on an annual basis.

5 d. Fees for the issuance of loans authorized shall be established by
6 the agency at the lowest rate compatible with the integrity of the fund
7 and its proper administration, maintenance of adequate reserves for
8 actuarially sound funding, and the ability of the agency to pay the
9 interest upon and repay the principal of bonds issued pursuant to
10 section 5 of P.L. , c. (C.) (now before the Legislature as this bill).

11

12 5. (New Section) a. In addition to the bonding authority
13 conferred by section 20 of P.L.1983, c.530 (C.55:14K-20), the agency
14 is hereby authorized to issue bonds in an amount not to exceed
15 \$25,000,000 for the exclusive purpose of funding loans in the manner
16 and to the extent provided in P.L. , c. (C.) (now before the
17 Legislature as this bill).

18 b. Except as otherwise explicitly authorized in P.L. , c. (C.)
19 (now before the Legislature as this bill), any bonds issued or to be
20 issued pursuant to this section shall be subject to all the requirements,
21 conditions and restrictions of P.L.1983, c.530 (C.55:14K-1 et seq.)
22 upon the bonding authority of the agency.

23 c. The interest rate and other terms upon which bonds are issued
24 pursuant to this section shall not create a prospective obligation of the
25 agency in excess of the amount of revenues that can reasonably be
26 expected from the fees that the agency can reasonably expect to
27 charge pursuant to subsection f. of section 6 of P.L. , c. (C.)
28 (now before the Legislature as this bill).

29

30 6. (New section) a. The agency is hereby authorized to provide
31 financial assistance with moneys from the fund to eligible owners of
32 residential housing for lead hazard control work, in compliance with
33 the terms of P.L. , c. (C.)(now before the Legislature as this
34 bill) and subject to the conditions set forth in this section.

35 b. Financial assistance may be provided only to an eligible owner
36 of residential housing who has the ability to repay the loan as
37 determined by the agency.

38 c. Financial assistance shall be provided for a period to be
39 determined by the agency.

40 d. The agency may provide financial assistance, upon application
41 therefore, for up to 100% of the costs of lead hazard control work,
42 except that no award of financial assistance for a single project may
43 exceed \$150,000.

44 e. Financial assistance provided pursuant to P.L. , c. (C.)
45 (now before the Legislature as this bill) shall be secured by a lien upon
46 the real property on which the lead hazard control work is performed,

1 with respect to which the financial assistance is made and other such
2 collateral as the agency may consider necessary to secure the interests
3 of the fund in accordance with the provisions and purposes of P.L. ,
4 c. (C.) (now before the Legislature as this bill). The agency may,
5 if it deems necessary, require the financial assistance to be secured by
6 a personal loan guarantee by the owner of the property or by a lien
7 upon other real property belonging to the person to whom the loan is
8 made. The agency may, in consultation with the department, authorize
9 a loan in conjunction with an award of a grant for a partial amount of
10 the costs of lead hazard control work.

11 f. Interest upon loans made by or through the fund and fees for the
12 issuance of loan guarantees issued by the fund shall be established by
13 the agency at the lowest rate compatible with the integrity of the fund
14 and its proper administration, and compatible with maintenance of
15 adequate reserves for the actuarially sound funding of guarantee
16 pledges.

17 g. The agency is authorized to contract with institutional lenders
18 to guarantee on behalf of an eligible owner the repayment of the full
19 principal balance of that loan outstanding at the time of any default, if
20 (1) the loan was made for performance of lead hazard control work on
21 residential housing as provided in P.L. , c. (C.) (now before the
22 Legislature as this bill); (2) the amount of the loan and the terms on
23 which it was made conform substantially to the amount and terms then
24 available to the borrower on such a loan; and (3) the regulations of the
25 agency adopted pursuant to subsection i. of this section are complied
26 with.

27 h. The agency shall establish within the fund sufficient reserves and
28 liquid reserves, aside from those moneys required to meet payments of
29 interest and repayments of principal on bonds issued pursuant to
30 section 5 of P.L. , c. (C.) (now before the Legislature as this
31 bill), to provide a sufficient and actuarially sound basis for its pledges
32 contained in any loan guarantee contract entered into pursuant to
33 subsection a. of this section.

34 i. The agency shall adopt, pursuant to the "Administrative
35 Procedure act," P.L.1968, c.410 (C.52:14B-1 et seq.) rules and
36 regulations governing the issuance of loan guarantees pursuant to this
37 section, including:

- 38 (1) procedures for the submission of requests for such guarantees;
- 39 (2) standards and requirements governing the allocation of
40 guarantees to applicant institutional lenders, and determining the fees
41 to be charged therefor and the manner of payment of those fees;
- 42 (3) restrictions as to the maturities and interest rates of any loan,
43 or the return realized therefrom by the institutional lender, upon which
44 a guarantee is to be issued;
- 45 (4) requirements as to commitments by institutional lenders with
46 respect to loans upon which guarantees may be issued; and

1 (5) any other matters related to the duties and the exercise of the
2 powers of the agency under this section.

3
4 7. (New section) a. The New Jersey Housing and Mortgage
5 Finance Agency shall refer to the department those applications which
6 did not qualify for a loan under section 6 of P.L. , c. (C.)(now
7 before the Legislature as this bill) because of the lack of financial
8 ability on the part of the applicant to repay a loan as determined by
9 the agency.

10 b. The department shall consider each application forwarded, and
11 determine whether the applicant is eligible for a grant for lead hazard
12 control work.

13 c. The department shall establish a program to provide the grants
14 authorized pursuant to this section. Grants shall not be made available
15 to owners of multiple dwellings comprising more than four separate
16 dwelling units. Priority shall not be granted to any residential housing
17 on the basis of its location. Priority may be given, however, to those
18 residences in which children under the age of six reside. Individual
19 grant amounts shall be limited to no more than the projected costs to
20 abate the lead condition. The department may award the grants on a
21 pro-rata basis to the applicants, if there is an insufficient amount in the
22 fund to award grants for the full amount of the projected cost of the
23 lead hazard control work.

24 d. The department shall provide and coordinate public education
25 efforts concerning the provisions of P.L. , c. (C.)(now before
26 the Legislature as this bill), in conjunction with the Office for
27 Prevention of Mental Retardation and Developmental Disabilities in
28 the Department of Human Services.

29
30 8. (New section) The Commissioner of Community Affairs, in
31 consultation with the New Jersey Housing and Mortgage Finance
32 Agency, shall adopt, pursuant to the "Administrative Procedure Act,"
33 P.L.1968, c.410 (C.52:14B-1 et seq.), any rules and regulations
34 necessary to effectuate the provisions of P.L. , c. (C.)(now
35 before the Legislature as this bill), including, but not limited to, lead-
36 based paint hazard inspections and evaluations, and lead hazard
37 control work. These regulations shall allow for certified third party
38 risk assessors to provide assurance that rental properties meet the
39 standards established for subsection (w) of section 7 of
40 P.L.1967, c.76 (C.55:13A-7). Property owners using such third party
41 risk assessors shall provide evidence of compliance at the time of the
42 cyclical inspection carried out under the "Hotel and Multiple Dwelling
43 Law," P.L.1967, c.76 (C.55:13A-1 et seq.). Notwithstanding this
44 intent the department shall maintain existing authority to respond to
45 tenant complaints related to subsection (w) of section 7 of P.L.1967,
46 c.76 (C.55:13A-7).

1 9. (New section) Whenever a loan or grant is provided pursuant
2 to P.L. , c. (C.)(now before the Legislature as this bill), the
3 address of the residential housing and the details concerning the
4 project shall be entered into a registry which shall be maintained by the
5 department. The department shall enter onto the registry information
6 for any other housing which it may have concerning the lead-safe
7 status of such housing. The housing shall be categorized as either:

8 a. lead-free, which shall include any housing constructed after 1978
9 and housing found to be free of lead-based paint;

10 b. lead-abated, including housing where lead-based paint hazards
11 have been permanently abated; or

12 c. lead-hazard controlled, including housing in which preventative
13 maintenance practices and interim controls have been implemented.

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

18

19 10. (New section) a. The Commissioner of Community Affairs
20 shall review any case referred to the department in which a lead hazard
21 condition has been found to exist and which poses an immediate risk
22 of continuing exposure to lead hazard for any children living in the
23 housing. If the lead hazard has been found to exist in rental housing,
24 the commissioner shall determine whether the removal of the residents
25 from the residential rental housing containing that lead hazard is the
26 most expedient method of eliminating lead hazard risk.

27 b. If the commissioner determines that the removal and relocation
28 of the residents from such housing is the most expedient method of
29 eliminating lead hazard risk, then the commissioner shall authorize the
30 payment of relocation assistance pursuant to P.L. , c.
31 (C.)(now pending before the Legislature as this bill), and shall
32 assist in the relocation of such residents to lead-safe housing.

33 c. Whenever relocation assistance is authorized pursuant to this
34 section, the commissioner may determine to seek reimbursement for
35 payments made for relocation assistance from the owner of the rental
36 housing from which the tenants were moved. The commissioner shall
37 seek reimbursement if the owner of such rental housing had failed to
38 maintain the housing in a lead-safe condition.

39 d. In the case of any displacement of a household with a child or
40 a woman of childbearing age from a unit of rental housing that has
41 been found, in a final administrative or judicial determination, not to
42 be maintained in lead-safe condition in accordance with standards
43 established by rule of the Department of Community Affairs or by
44 municipal ordinance, all relocation costs incurred by a public agency
45 to relocate that household shall be paid by the owner of the rental
46 housing to the public agency making relocation payments upon

1 presentation to the owner by the public agency of a statement of those
2 relocation costs and of the date upon which the relocation costs are
3 due and payable.

4 e. In the event that the relocation costs to be paid to the public
5 agency are not paid within ten days after the due date, interest shall
6 accrue and be due to the public agency on the unpaid balance at the
7 rate of 18% per annum until the costs, and the interest thereon, shall
8 be fully paid to the public agency.

9 f. In the event that the relocation costs to be paid to a public
10 agency shall not be paid within ten days after the date due, the unpaid
11 balance thereof and all interest accruing thereon shall be a lien on the
12 parcel in which the dwelling unit from which displacement occurred is
13 located. To perfect the lien granted by this section, a statement
14 showing the amount and due date of the unpaid balance and identifying
15 the parcel, which identification shall be sufficiently made by reference
16 to the municipal assessment map, shall be recorded with the clerk or
17 register of the county in which the affected property is located and,
18 upon recording, the lien shall have the priority of a mortgage lien.
19 Whenever relocation costs with regard to the parcel and all interest
20 accrued thereon shall have been fully paid to the public agency, the
21 statement shall be promptly withdrawn or canceled by the public
22 agency.

23 g. In the event that relocation costs to be paid to a public agency
24 are not paid as and when due, the unpaid balance thereof and all
25 interest accrued thereon, together with attorney's fees and costs, may
26 be recovered by the public agency in a civil action as a personal debt
27 of the owner of the property. If the owner is a corporation, the
28 directors, officers and any shareholders who each control more than
29 5% of the total voting shares of the corporation, shall be personally
30 liable, jointly and severally, for the relocation costs.

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

34
35 11. (New section) Whenever the commissioner has authorized
36 relocation assistance for the elimination of a lead hazard risk pursuant
37 section 10 of P.L. , c. (C.)(now before the Legislature as this
38 bill) the payment of the assistance shall be deemed to be a medical
39 payment eligible for payment from the "Catastrophic Illness in
40 Children Relief Fund," established pursuant to P.L.1987, c.370
41 (C.26:2-150).

42 Notwithstanding any other provision of law to the contrary, a
43 payment made from the "Catastrophic Illness in Children Relief Fund"
44 for the purposes in this section shall be authorized regardless of
45 whether the relocation assistance is covered by any other State or
46 federal program or any insurance contract and regardless of whether

1 such expense will exceed 10% of the first \$100,000 of annual income
2 of a family plus 15% of the excess income over \$100,000 provided
3 that if reimbursement is received from federal or State sources or from
4 insurance proceeds, such reimbursement shall be directed to reimburse
5 the fund for expenses paid under this section.

6
7 12. (New section) In addition to the fees permitted to be charged
8 for inspection of multiple dwellings pursuant to section 13 of
9 P.L.1967, c.76 (C.55:13A-13), the department shall assess an
10 additional fee of \$2 per unit inspected for the purposes of
11 P.L. , c. (C.)(now before the Legislature as this bill)
12 concerning lead hazard control work. The fees collected pursuant
13 to this section shall be deposited into the "Lead Hazard Control
14 Assistance Fund" established pursuant to section 4 of P.L. , c.
15 (C.)(now before the Legislature as this bill).

16
17 13. (New section) a. Beginning on the effective date of P.L. ,
18 c. (C.)(now before the Legislature as this bill), every seller of
19 paint within the State shall collect a surcharge of \$.50 on each one
20 gallon can of paint sold, and shall remit the proceeds of the surcharge
21 collection in a manner and form to be prescribed by the State
22 Treasurer.

23 b. The State Treasurer shall segregate those funds collected
24 pursuant to the surcharge established under this section, and shall
25 deposit all funds so segregated into the "Lead Hazard Control
26 Assistance Fund" established pursuant to section 4 of P.L. , c.
27 (C.)(now before the Legislature as this bill).

28
29 14. (New section) Notwithstanding any other provisions of this
30 act, a rental dwelling unit, whether or not it is in a multiple dwelling,
31 shall not be subject to inspection and evaluation for the presence of
32 lead-based paint hazards if the unit:

- 33 a. has been certified to be free of lead-based paint;
34 b. was constructed during or after 1978; or
35 c. is a seasonal rental unit which is rented for less than six months'
36 duration each year.

37
38 15. Section 2 of P.L.1993, c.288 (C.26:2Q-2) is amended to read
39 as follows:

40 2. As used in sections 1 through 12 of P.L.1993, c.288 (C.26:2Q-1
41 through C.26:2Q-12):

42 "Commissioner" means the Commissioner of Health.

43 "Department" means the Department of Health.

44 "Interim controls" means a set of measures designed to reduce
45 temporarily human exposure or likely exposure to lead-based paint
46 hazards, including specialized cleaning, repairs, maintenance, painting,

1 temporary containment, ongoing monitoring of lead-based paint
2 hazards or potential hazards, and the establishment and operation of
3 management and resident education programs, or as the term is
4 defined under 42 U.S.C.s.4851b.

5 "Lead abatement" means a [process] set of measures designed
6 [either to mitigate or to eliminate permanently lead-based paint
7 hazards on a premises and includes, but is not limited to: the removal
8 of lead-based paint and lead-contaminated dust; the containment or
9 encapsulation of lead-based paint; the replacement of lead-painted
10 surfaces or fixtures; the removal or covering of lead-contaminated soil;
11 and all preparation, cleanup, disposal and post-abatement clearance
12 testing activities associated with such measures] to permanently
13 eliminate lead-based paint hazards in accordance with standards
14 established by the commissioner in compliance with standards
15 promulgated by the appropriate Federal agencies. Such term includes:

16 a. the removal of lead-based paint and lead-contaminated dust, the
17 permanent containment or encapsulation of lead-based paint, the
18 replacement of lead-painted surfaces or fixtures, and the removal or
19 covering of lead contaminated soil; and

20 b. all preparation, cleanup, disposal, and post-abatement clearance
21 testing activities associated with such measures.

22 "Lead evaluation" means a surface-by-surface investigation to
23 determine the presence of lead-based paint and the provision of a
24 report explaining the results of the investigation.

25 "Lead hazard control work" means work to make housing lead-safe,
26 or to mitigate, through the use of interim controls as permitted under
27 federal law and as defined in 42 U.S.C.s.4851b, or to eliminate
28 permanently lead-based paint hazards by abatement on a premises by
29 a person certified to perform lead abatement work pursuant to
30 P.L.1993, c.288 (C.26:2Q-1 et seq.).

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

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

39 "Lead-based paint hazard inspection" means an inspection of
40 residential housing and the structure's interior common areas and
41 exterior surface for the presence of lead-based paint hazards.

42 "Lead safe maintenance work" means those maintenance activities
43 which are necessary to maintain surfaces on which lead mitigation has
44 been performed in a lead safe condition and to prevent lead-based
45 paint hazards from occurring or reoccurring.

46 "Surface" means an area such as an interior or exterior wall, ceiling,

1 floor, door, door frame, window sill, window frame, porch, stair,
2 handrail and spindle, or other abradable surface, soil, furniture, a
3 carpet, a radiator or a water pipe.

4 (cf: P.L.1993, c.288, s.2)

5

6 16. Section 3 of P.L.1993, c.288 (C.26:2Q-3) is amended to read
7 as follows:

8 3. a. A person shall not perform a lead evaluation or lead
9 abatement work unless the person is certified by the department
10 pursuant to this act.

11 b. The commissioner shall establish a certification program to
12 assure the competency of persons to perform lead evaluations or lead
13 abatement work in a safe and reliable manner. The commissioner may
14 establish different classes of certification reflecting the different types
15 and complexities of lead evaluation and abatement activities.

16 c. The commissioner shall certify a person who satisfactorily
17 completes the certification training course required pursuant to this
18 act, passes an examination prescribed by the department and meets any
19 other requirements for certification that may be established by the
20 commissioner or by federal law.

21 d. The certification shall be in writing with a photo identification,
22 signed and dated by the commissioner. It shall be carried upon the
23 person while performing evaluation or abatement services.

24 e. Notwithstanding the provisions of subsection a. of this section
25 to the contrary, a person who is certified to conduct lead evaluations
26 or perform lead abatement work in a jurisdiction outside of New
27 Jersey is entitled to receive a New Jersey certification from the
28 department if the person demonstrates successful completion of a
29 training and certification program in that jurisdiction that is at least as
30 rigorous and comprehensive as the State training and certification
31 program.

32 f. Lead evaluation and lead abatement certifications shall be for a
33 period not to exceed two years and shall be non-transferable. A person
34 may apply for recertification during the 90-day period before the
35 certification expiration date or the 90-day period after the certification
36 expiration date; except that if a person applies after the certification
37 expiration date, he shall not perform any services for which
38 certification is required until the certification is renewed. If a
39 certification has expired for more than 90 days, the person is required
40 to obtain a new certification.

41 g. Nothing in this section shall be construed to restrict or otherwise
42 affect the right of any person to engage in painting, woodworking,
43 structural renovation or other indoor or outdoor contracting services
44 that may result in the disturbance of paint, or to engage in lead safe
45 maintenance work or lead hazard control work, but a person shall not
46 hold himself out as certified by the department or otherwise represent

1 that he has specialized competency to perform lead evaluation or
2 abatement work, unless he has been certified or otherwise specifically
3 authorized pursuant to sections 1 through 12 of P.L.1993, c.288
4 (C.26:2Q-1 through C.26:2Q-12).

5 A person who utilizes interim controls to reduce the risk of lead-
6 based paint exposure shall utilize only those methods approved by the
7 appropriate federal agencies, including specialized cleaning, repairs,
8 maintenance, painting, temporary containment, ongoing monitoring of
9 lead-based paint hazards or potential hazards, as may be set forth
10 under 42 U.S.C.s.4851b or those methods set forth in guidelines
11 established by the Commissioner of Community Affairs, but shall not
12 be required to be certified pursuant to this section unless performing
13 lead abatement.

14 (cf: P.L.1993, c.288, s.3)

15
16 17. Section 7 of P.L.1967, c.76 (C.55:13A-7) is amended to read
17 as follows:

18 7. The commissioner shall issue and promulgate, in the manner
19 specified in section 8 of [this act] P.L.1967, c.76 (C.55:13A-8), such
20 regulations as [he]the commissioner may deem necessary to assure
21 that any hotel or multiple dwelling will be [constructed and]
22 maintained in such manner as is consistent with, and will protect, the
23 health, safety and welfare of the occupants or intended occupants
24 thereof, or of the public generally.

25 Any such regulations issued and promulgated by the commissioner
26 pursuant to this section shall provide standards and specifications for
27 such [construction, conversion and alteration and] maintenance
28 materials, methods and techniques, fire warning and extinguisher
29 systems, elevator systems, emergency egresses, and such other
30 protective equipment as the commissioner shall deem reasonably
31 necessary to the health, safety and welfare of the occupants or
32 intended occupants of any units of dwelling space in any hotel or
33 multiple dwelling, including but not limited to:

34 (a) Structural adequacy ratings;

35 (b) Methods of egress, including fire escapes, outside fireproof
36 stairways, independent stairways, and handrails, railings, brackets,
37 braces and landing platforms thereon, additional stairways, and treads,
38 winders, and risers thereof, entrances and ramps;

39 (c) Bulkheads and scuttles, partitions, walls, ceilings and floors;

40 (d) Garbage and refuse collection and disposal, cleaning and
41 janitorial services, repairs, and extermination services;

42 (e) Electrical wiring and outlets, and paints and the composition
43 thereof;

44 (f) Doors, and the manner of opening thereof;

45 (g) Transoms, windows, shafts and beams;

46 (h) Chimneys, flues and central heating units;

- 1 (i) Roofing and siding materials;
- 2 (j) Lots, yards, courts and garages, including the size and location
- 3 thereof;
- 4 (k) Intakes, open ducts, offsets and recesses;
- 5 (l) Windows, including the size and height thereof;
- 6 (m) Rooms, including the area and height thereof, and the
- 7 permissible number of occupants thereof;
- 8 (n) Stairwells, skylights and alcoves;
- 9 (o) Public halls, including the lighting and ventilation thereof;
- 10 (p) Accessory passages to rooms;
- 11 (q) Cellars, drainage and air space;
- 12 (r) Water-closets, bathrooms and sinks;
- 13 (s) Water connections, including the provision of drinking and hot
- 14 and cold running water;
- 15 (t) Sewer connections, privies, cesspools, and private sewers;
- 16 (u) Rain water and drainage conductors; [and]
- 17 (v) Entrances and ramps ; and.
- 18 (w) Presence of lead-based paint hazards.
- 19 (cf: P.L.1967, c. 6, s.7)

20

21 18. Section 19 of P.L.1967, c.76 (C.55:13A-19) is amended to
22 read as follows:

23 19. (a) No person shall

24 (1) Obstruct, hinder, delay or interfere with, by force or otherwise,
25 the commissioner in the exercise of any power or the discharge of any
26 function or duty under the provisions of this act; or

27 (2) Prepare, utter or render any false statement, report, document,
28 plans or specifications permitted or required to be prepared, uttered
29 or rendered under the provisions of this act; or

30 (3) Render ineffective or inoperative any protective equipment
31 installed, or intended to be installed, in any hotel or multiple dwelling;
32 or

33 (4) Refuse or fail to comply with any lawful ruling, action, order
34 or notice of the commissioner; or

35 (5) Violate, or cause to be violated, any of the provisions of this
36 act.

37 (b) Any person who violates, or causes to be violated, any
38 provision of subsection (a) of this section shall be liable to a penalty
39 of not less than \$50.00 nor more than \$500.00 for each violation, and
40 a penalty of not less than \$500.00 nor more than \$5,000.00 for each
41 continuing violation. Where any violation of subsection (a) of this
42 section is of a continuing nature, each day during which such
43 continuing violation remains unabated after the date fixed by the
44 commissioner in any order or notice for the correction or termination
45 of such continuing violation, shall constitute an additional, separate
46 and distinct violation, except during the time an appeal from said order

1 may be taken or is pending. The commissioner, in the exercise of his
2 administrative authority pursuant to this act, may levy and collect
3 penalties in the amounts set forth in this section. Where the
4 administrative penalty order has not been satisfied within 30 days of
5 its issuance the penalty may be sued for, and recovered by and in the
6 name of the commissioner in a civil action by a summary proceeding
7 under the Penalty Enforcement Law (N.J.S.2A:58-1 et seq.) in the
8 Superior Court.

9 (c) Any person shall be deemed to have violated, or to have caused
10 to be violated, any provision of subsection (a) of this section whenever
11 any officer, agent or employee thereof, under the control of and with
12 the knowledge of said person shall have violated or caused to be
13 violated any of the provisions of subsection (a) of this section.

14 (d) The commissioner may cancel and revoke any permit, approval
15 or certificate required or permitted to be granted or issued to any
16 person pursuant to the provisions of this act if the commissioner shall
17 find that any such person has violated, or caused to be violated, any of
18 the provisions of subsection (a) of this section.

19 (e) Any penalties collected pursuant to this section levied as
20 the result of a violation of subsection (w) of section 7 of P.L.1967,
21 c.76 (C.55:13A-7) and which occurred pursuant to inspection for lead-
22 based paint hazards shall be deposited in the Lead Hazard Control
23 Assistance fund established pursuant to section 4 of P.L. , c.
24 (C.)(now before the Legislature as this bill). Penalties levied as
25 the result of multiple violations shall be allocated to the Lead Hazard
26 Control Assistance fund in such proportion as the commissioner shall
27 prescribe.

28 (cf: P.L.1970, c.138, s.11)

29

30 19. (New section) On or before the last day of the 24th month
31 ending after the effective date of this section, and each two years
32 thereafter, the Commissioner of Community Affairs and the Executive
33 Director of the New Jersey Housing and Mortgage Finance Agency
34 shall jointly issue a report to the Legislature on the effectiveness of the
35 provisions of P.L. , c. (C.)(now before the Legislature as this
36 bill), which report shall include:

37 a. Details on the number and amounts of loans and grants provided
38 and the households served;

39 b. Information obtained and entered on the housing registry created
40 pursuant to P.L. , c. (C.)(now before the Legislature as this
41 bill); and

42 c. The costs incurred and the revenues derived by the department
43 and the agency in administering the act, including information
44 regarding any fees which may be authorized to be charged or increased
45 pursuant to P.L. , c. (C.)(now before the Legislature as this
46 bill).

1 20. Section 2 of P.L.1974, c.49 (C.2A:18-61.1) is amended to read
2 as follows:

3 2. No lessee or tenant or the assigns, under-tenants or legal
4 representatives of such lessee or tenant may be removed by the
5 Superior Court from any house, building, mobile home or land in a
6 mobile home park or tenement leased for residential purposes, other
7 than (1) owner-occupied premises with not more than two rental units
8 or a hotel, motel or other guest house or part thereof rented to a
9 transient guest or seasonal tenant; (2) a dwelling unit which is held in
10 trust on behalf of a member of the immediate family of the person or
11 persons establishing the trust, provided that the member of the
12 immediate family on whose behalf the trust is established permanently
13 occupies the unit; and (3) a dwelling unit which is permanently
14 occupied by a member of the immediate family of the owner of that
15 unit, provided, however, that exception (2) or (3) shall apply only in
16 cases in which the member of the immediate family has a
17 developmental disability, except upon establishment of one of the
18 following grounds as good cause and establishment of compliance by
19 the landlord with the registration provisions of section 2 of P.L.1974,
20 c.50, (C.46:8-28) is documented:

21 a. The person fails to pay rent due and owing under the lease
22 whether the same be oral or written; provided that, for the purposes
23 of this section, any portion of rent unpaid by a tenant to a landlord but
24 utilized by the tenant to continue utility service to the rental premises
25 after receiving notice from an electric, gas, water or sewer public
26 utility that such service was in danger of discontinuance based on
27 nonpayment by the landlord, shall not be deemed to be unpaid rent.

28 b. The person has continued to be, after written notice to cease, so
29 disorderly as to destroy the peace and quiet of the occupants or other
30 tenants living in said house or neighborhood.

31 c. The person has willfully or by reason of gross negligence caused
32 or allowed destruction, damage or injury to the premises.

33 d. The person has continued, after written notice to cease, to
34 substantially violate or breach any of the landlord's rules and
35 regulations governing said premises, provided such rules and
36 regulations are reasonable and have been accepted in writing by the
37 tenant or made a part of the lease at the beginning of the lease term.

38 e. (1) The person has continued, after written notice to cease, to
39 substantially violate or breach any of the covenants or agreements
40 contained in the lease for the premises where a right of reentry is
41 reserved to the landlord in the lease for a violation of such covenant
42 or agreement, provided that such covenant or agreement is reasonable
43 and was contained in the lease at the beginning of the lease term.

44 (2) In public housing under the control of a public housing
45 authority or redevelopment agency, the person has substantially
46 violated or breached any of the covenants or agreements contained in

1 the lease for the premises pertaining to illegal uses of controlled
2 dangerous substances, or other illegal activities, whether or not a right
3 of reentry is reserved to the landlord in the lease for a violation of such
4 covenant or agreement, provided that such covenant or agreement
5 conforms to federal guidelines regarding such lease provisions and was
6 contained in the lease at the beginning of the lease term.

7 f. The person has failed to pay rent after a valid notice to quit and
8 notice of increase of said rent, provided the increase in rent is not
9 unconscionable and complies with any and all other laws or municipal
10 ordinances governing rent increases.

11 g. The landlord or owner (1) seeks to permanently board up or
12 demolish the premises because he has been cited by local or State
13 housing inspectors for substantial violations affecting the health and
14 safety of tenants and it is economically unfeasible for the owner to
15 eliminate the violations; (2) seeks to comply with local or State
16 housing inspectors who have cited him for substantial violations
17 affecting the health and safety of tenants and it is unfeasible to so
18 comply without removing the tenant; simultaneously with service of
19 notice of eviction pursuant to this clause, the landlord shall notify the
20 Department of Community Affairs of the intention to institute
21 proceedings and shall provide the department with such other
22 information as it may require pursuant to rules and regulations. The
23 department shall inform all parties and the court of its view with
24 respect to the feasibility of compliance without removal of the tenant
25 and may in its discretion appear and present evidence; (3) seeks to
26 correct an illegal occupancy because he has been cited by local or
27 State housing inspectors or zoning officers and it is unfeasible to
28 correct such illegal occupancy without removing the tenant; or (4) is
29 a governmental agency which seeks to permanently retire the premises
30 from the rental market pursuant to a redevelopment or land clearance
31 plan in a blighted area. In those cases where the tenant is being
32 removed for any reason specified in this subsection, no warrant for
33 possession shall be issued until P.L.1967, c.79 (C.52:31B-1 et seq.)
34 and P.L.1971, c.362 (C.20:4-1 et seq.) have been complied with.

35 h. The owner seeks to retire permanently the residential building
36 or the mobile home park from residential use or use as a mobile home
37 park, provided this subsection shall not apply to circumstances
38 covered under subsection g. of this section.

39 i. The landlord or owner proposes, at the termination of a lease,
40 reasonable changes of substance in the terms and conditions of the
41 lease, including specifically any change in the term thereof, which the
42 tenant, after written notice, refuses to accept; provided that in cases
43 where a tenant has received a notice of termination pursuant to
44 subsection g. of section 3 of P.L.1974, c.49 (C.2A:18-61.2), or has a
45 protected tenancy status pursuant to section 9 of the "Senior Citizens
46 and Disabled Protected Tenancy Act," P.L.1981, c.226

1 (C.2A:18-61.30), or pursuant to the "Tenant Protection Act of 1992,"
2 P.L.1991, c.509 (C.2A:18-61.40 et al.), the landlord or owner shall
3 have the burden of proving that any change in the terms and conditions
4 of the lease, rental or regulations both is reasonable and does not
5 substantially reduce the rights and privileges to which the tenant was
6 entitled prior to the conversion.

7 j. The person, after written notice to cease, has habitually and
8 without legal justification failed to pay rent which is due and owing.

9 k. The landlord or owner of the building or mobile home park is
10 converting from the rental market to a condominium, cooperative or
11 fee simple ownership of two or more dwelling units or park sites,
12 except as hereinafter provided in subsection l. of this section. Where
13 the tenant is being removed pursuant to this subsection, no warrant for
14 possession shall be issued until this act has been complied with. No
15 action for possession shall be brought pursuant to this subsection
16 against a senior citizen tenant or disabled tenant with protected
17 tenancy status pursuant to the "Senior Citizens and Disabled Protected
18 Tenancy Act," P.L.1981, c.226 (C.2A:18-61.22 et al.), or against a
19 qualified tenant under the "Tenant Protection Act of 1992," P.L.1991,
20 c.509 (C.2A:18-61.40 et al.), as long as the agency has not terminated
21 the protected tenancy status or the protected tenancy period has not
22 expired.

23 l. (1) The owner of a building or mobile home park, which is
24 constructed as or being converted to a condominium, cooperative or
25 fee simple ownership, seeks to evict a tenant or sublessee whose initial
26 tenancy began after the master deed, agreement establishing the
27 cooperative or subdivision plat was recorded, because the owner has
28 contracted to sell the unit to a buyer who seeks to personally occupy
29 it and the contract for sale calls for the unit to be vacant at the time of
30 closing. However, no action shall be brought against a tenant under
31 paragraph (1) of this subsection unless the tenant was given a
32 statement in accordance with section 6 of P.L.1975, c.311
33 (C.2A:18-61.9);

34 (2) The owner of three or less condominium or cooperative units
35 seeks to evict a tenant whose initial tenancy began by rental from an
36 owner of three or less units after the master deed or agreement
37 establishing the cooperative was recorded, because the owner seeks to
38 personally occupy the unit, or has contracted to sell the unit to a buyer
39 who seeks to personally occupy it and the contract for sale calls for
40 the unit to be vacant at the time of closing;

41 (3) The owner of a building of three residential units or less seeks
42 to personally occupy a unit, or has contracted to sell the residential
43 unit to a buyer who wishes to personally occupy it and the contract for
44 sale calls for the unit to be vacant at the time of closing.

45 m. The landlord or owner conditioned the tenancy upon and in
46 consideration for the tenant's employment by the landlord or owner as

1 superintendent, janitor or in some other capacity and such employment
2 is being terminated.

3 n. The person has been convicted of or pleaded guilty to, or if a
4 juvenile, has been adjudicated delinquent on the basis of an act which
5 if committed by an adult would constitute an offense under the
6 "Comprehensive Drug Reform Act of 1987," N.J.S.2C:35-1 et al.
7 involving the use, possession, manufacture, dispensing or distribution
8 of a controlled dangerous substance, controlled dangerous substance
9 analog or drug paraphernalia within the meaning of that act within or
10 upon the leased premises or the building or complex of buildings and
11 land appurtenant thereto, or the mobile home park, in which those
12 premises are located, and has not in connection with his sentence for
13 that offense either (1) successfully completed or (2) been admitted to
14 and continued upon probation while completing, a drug rehabilitation
15 program pursuant to N.J.S.2C:35-14; or, being the tenant or lessee of
16 such leased premises, knowingly harbors or harbored therein a person
17 who has been so convicted or has so pleaded, or otherwise permits or
18 permitted such a person to occupy those premises for residential
19 purposes, whether continuously or intermittently, except that this
20 subsection shall not apply to a person harboring or permitting a
21 juvenile to occupy the premises if the juvenile has been adjudicated
22 delinquent upon the basis of an act which if committed by an adult
23 would constitute the offense of use or possession under the said act.
24 No action for removal may be brought pursuant to this subsection
25 more than two years after the date of the adjudication or conviction or
26 more than two years after the person's release from incarceration
27 whichever is the later.

28 o. The person has been convicted of or pleaded guilty to, or if a
29 juvenile, has been adjudicated delinquent on the basis of an act which
30 if committed by an adult would constitute an offense under
31 N.J.S.2C:12-1 or N.J.S.2C:12-3 involving assault, or terroristic threats
32 against the landlord, a member of the landlord's family or an employee
33 of the landlord; or, being the tenant or lessee of such leased premises,
34 knowingly harbors or harbored therein a person who has been so
35 convicted or has so pleaded, or otherwise permits or permitted such
36 a person to occupy those premises for residential purposes, whether
37 continuously or intermittently. No action for removal may be brought
38 pursuant to this subsection more than two years after the adjudication
39 or conviction or more than two years after the person's release from
40 incarceration whichever is the later.

41 p. The person has been found, by a preponderance of the evidence,
42 liable in a civil action for removal commenced under this act for an
43 offense under N.J.S.2C:20-1 et al. involving theft of property located
44 on the leased premises from the landlord, the leased premises or other
45 tenants residing in the leased premises, or N.J.S.2C:12-1 or
46 N.J.S.2C:12-3 involving assault or terroristic threats against the

1 landlord, a member of the landlord's family or an employee of the
2 landlord, or under the "Comprehensive Drug Reform Act of 1987,"
3 N.J.S.2C:35-1 et al., involving the use, possession, manufacture,
4 dispensing or distribution of a controlled dangerous substance,
5 controlled dangerous substance analog or drug paraphernalia within
6 the meaning of that act within or upon the leased premises or the
7 building or complex of buildings and land appurtenant thereto, or the
8 mobile home park, in which those premises are located, and has not in
9 connection with his sentence for that offense either (1) successfully
10 completed or (2) been admitted to and continued upon probation while
11 completing a drug rehabilitation program pursuant to N.J.S.2C:35-14;
12 or, being the tenant or lessee of such leased premises, knowingly
13 harbors or harbored therein a person who committed such an offense,
14 or otherwise permits or permitted such a person to occupy those
15 premises for residential purposes, whether continuously or
16 intermittently, except that this subsection shall not apply to a person
17 who harbors or permits a juvenile to occupy the premises if the
18 juvenile has been adjudicated delinquent upon the basis of an act which
19 if committed by an adult would constitute the offense of use or
20 possession under the said "Comprehensive Drug Reform Act of 1987."

21 q. The person has been convicted of or pleaded guilty to, or if a
22 juvenile, has been adjudicated delinquent on the basis of an act which
23 if committed by an adult would constitute an offense under
24 N.J.S.2C:20-1 et al. involving theft of property from the landlord, the
25 leased premises or other tenants residing in the same building or
26 complex; or, being the tenant or lessee of such leased premises,
27 knowingly harbors therein a person who has been so convicted or has
28 so pleaded, or otherwise permits such a person to occupy those
29 premises for residential purposes, whether continuously or
30 intermittently.

31 For purposes of this section, (1) "developmental disability" means
32 any disability which is defined as such pursuant to section 3 of
33 P.L.1977, c.82 (C.30:6D-3); (2) "member of the immediate family"
34 means a person's spouse, parent, child or sibling, or a spouse, parent,
35 child or sibling of any of them; and (3) "permanently" occupies or
36 occupied means that the occupant maintains no other domicile at
37 which the occupant votes, pays rent or property taxes or at which rent
38 or property taxes are paid on the occupant's behalf.

39 (cf: P.L.2000, c.113, s.3)

40

41 21. (New section) The Commissioner of Banking and Insurance
42 shall consult with the Commissioner of Community Affairs and shall
43 modify all regulations concerning lead hazards in accordance with the
44 provisions of P.L. , c. (C.)(now before the Legislature as this
45 bill), to recognize lead hazard control work as an authorized
46 alternative method to lead abatement in control of lead hazards.

1 22. There is appropriated from the General Fund to the
2 Department of Community Affairs for deposit into the "Lead Hazard
3 Control Assistance Fund" the amount of \$2,000,000 for the purpose of
4 providing grants pursuant to P.L. , c. (C.) (now before the
5 Legislature as this bill).

6
7 23. This act shall take effect 90 days following enactment, except
8 that section 8 shall take effect immediately.

9
10
11 STATEMENT

12
13 This bill, entitled the "Lead Hazard Control Assistance Act," would
14 establish a fund from which loans and grants to the owners of multiple
15 dwellings may be made for lead-based paint hazard control work.

16 Lead hazard control work is the process of rendering dwellings
17 lead-safe, but does not require total, permanent lead removal (or "lead
18 abatement"). The bill provides low-interest loans (of not more than
19 \$150,000 per project) and loan guarantees under a program to be
20 established by the New Jersey Housing and Mortgage Finance Agency.
21 Grants will be provided under a program to be established by the
22 Department of Community Affairs (DCA) for persons without the
23 financial ability to qualify for loans.

24 The bill establishes a registry of lead-safe rental housing within
25 DCA, which can be utilized to track progress of the State's lead hazard
26 control work programs, as well as to identify lead-safe housing.

27 The bill allows the Commissioner of the DCA to provide relocation
28 aid and assistance for the residents of rental housing, and to seek
29 reimbursement for the relocation aid from the owner of the rental
30 housing. In all cases involving the displacement of a household with
31 a child or a woman of childbearing age from a dwelling unit that has
32 been found not to be maintained in a lead-safe condition pursuant to
33 DCA or municipal ordinance standards, the relocation costs shall be
34 paid by the owner.

35 No inspection shall be required of a rental dwelling (whether or not
36 a multiple dwelling) if the unit has been certified to be lead free, was
37 constructed after 1977, or is a seasonal rental rented for less than six
38 months each year.

39 The bill authorizes the issuance of up to \$25 million in bonds by the
40 New Jersey Housing and Mortgage Finance Agency. The proceeds
41 of the bond sale will be available for the loan and loan guarantee
42 program. The actual costs of the bond issuance will depend on the
43 amount of bonds issued and market interest rates at the time of their
44 issuance. The effective "cost" of the loan program will depend on
45 interest rates and loan repayment schedules, which have yet to be
46 determined.

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22

1 The bill appropriates \$2 million for funding the grant program
2 under the bill.

3 The bill authorizes an additional fee of \$2 per unit to be charged for
4 the inspection of lead hazards in multiple dwellings under the "Hotel
5 and Multiple Dwelling Law," P.L.1967, c.76 (C.55:13A-1 et seq.).
6 The bill allows the imposition of a surcharge of \$.50 per gallon of
7 paint sold which amount must be deposited in the "Lead Hazard
8 Control Assistance Fund." The bill permits payments to be made from
9 the "Catastrophic Illness in Children Relief Fund" for relocation
10 assistance, if such relocation is determined to be the most expedient
11 method of eliminating lead hazard risk for children living in residential
12 rental premises.

ASSEMBLY HOUSING AND LOCAL GOVERNMENT
COMMITTEE

STATEMENT TO

[Second Reprint]
SENATE, No. 1348

with committee amendments

STATE OF NEW JERSEY

DATED: JANUARY 8, 2004

The Assembly Housing and Local Government Committee reports favorably and with committee amendments Senate Bill No. 1348 (2R).

As amended, the bill establishes the "Lead Hazard Control Assistance Fund" for the purpose of making loans and grants to the owners of housing units for lead-based paint hazard control work. The bill provides low-interest loans (of not more than \$150,000 per dwelling unit) under a program to be established by the Department of Community Affairs (DCA). Grants will be provided under a program to be established by the DCA for owners of single-family and two-family homes and multiple dwellings with no more than four separate dwelling units.

The bill requires the DCA to maintain a registry of lead-safe housing. The registry could be used to track progress of the State's lead hazard control work programs, as well as to identify lead-safe housing.

The bill establishes the Emergency Lead Poisoning Relocation Fund and appropriates in the first year from the "Catastrophic Illness in Children Relief Fund" \$1,000,000 for emergency relocation assistance for lead poisoned children.

The bill requires the DCA to inspect every multiple dwelling under the "Hotel and Multiple Dwelling Law," P.L.1967, c.76 (C.55:13A-1 et seq.) for lead-based paint hazards and authorizes the imposition of an additional fee of \$20 per unit inspected to be charged for deposit into the "Lead Hazard Control Assistance Fund." Additionally, the bill requires that a minimum of \$7,000,000 of a certain portion of sales tax revenue to be set aside from the retail sales of containers of paint for deposit annually into the "Lead Hazard Control Assistance Fund," with a limitation of the set-aside to no more than \$14 million per year. The bill creates a loan and grant program in the Department of Community Affairs for the remediation and removal of lead-based paint hazards from residences. In addition, the bill, as amended, creates an

inspection program for the identification of lead-based paint hazards in multiple dwellings.

Committee amendments.

The committee amended the bill to delete the requirement for inspection of single-family and two-family homes from inspection for lead-based paint hazards.

The amendments would clarify that inspections for lead would take place in common interest communities if the communities are otherwise subject to inspection under the multiple dwelling law and are rental units, but that inspection fees would be the responsibility of individual unit owners, not the homeowners' association, unless the association is the owner of the unit being inspected;

The amendments change the Sales and Use Tax set-aside of \$.50 per unit sold from the sale of gallons of paint to containers of paint and direct that a minimum of \$7 million be set aside from such sales tax, up to a maximum of \$14 million per year;

The amendments clarify that persons for hire who seek to engage in lead safe maintenance work or lead hazard control work must take a training course prescribed by the Commissioner of Community Affairs; homeowners doing such work on their own homes in which they occupy would not be required to take such a coursework. This is similar to the requirements under current law concerning abatement of lead-based paint hazards

The amendments would direct the Commissioner of Health and Senior Services to follow a protocol in response to the identification of a lead poisoned child. The protocol would require, as a first step, the evaluation of the interior of the residence of the child for lead-based paint hazard. If no lead-based paint hazard is found in the interior of the residence, then the exterior of the residence would be evaluated. If no lead-based paint hazard is discovered in either the interior or exterior of the residence, then the soil on the property on which the residence and other structures, if any, are located would be examined for lead hazards. The amendments also modify certain Department of Health statutes to provide that lead hazard control work may be used in lieu of abatement in controlling lead-based paint hazards in residences, thereby updating the comprehensive lead-based paint hazard reduction statutes first enacted in 1971.

This bill is identical to Assembly Bill No. 1947 [1R] which was also released today by the committee with committee amendments.

SENATE COMMUNITY AND URBAN AFFAIRS COMMITTEE

STATEMENT TO

SENATE, No. 1348

with committee amendments

STATE OF NEW JERSEY

DATED: MARCH 21, 2002

The Senate Community and Urban Affairs Committee reports favorably and with committee amendments Senate Bill No. 1348.

As amended by the committee, this bill would establish a fund from which loans and grants to the owners of residential dwellings may be made for lead-based paint hazard control work.

Lead hazard control work is the process of rendering dwellings lead-safe, but does not require total, permanent lead removal (or "lead abatement"). The bill would provide low-interest loans (of not more than \$150,000 per project) under a program to be established by the Department of Community Affairs (DCA). Grants will be provided under a program to be established by the DCA for persons without the financial ability to qualify for loans.

The bill, as amended by the committee, would establish a registry of lead-safe housing within DCA, which could be utilized to track progress of the State's lead hazard control work programs, as well as to identify lead-safe housing.

As amended, the bill would allow the Commissioner of the DCA to provide relocation aid and assistance for residents of rental housing, and to seek reimbursement for the relocation aid from the owner of the rental housing. In all cases involving the displacement of a household with a child or a woman of childbearing age from a dwelling unit that has been found not to be maintained in a lead-safe condition pursuant to DCA or municipal ordinance standards, the relocation costs would be paid by the owner.

As amended, the bill would exempt from the lead paint inspection and fee requirement those dwelling units that: are certified to be lead free, were constructed after 1977, are seasonal rental properties, are certified as having lead-free interiors or are located within a common interest community.

As amended, the bill would appropriate \$2 million for funding the grant program under the bill.

As amended, the bill authorizes an additional fee of \$10 per unit to be charged for the inspection of lead hazards in multiple dwellings under the "Hotel and Multiple Dwelling Law," P.L.1967, c.76 (C.55:13A-1 et seq.). As amended, the bill would credit to the "Lead

Hazard Control Assistance Fund," established under the bill, for each State fiscal year commencing on and after July 1, 2002 an amount equivalent to the revenue derived from \$0.50 from the State revenue collected from the Sales and Use Tax on each retail sale and use of quantities of a gallon of paint. Additionally, the bill, as amended, would appropriate from the Tobacco Settlement Fund established pursuant to section 53 of P.L.2001, c.130, \$50,000,000 to the "Lead Hazard Control Assistance Fund" and appropriate said amount for the purposes of the fund. The bill would contain a "poison pill" provision effectively providing that if an annual appropriations act does not appropriate and distribute the balance from the "Lead Hazard Control Assistance Fund" for the purposes of that fund, the State's authority to collect the sales and use tax would cease.

The committee amended the bill to include provisions:

- C Taking the New Jersey Housing and Mortgage Finance Agency (HMFA) out of the bill (at the request of HMFA and DCA) and taking the bonding provisions out of the bill. Under the bill, as amended, DCA will run both the loan and grant programs;
- C Limiting applicability of the bill's inspection and fee provisions to residential dwelling units in multiple dwellings;
- C Providing that the loan and grant programs would be available to owners of single-family and two-family homes as well as owners of multiple dwellings;
- C Clarifying that a lead inspection fee will be \$10 per inspection (which will happen once every 5 years);
- C Taking common interest communities out of the bill (at the request of the New Jersey Community Association Institute);
- C Conforming language in DCA and DHSS statutes relating to lead paint;
- C Changing proposed funding for the tenant relocation program to a \$1 million "start-up" appropriation from the "Catastrophic Illness in Children Relief Fund" to create an "Emergency Lead Paint Poisoning Relocation Fund;"
- C Replacing the provision that would have established a new \$0.50 tax on a gallon of paint with a provision that would divert \$0.50 of the sales and use tax already collected on each gallon of paint to the "Lead Hazard Control Assistance Fund;" and
- C Appropriating \$50,000,000 from the Tobacco Settlement Fund to the "Lead Hazard Control Assistance Fund."

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SENATE BUDGET AND APPROPRIATIONS COMMITTEE

STATEMENT TO

[First Reprint]

SENATE, No. 1348

with committee amendments

STATE OF NEW JERSEY

DATED: JUNE 30, 2003

The Senate Budget and Appropriations Committee reports without recommendation and with committee amendments Senate Bill No.1348 (1R).

This bill would establish the "Lead Hazard Control Assistance Fund" for the purpose of making loans and grants to the owners of housing units for lead-based paint hazard control work. Lead hazard control work is the process of rendering dwellings lead-safe, but does not require total, permanent lead removal (or "lead abatement").

The bill would provide low-interest loans (of not more than \$150,000 per building or project) under a program to be established by the Department of Community Affairs (DCA). Grants would be provided under the program for owners of single-family and two-family homes and multiple dwellings with no more than four separate dwelling units.

The bill would require DCA to maintain a registry of lead-safe housing that could be utilized to track progress of the State's lead hazard control work programs, as well as to identify lead-safe housing.

The bill would allow the Commissioner of Community Affairs to provide relocation aid and assistance for residents of rental housing, and to seek reimbursement for the relocation aid from the owner of the rental housing if the owner had failed to maintain the property in a lead-safe condition.

The bill would establish a lead-safe inspection program for all residential rental dwellings but would exempt from the lead paint inspection and fee requirement those dwelling units that: are certified to be lead free, were constructed after 1977, are seasonal rental properties, or have been certified as having lead-free interiors.

The bill would create the Emergency Lead Poisoning Relocation Fund and would appropriate from the "Catastrophic Illness in Children Relief Fund" \$1,000,000 for the purpose of emergency relocation

assistance for lead poisoned children.

The bill would require DCA to inspect every single-family and two-family rental dwelling, exclusive of owner-occupied units, for lead-based paint hazards and to charge a fee for such inspection at a rate in accordance with the current "Hotel and Multiple Dwelling Law" fee schedule. The bill also would authorize the imposition of an additional fee of \$20 per unit inspected for deposit into the "Lead Hazard Control Assistance Fund." Additionally, the bill would require, for each State fiscal year commencing on and after July 1, 2003 as a credit to the "Lead Hazard Control Assistance Fund," an amount equivalent to the first \$7,000,000 of revenue derived from a certain portion of the sales and use tax set aside from the amount collected from retail sales of paint.

COMMITTEE AMENDMENTS

Committee amendments to the bill:

- C Require DCA to inspect single-family and two-family rental dwellings, exclusive of owner-occupied units, at least once every five years for lead-based paint hazards and to charge a fee for inspections commensurate with the existing "Hotel and Multiple Dwelling Law" fee schedule;
- C Exempt from the requirement to conduct lead inspections those units that have been certified to be free of lead-based paint, were constructed after 1977, are seasonal rentals, or have been certified as having a lead-free interior;
- C Increase the additional fee to be imposed for the inspection of lead hazard control work and deposited into the "Lead Hazard Control Assistance Fund" from \$10 to \$20 per unit inspected;
- C Place rental units within common interest communities within the scope of the bill;
- C Conform language in DCA and DHSS statutes relating to lead paint;
- C Provide that the provision to divert \$0.50 of the sales and use tax collected per gallon of paint from the General Fund to the "Lead Hazard Control Assistance Fund" will commence July 1, 2003 and limiting the amount of the diversion to \$7 million per year;
- C Require home inspectors to notify their clients of lead paint hazards whenever an inspection reveals peeling or degraded paint in pre-1978 construction; and
- C Delete proposed appropriations of \$2 million from the General Fund and of \$50 million from the Tobacco Settlement Fund to the "Lead Hazard Control Assistance Fund."

As amended, Senate, No.1348 (1R) is identical to Assembly, No.1947, also amended this day.

FISCAL IMPACT

This bill directs a portion of the sales and use tax collected on paint sold in New Jersey, up to an amount of \$7,000,000, be credited

annually to the "Lead Hazard Control Assistance Fund."

The bill appropriates \$1,000,000 from the "Catastrophic Illness in Children Relief Fund" for emergency relocation assistance for lead poisoned children.

The bill imposes a \$20 fee upon the inspection of single-family and two-family rental dwellings (exclusive of owner-occupied units) and upon the inspections of multiple dwellings made under the "Hotel and Multiple Dwelling Law," which is to be deposited to the "Lead Hazard Control Assistance Fund." The bill permits the establishment of an inspection fee to cover the costs of inspection of multiple dwelling single-family and two-family rental dwellings for the presence of lead paint, commensurate with the fees established under the "Hotel and Multiple Dwelling Law."

LEGISLATIVE FISCAL ESTIMATE

[Third Reprint]

SENATE, No. 1348

STATE OF NEW JERSEY

210th LEGISLATURE

DATED: FEBRUARY 4, 2004

SUMMARY

- Synopsis:** Establishes lead-safe housing grant and loan program and registry plan; makes appropriations
- Type of Impact:** Reallocates funding from the Catastrophic Illness in Children Relief Fund to Emergency Lead Poisoning Relocation Fund and Lead Hazard Control Assistance Fund. Reallocates funding from the General Fund to Lead Hazard Control Assistance Fund.
- Agencies Affected:** Department of Community Affairs; Division of Taxation in the Department of the Treasury; Department of Health and Senior Services.

Office of Legislative Services Estimate

| Fiscal Impact | <u>Year 1</u> | <u>Year 2</u> | <u>Year 3</u> |
|----------------------|---|---|---|
| State Cost | Up to \$19.8 million | Up to \$16.8 million | Up to \$16.8 million |
| State Revenue | \$2.8 million lead inspection surcharge for multiple dwellings | \$2.8 million lead inspection surcharge for multiple dwellings | \$2.8 million lead inspection surcharge for multiple dwellings |

- * This bill creates a loan and grant program in the Department of Community Affairs for the remediation and removal of lead-based paint hazards from residences and creates an inspection program for the identification of lead based paint hazards in multiple dwellings.
- * The bill also establishes a Lead Hazard Control Assistance Fund (LHCAF) for the purpose of funding loans and grants to eligible owners of multifamily housing and to eligible owners of single-family and two-family homes for lead hazard control work in compliance with the terms set forth in the bill. The LHCAF will be funded from a portion of the sales tax revenue equal to \$0.50 or the amount of sales tax collected from every retail sale of a container of paint or other surface coating material, and directs that a minimum of \$7 million per year, and a maximum of \$14 million per year, be set aside from such sales tax revenue.
- * In the first year the bill appropriates \$2.0 million from the Catastrophic Illness in Children Relief Fund (CICRF) to the LHCAF for the purpose of making grants.
- * An additional \$1.0 million will be drawn from the CICRF in the first year for deposit into the Emergency Lead Poisoning Relocation Fund (ELPRF) established under this bill for the purpose of relocating children and their families who have tested positive for lead poisoning

and have been removed from their dwelling unit in connection with an order to abate a lead-based paint hazard, or upon the order of the Commissioner of Community Affairs.

- * In addition, the bill allocates the proceeds of an additional \$20 per unit fee collected at the time of the inspections required of multiple dwellings pursuant to the "Hotel and Multiple Dwelling Law," P.L.1967, c.76 (C.55:13A-1 et seq.). The Department of Community Affairs estimates that there are approximately 177,000 multiple dwellings inspected each year. Adjusting this figure downward for the exemptions provided under the bill for seasonal rentals and owner-occupied condominiums, the department has informally advised the Office of Legislative Services that there will be remaining approximately 140,000 multiple dwellings which will likely be subject to inspection for lead-based paint hazards per year under the bill. This will result in \$2,800,000 being collected and deposited in to the LHCAF.

BILL DESCRIPTION

Senate Bill No.1348 (3R) of 2002 establishes the Lead Hazard Control Assistance Fund for the purpose of making loans and grants to the owners of housing units for lead-based paint hazard control work. The bill provides low-interest loans (of not more than \$150,000 per dwelling unit) under a program to be established by the Department of Community Affairs (DCA). Grants will be provided under a program to be established by the DCA for owners of single-family and two-family homes and multiple dwellings with no more than four separate dwelling units.

The bill requires the DCA to maintain a registry of lead-safe housing. The registry could be used to track progress of the State's lead hazard control work programs, as well as to identify lead-safe housing.

The bill establishes the Emergency Lead Poisoning Relocation Fund and appropriates in the first year from the Catastrophic Illness in Children Relief Fund \$1,000,000 for emergency relocation assistance for lead poisoned children.

The bill requires the DCA to inspect every multiple dwelling for lead-based paint hazards and authorizes the imposition of an additional fee of \$20 per unit inspected to be charged for the inspection of lead hazards in multiple dwellings under the "Hotel and Multiple Dwelling Law," P.L.1967, c.76 (C.55:13A-1 et seq.). These additional fees will be deposited into the Lead Hazard Control Assistance Fund. Additionally, the bill requires that a minimum of \$7,000,000 of a portion of the sales tax revenue equal to \$0.50 or the amount of sales tax collected from every retail sale of a container of paint or other surface coating material be set aside from the sales tax collected from the retail sales of paint for deposit annually into the Lead Hazard Control Assistance Fund, up to a maximum of \$14.0 million per year.

FISCAL ANALYSIS

EXECUTIVE BRANCH

None received.

OFFICE OF LEGISLATIVE SERVICES

The Office of Legislative Services (OLS) estimates the cost of the establishment of the lead-safe housing grant and loan program and registry pursuant to this bill to be \$19.8 million in the

first year of the program, and \$16.8 million in each of the second and third years of the program. The OLS notes that the bill directs a minimum of \$7,000,000, or the amount actually collected up to a maximum of \$14,000,000, from a portion of the sales and use tax revenue collected on retail paint sold in New Jersey to be credited annually to the Lead Hazard Control Assistance Fund. In addition, \$2.0 million will be appropriated in the first year from the Catastrophic Illness in Children Relief Fund (CICRF) to the Lead Hazard Control Assistance Fund for the purpose of making grants under the program established under the bill.

The bill also appropriates \$1,000,000 in the first year from the Catastrophic Illness in Children Relief Fund into the Emergency Lead Poisoning Relocation Fund for emergency relocation assistance for lead poisoned children.

The bill imposes a \$20 fee (in addition to regular inspection fees) upon the inspection of multiple dwellings under the "Hotel and Multiple Dwelling Law" for lead-based hazards with the proceeds of these funds to be deposited into the Lead Hazard Control Assistance Fund. In addition, the bill provides that the proceeds of penalty fees collected from violations resulting lead-based paint hazards in multiple dwellings be deposited into the Lead Hazard Control Assistance Fund. As noted above, this fee is estimated to produce \$2.8 million in new revenue to the fund, based on 140,000 multiple dwelling unit inspections annually to which the fund will pertain.

Section: *Local Government*

Analyst: *Pedro Carrasquillo*
Assistant Fiscal Analyst

Approved: *David J. Rosen*
Legislative Budget and Finance Officer

This fiscal estimate has been prepared pursuant to P.L.1980, c.67.

ASSEMBLY, No. 1947

STATE OF NEW JERSEY 210th LEGISLATURE

INTRODUCED FEBRUARY 28, 2002

Sponsored by:

Assemblywoman LORETTA WEINBERG

District 37 (Bergen)

Assemblyman CRAIG A. STANLEY

District 28 (Essex)

Co-Sponsored by:

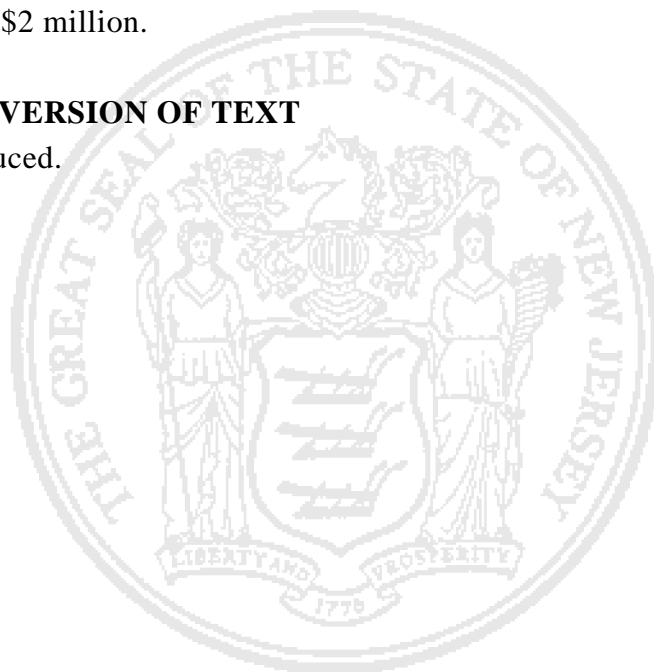
Assemblyman Thompson, Assemblywoman Cruz-Perez, Assemblymen Guear, Conaway, Conners, Assemblywomen Heck, Pou, Assemblymen Cryan and McKeon

SYNOPSIS

Establishes lead-safe housing grant and loan program and registry plan; appropriates \$2 million.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 7/1/2003)

1 AN ACT providing financial assistance for certain lead hazard control
2 work, establishing the Lead Hazard Control Assistance Fund,
3 supplementing Title 52 and Title 55 of the Revised Statutes, and
4 amending P.L.1974, c.49 and P.L.1967, c.76, and making an
5 appropriation.

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

9
10 1. (New section) This act shall be known and may be cited as the
11 "Lead Hazard Control Assistance Act."

12
13 2. (New section) The Legislature finds and declares:

14 a. Lead is an element that has been used over the years in many
15 products. The toxicity of lead has been known for several decades,
16 causing its inclusion in products such as gasoline and residential paint
17 to be banned by the federal government.

18 b. All animals and people can be negatively affected by lead,
19 depending upon the amount, duration, and promptness of treatment.
20 The range of health effects include reduced stature, miscarriage,
21 hypertension, and, most notably, neurological damage, particularly in
22 children whose brains are developing.

23 c. Although a number of sources of lead exposure have been
24 brought under control, environmental and public health professionals
25 believe that the toxic metal lead is the number one environmental
26 hazard facing children today. A substantial majority of lead exposure
27 is derived from lead-based paint and dust.

28 d. Because of the age of New Jersey's housing stock, our State is
29 among the states with the most serious risk of exposure from previous
30 residential use of lead-based paint. It is estimated that there are about
31 two million homes which were constructed in New Jersey prior to
32 1978, the year in which the sale of lead in paint for residential use was
33 banned.

34 e. The Legislature finds that a comprehensive program to identify
35 lead hazards in residential housing and also to identify housing which
36 is safe from exposure to lead hazards is necessary in order to eradicate
37 the major source of lead exposure to our State's children. The
38 Legislature further finds that children living in rental housing are
39 particularly at risk, since such tenants are not in control of the
40 property, or the removal of hazards from the property. Therefore, the
41 comprehensive program shall emphasize methods which will safeguard
42 these children, and require the State to track the progress of making
43 all of New Jersey's rental housing stock more lead safe.

EXPLANATION - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and intended to be omitted in the law.

Matter underlined thus is new matter.

1 3. (New section) As used in this act:

2 "Agency" means the New Jersey Housing and Mortgage Finance
3 Agency established by P.L.1983, c.530 (C.55:14K-1 et seq.);

4 "Commissioner" means the Commissioner of Community Affairs;

5 "Department" means the Department of Community Affairs;

6 "Eligible loan" means a loan made for the purpose of financing lead
7 hazard control work on residential property located in the State;

8 "Financial assistance" means loans and loan guarantees and grants;

9 "Fund" means the Lead Hazard Control Assistance Fund
10 established pursuant to section 3 of this act;

11 "Interim controls" means a set of measures designed to reduce
12 temporarily human exposure or likely exposure to lead-based paint
13 hazards, including specialized cleaning, repairs, maintenance, painting,
14 temporary containment, ongoing monitoring of lead-based paint
15 hazards or potential hazards, and the establishment and operation of
16 management and resident education programs, or as the term is
17 defined under 42 U.S.C.s.4851b."

18 "Lead abatement" means a set of measures designed to permanently
19 eliminate lead-based paint hazards in accordance with standards
20 established by the commissioner, provided that such standards shall
21 not exceed applicable federal standards. Such term includes:

22 a. the removal of lead-based paint and lead-contaminated dust, the
23 permanent containment or encapsulation of lead-based paint, the
24 replacement of lead-painted surfaces or fixtures, and the removal or
25 covering of lead contaminated soil; and

26 b. all preparation, cleanup, disposal, and post-abatement clearance
27 testing activities associated with such measures;

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

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

36 "Lead-based paint hazard inspection" means an inspection of the
37 residential housing and the structure's interior common areas and
38 exterior surface for the presence of lead-based paint hazards.

39 "Lead-safe housing" means housing in which a lead-based paint
40 hazard risk has been significantly reduced through the use of interim
41 controls as permitted under federal law and as defined in 42 U.S.C.
42 s.4851b;

43 "Lead hazard control work" means work to make housing lead-safe,
44 or to mitigate, through the use of interim controls as permitted under
45 federal law and as defined in 42 U.S.C.s.4851b, or to eliminate
46 permanently lead-based paint hazards on a premises by a person

1 certified to perform lead abatement work pursuant to P.L.1993, c.288
2 (C.26:2Q-1 et seq.) and the costs of temporary relocation, determined
3 by the commissioner to be necessary pursuant to rules prescribed by
4 the commissioner, while lead hazard control work is being performed.
5 The determination of the commissioner shall be subject to review and
6 appeal pursuant to the "Administrative Procedure Act." P.L.1968,
7 c.410 (C.52:14B-1 et seq.):

8 "Relocation assistance related to lead hazard" means financial
9 assistance provided to a tenant to relocate to alternative residential
10 housing which is lead safe.

11 "Residential housing" means any residential rental dwelling unit
12 whether detached or attached or in the form of a multiple dwelling, for
13 occupancy by persons as their usual and permanent residence.

14

15 4. (New section) a. There is hereby established in the agency the
16 "Lead Hazard Control Assistance Fund" hereinafter referred to as the
17 "fund," which shall be continuing and nonlapsing, for the purpose of
18 funding loans and grants authorized pursuant to P.L. , c. (C.)
19 (now before the Legislature as this bill). Moneys in the fund not
20 immediately required for payment or liquid reserves may be invested
21 and reinvested by the agency in the same manner in which other
22 agency funds may be invested.

23 b. There shall be paid into the fund: (1) all proceeds from the sale
24 of bonds pursuant to section 4 of P.L. , c. (C.) (now before
25 the Legislature as this bill); (2) fees received pursuant to P.L. , c.
26 (C.) (now before the Legislature as this bill); (3) moneys deposited
27 into the fund as repayment of principal and interest on outstanding
28 loans made from the fund; (4) any income earned upon investment of
29 moneys in the fund by the agency pursuant to subsection a. of this
30 section; and (5) any other funds that may be available to the fund
31 through appropriation by the Legislature or otherwise.

32 c. Moneys in the fund shall be used exclusively for (1) funding
33 loans and loan guarantees by the agency pursuant to section 5 of
34 P.L. , c. (C.) (now before the Legislature as this bill); (2)
35 making payments in fulfillment of the terms of loan guarantees entered
36 into pursuant to section 4 of P.L. , c. (C.) (now before the
37 Legislature as this bill); (3) funding grants pursuant to section 6 of
38 P.L. , c. (C.) (now before the Legislature as this bill); (4) public
39 education for the prevention of lead poisoning; and (5) defraying the
40 administrative costs of the department and agency in carrying out the
41 purposes and provisions of P.L. , c. (C.) (now before the
42 Legislature as this bill) up to an amount not to exceed 5% of the total
43 moneys appropriated to the fund during the fiscal year. The
44 department and the agency shall jointly determine the amounts to be
45 made available from the fund for the purposes of grants and loans,
46 respectively, on an annual basis.

1 d. Fees for the issuance of loans authorized shall be established by
2 the agency at the lowest rate compatible with the integrity of the fund
3 and its proper administration, maintenance of adequate reserves for
4 actuarially sound funding, and the ability of the agency to pay the
5 interest upon and repay the principal of bonds issued pursuant to
6 section 4 of P.L. , c. (C.) (now before the Legislature as this bill).

7
8 5. (New Section) a. In addition to the bonding authority
9 conferred by section 20 of P.L.1983, c.530 (C.55:14K-20), the agency
10 is hereby authorized to issue bonds in an amount not to exceed
11 \$25,000,000 for the exclusive purpose of funding loans in the manner
12 and to the extent provided in P.L. , c. (C.) (now before the
13 Legislature as this bill).

14 b. Except as otherwise explicitly authorized in P.L. , c. (C.)
15 (now before the Legislature as this bill), any bonds issued or to be
16 issued pursuant to this section shall be subject to all the requirements,
17 conditions and restrictions of P.L.1983, c.530 (C.55:14K-1 et seq.)
18 upon the bonding authority of the agency.

19 c. The interest rate and other terms upon which bonds are issued
20 pursuant to this section shall not create a prospective obligation of the
21 agency in excess of the amount of revenues that can reasonably be
22 expected from the fees that the agency can reasonably expect to
23 charge pursuant to subsection f. of section 5 of P.L. , c. (C.)
24 (now before the Legislature as this bill).

25
26 6. (New section) a. The agency is hereby authorized to provide
27 financial assistance with moneys from the fund to eligible owners of
28 residential housing for lead hazard control work, in compliance with
29 the terms of P.L. , c. (C.) (now before the Legislature as this
30 bill) and subject to the conditions set forth in this section.

31 b. Financial assistance may be provided only to an eligible owner
32 of residential housing who has the ability to repay the loan as
33 determined by the agency.

34 c. Financial assistance shall be provided for a period to be
35 determined by the agency.

36 d. The agency may provide financial assistance, upon application
37 therefore, for up to 100% of the costs of lead hazard control work,
38 except that no award of financial assistance for a single project may
39 exceed \$150,000.

40 e. Financial assistance provided pursuant to P.L. , c. (C.)
41 (now before the Legislature as this bill) shall be secured by a lien upon
42 the real property on which the lead hazard control work is performed,
43 with respect to which the financial assistance is made and other such
44 collateral as the agency may consider necessary to secure the interests
45 of the fund in accordance with the provisions and purposes of P.L. ,
46 c. (C.) (now before the Legislature as this bill). The agency may,

1 if it deems necessary, require the financial assistance to be secured by
2 a personal loan guarantee by the owner of the property or by a lien
3 upon other real property belonging to the person to whom the loan is
4 made. The agency may, in consultation with the department, authorize
5 a loan in conjunction with an award of a grant for a partial amount of
6 the costs of lead hazard control work.

7 f. Interest upon loans made by or through the fund and fees for the
8 issuance of loan guarantees issued by the fund shall be established by
9 the agency at the lowest rate compatible with the integrity of the fund
10 and its proper administration, and compatible with maintenance of
11 adequate reserves for the actuarially sound funding of guarantee
12 pledges.

13 g. The agency is authorized to contract with institutional lenders
14 to guarantee on behalf of an eligible owner the repayment of the full
15 principal balance of that loan outstanding at the time of any default, if
16 (1) the loan was made for performance of lead hazard control work on
17 residential housing as provided in P.L. , c. (C.) (now before the
18 Legislature as this bill); (2) the amount of the loan and the terms on
19 which it was made conform substantially to the amount and terms then
20 available to the borrower on such a loan; and (3) the regulations of the
21 agency adopted pursuant to subsection i. of this section are complied
22 with.

23 h. The agency shall establish within the fund sufficient reserves and
24 liquid reserves, aside from those moneys required to meet payments of
25 interest and repayments of principal on bonds issued pursuant to
26 section 4 of P.L. , c. (C.) (now before the Legislature as this
27 bill), to provide a sufficient and actuarially sound basis for its pledges
28 contained in any loan guarantee contract entered into pursuant to
29 subsection a. of this section.

30 i. The agency shall adopt, pursuant to the "Administrative
31 Procedure act," P.L.1968, c.410 (C.52:14B-1 et seq.) rules and
32 regulations governing the issuance of loan guarantees pursuant to this
33 section, including:

- 34 (1) procedures for the submission of requests for such guarantees;
- 35 (2) standards and requirements governing the allocation of
36 guarantees to applicant institutional lenders, and determining the fees
37 to be charged therefor and the manner of payment of those fees;
- 38 (3) restrictions as to the maturities and interest rates of any loan,
39 or the return realized therefrom by the institutional lender, upon which
40 a guarantee is to be issued;
- 41 (4) requirements as to commitments by institutional lenders with
42 respect to loans upon which guarantees may be issued; and
- 43 (5) any other matters related to the duties and the exercise of the
44 powers of the agency under this section.

45

46 7. (New section) a. The agency shall refer to the department

1 those applications which did not qualify for a loan under section 5 of
2 P.L. , c. (C.)(now before the Legislature as this bill) because
3 of the lack of financial ability on the part of the applicant to repay a
4 loan as determined by the agency.

5 b. The department shall consider each application forwarded, and
6 determine whether the applicant is eligible for a grant for lead hazard
7 control work.

8 c. The department shall establish a program to provide the grants
9 authorized pursuant to this section. Grants shall not be made available
10 to owners of multiple dwellings comprising more than four separate
11 dwelling units. Priority shall not be granted to any residential housing
12 on the basis of its location. Priority may be given, however, to those
13 residences in which children under the age of six reside. Individual
14 grant amounts shall be limited to no more than the projected costs to
15 abate the lead condition. The department may award the grants on a
16 pro-rata basis to the applicants, if there is an insufficient amount in the
17 fund to award grants for the full amount of the projected cost of the
18 lead hazard control work.

19 d. The department shall provide and coordinate public education
20 efforts concerning the provisions of P.L. , c. (C.)(now before
21 the Legislature as this bill), in conjunction with the Office for
22 Prevention of Mental Retardation and Developmental Disabilities in
23 the Department of Human Services.

24
25 8. (New section) The Commissioner of Community Affairs, in
26 consultation with the agency, shall adopt, pursuant to the
27 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
28 seq.), any rules and regulations necessary to effectuate the provisions
29 of sections 3 through 10 of of P.L. , c. (C.)(now before the
30 Legislature as this bill); the Commissioner of Community Affairs shall
31 adopt pursuant to the "Administrative Procedure Act," P.L.1968,
32 c.410 (C.52:14B-1 et seq.), any rules and regulations necessary to
33 effectuate the provisions of P.L. , c. (C.)(now before the
34 Legislature as this bill) concerning lead inspection, evaluation, or lead
35 hazard control work.

36
37 9. (New section) Whenever a loan or grant is provided pursuant
38 to P.L. , c. (C.)(now before the Legislature as this bill), the
39 address of the residential housing and the details concerning the
40 project shall be entered into a registry which shall be maintained by the
41 department. The department shall enter onto the registry information
42 for any other housing which it may have concerning the lead-safe
43 status of such housing. The housing shall be categorized as either:

44 a. lead-free, which shall include any housing constructed after 1978
45 and housing found to be free of lead-based paint;

46 b. lead-abated, including housing where lead-based paint hazards

1 have been permanently abated; or

2 c. lead-hazard controlled, including housing in which preventative
3 maintenance practices and interim controls have been implemented.

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

8

9 10. (New section) a. The Commissioner of Community Affairs
10 shall review any case referred to the department in which a residential
11 housing lead hazard condition has been found to exist and which poses
12 an immediate risk of continuing exposure to lead hazard for any
13 children living in the housing. If the residential housing is rental
14 housing, the commissioner shall determine whether the removal of the
15 residents from the residential rental housing containing that lead
16 hazard is the most expedient method of eliminating lead hazard risk.

17 b. If the commissioner determines that the removal and relocation
18 of the residents from such housing is the most expedient method of
19 eliminating lead hazard risk, then the commissioner shall authorize the
20 payment of relocation assistance pursuant to P.L. , c.
21 (C.)(now pending before the Legislature as this bill), and shall
22 assist in the relocation of such residents to lead-safe housing.

23 c. Whenever relocation assistance is authorized pursuant to this
24 section, the commissioner may determine to seek reimbursement for
25 payments made for relocation assistance from the owner of the rental
26 housing from which the tenants were moved. The commissioner shall
27 seek reimbursement if the owner of such residential rental housing had
28 failed to maintain the housing in a lead-safe condition.

29 d. In the case of any displacement of a household with a child or
30 a woman of childbearing age from a dwelling unit that has been found,
31 in a final administrative or judicial determination, not to be maintained
32 in lead-safe condition in accordance with standards established by rule
33 of the Department of Community Affairs or by municipal ordinance,
34 all relocation costs incurred by a public agency to relocate that
35 household shall be paid by the owner of the real property to the public
36 agency making relocation payments upon presentation to the owner by
37 the public agency of a statement of those relocation costs and of the
38 date upon which the relocation costs are due and payable.

39 e. In the event that the relocation costs to be paid to the public
40 agency are not paid within ten days after the due date, interest shall
41 accrue and be due to the public agency on the unpaid balance at the
42 rate of 18% per annum until the costs, and the interest thereon, shall
43 be fully paid to the public agency.

44 f. In the event that the relocation costs to be paid to a public
45 agency shall not be paid within ten days after the date due, the unpaid
46 balance thereof and all interest accruing thereon shall be a lien on the

1 parcel in which the dwelling unit from which displacement occurred is
2 located. To perfect the lien granted by this section, a statement
3 showing the amount and due date of the unpaid balance and identifying
4 the parcel, which identification shall be sufficiently made by reference
5 to the municipal assessment map, shall be recorded with the clerk or
6 register of the county in which the affected property is located and,
7 upon recording, the lien shall have the priority of a mortgage lien,
8 Whenever relocation costs with regard to the parcel and all interest
9 accrued thereon shall have been fully paid to the public agency, the
10 statement shall be promptly withdrawn or canceled by the public
11 agency.

12 g. In the event that relocation costs to be paid to a public agency
13 are not paid as and when due, the unpaid balance thereof and all
14 interest accrued thereon, together with attorney's fees and costs, may
15 be recovered by the public agency in a civil action as a personal debt
16 of the owner of the property. If the owner is a corporation, the
17 directors, officers and any shareholders who each control more than
18 5% of the total voting shares of the corporation, shall be personally
19 liable, jointly and severally, for the relocation costs.

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

23

24 11. (New section) Whenever the commissioner has authorized
25 relocation assistance for the elimination of a lead hazard risk pursuant
26 section 9 of P.L. , c. (C.)(now before the Legislature as this
27 bill) the payment of the assistance shall be deemed to be a medical
28 payment eligible for payment from the "Catastrophic Illness in
29 Children Relief Fund," established pursuant to P.L.1987, c.370
30 (C.26:2-150).

31 Notwithstanding any other provision of law to the contrary, a
32 payment made from the "Catastrophic Illness in Children Relief Fund"
33 for the purposes in this section shall be authorized regardless of
34 whether the relocation assistance is covered by any other State or
35 federal program or any insurance contract and regardless of whether
36 such expense will exceed 10% of the first \$100,000 of annual income
37 of a family plus 15% of the excess income over \$100,000 provided
38 that if reimbursement is received from federal or State sources or from
39 insurance proceeds, such reimbursement shall be directed to reimburse
40 the fund for expenses paid under this section.

41

42 12. (New section) In addition to the fees permitted to be charged
43 for inspection of multiple dwellings pursuant to section 13 of
44 P.L.1967, c.76 (C.55:13A-13), the department shall assess an
45 additional fee of \$10 per unit inspected for the purposes of
46 P.L. , c. (C.)(now before the Legislature as this bill)

1 concerning lead hazard control work. The fees collected pursuant to
2 this section shall be deposited into the "Lead Hazard Control
3 Assistance Fund" established pursuant to section 4 of P.L. , c.
4 (C.)(now before the Legislature as this bill).

5
6 13. (New section) a. A rental unit which is required to be
7 registered pursuant to section 2 of P.L.1974 (C.46:8-28), but which
8 is not subject to inspection under the "Hotel and Multiple Dwelling
9 Law," P.L.1967, c.76 (C.55:13A-1 et seq.) and any building or
10 structure of one or more stories and any land appurtenant thereto, and
11 any portion thereof, containing one or two units of dwelling space
12 which are being utilized as rental premises, excluding those full-time
13 owner-occupied units of dwelling space, shall be inspected and
14 evaluated for lead-based paint hazard in accordance with a schedule
15 and procedures to be developed by the commissioner. The schedule
16 shall provide that all such units will be inspected initially by no later
17 than the 1st day of the 61st month next following the effective date
18 of this act, and once every five years thereafter . Fees charged to
19 cover the costs of each inspection shall not exceed \$35 per rental unit,
20 \$10 of which shall be deposited into the "Lead Hazard Control
21 Assistance Fund" established pursuant to section 4 of P.L. , c.
22 (C.)(now before the Legislature as this bill).

23 b. A rental unit which is required to be registered pursuant to
24 section 2 of P.L.1974 (C.46:8-28), but which is not subject to
25 inspection under the "Hotel and Multiple Dwelling Law," P.L.1967,
26 c.76 (C.55:13A-1 et seq.) and any building or structure of one or more
27 stories and any land appurtenant thereto, and any portion thereof,
28 containing one or two units of dwelling space which are being utilized
29 as rental premises, excluding those full-time owner-occupied units of
30 dwelling space, shall be subject to all of the provisions of the "Hotel
31 and Multiple Dwelling Law," P.L.1967, c.76 (C.55:13A-1 et seq.) as
32 if the rental unit were in a multiple dwelling; however the inspection
33 of such a rental unit shall be limited to the purpose of lead hazard
34 evaluation. The commissioner shall have the power to enforce the
35 corrections of any violations found pursuant to a lead-based paint
36 hazard inspection as if the rental unit were in a multiple dwelling
37 subject to the requirements of the "Hotel and Multiple Dwelling Law,"
38 P.L.1967, c.76 (C.55:13A-1 et seq.).

39
40 14. (New section) Notwithstanding any other provisions of this
41 act, a rental dwelling unit, whether or not it is in a multiple dwelling,
42 shall not be subject to inspection and evaluation for the presence of
43 lead-based paint hazards if the unit:

- 44 a. has been certified to be free of lead-based paint;
45 b. was constructed during or after 1978; or
46 c. is a seasonal rental unit which is rented for less than six months'
47 duration each year.

1 15. Section 2 of P.L.1993, c.288 (C.26:2Q-2) is amended to read
2 as follows:

3 2. As used in sections 1 through 12 of P.L.1993, c.288 (C.26:2Q-1
4 through C.26:2Q-12):

5 "Commissioner" means the Commissioner of Health.

6 "Department" means the Department of Health.

7 "Interim controls" means a set of measures designed to reduce
8 temporarily human exposure or likely exposure to lead-based paint
9 hazards, including specialized cleaning, repairs, maintenance, painting,
10 temporary containment, ongoing monitoring of lead-based paint
11 hazards or potential hazards, and the establishment and operation of
12 management and resident education programs, or as the term is
13 defined under 42 U.S.C.s.4851b.

14 "Lead abatement" means a [process] set of measures designed
15 [either to mitigate or to eliminate permanently lead-based paint
16 hazards on a premises and includes, but is not limited to: the removal
17 of lead-based paint and lead-contaminated dust; the containment or
18 encapsulation of lead-based paint; the replacement of lead-painted
19 surfaces or fixtures; the removal or covering of lead-contaminated soil;
20 and all preparation, cleanup, disposal and post-abatement clearance
21 testing activities associated with such measures] to permanently
22 eliminate lead-based paint hazards in accordance with standards
23 established by the commissioner in compliance with standards
24 promulgated by the appropriate Federal agencies. Such term includes:

25 a. the removal of lead-based paint and lead-contaminated dust, the
26 permanent containment or encapsulation of lead-based paint, the
27 replacement of lead-painted surfaces or fixtures, and the removal or
28 covering of lead contaminated soil; and

29 b. all preparation, cleanup, disposal, and post-abatement clearance
30 testing activities associated with such measures.

31 "Lead evaluation" means a surface-by-surface investigation to
32 determine the presence of lead-based paint and the provision of a
33 report explaining the results of the investigation.

34 "Lead hazard control work" means work to make housing lead-safe,
35 or to mitigate, through the use of interim controls as permitted under
36 federal law and as defined in 42 U.S.C.s.4851b, or to eliminate
37 permanently lead-based paint hazards by abatement on a premises by
38 a person certified to perform lead abatement work pursuant to
39 P.L.1993, c.288 (C.26:2Q-1 et seq.).

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

44 "Lead-based paint hazard" means any condition that causes
45 exposure to lead from lead-contaminated dust or soil or
46 lead-contaminated paint that is deteriorated or present in surfaces, that

1 would result in adverse human health effects.

2 "Lead-based paint hazard inspection" means an inspection of the
3 residential housing and the structure's interior common areas and
4 exterior surface for the presence of lead-based paint hazards.

5 "Lead safe maintenance work" means those maintenance activities
6 which are necessary to maintain surfaces on which lead mitigation has
7 been performed in a lead safe condition and to prevent lead-based
8 paint hazards from occurring or reoccurring.

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

13 (cf: P.L.1993, c.288, s.2)

14

15 16. Section 3 of P.L.1993, c.288 (C.26:2Q-3) is amended to read
16 as follows:

17 3. a. A person shall not perform a lead evaluation or lead
18 abatement work unless the person is certified by the department
19 pursuant to this act.

20 b. The commissioner shall establish a certification program to
21 assure the competency of persons to perform lead evaluations or lead
22 abatement work in a safe and reliable manner. The commissioner may
23 establish different classes of certification reflecting the different types
24 and complexities of lead evaluation and abatement activities.

25 c. The commissioner shall certify a person who satisfactorily
26 completes the certification training course required pursuant to this
27 act, passes an examination prescribed by the department and meets any
28 other requirements for certification that may be established by the
29 commissioner or by federal law.

30 d. The certification shall be in writing with a photo identification,
31 signed and dated by the commissioner. It shall be carried upon the
32 person while performing evaluation or abatement services.

33 e. Notwithstanding the provisions of subsection a. of this section
34 to the contrary, a person who is certified to conduct lead evaluations
35 or perform lead abatement work in a jurisdiction outside of New
36 Jersey is entitled to receive a New Jersey certification from the
37 department if the person demonstrates successful completion of a
38 training and certification program in that jurisdiction that is at least as
39 rigorous and comprehensive as the State training and certification
40 program.

41 f. Lead evaluation and lead abatement certifications shall be for a
42 period not to exceed two years and shall be non-transferable. A person
43 may apply for recertification during the 90-day period before the
44 certification expiration date or the 90-day period after the certification
45 expiration date; except that if a person applies after the certification
46 expiration date, he shall not perform any services for which

1 certification is required until the certification is renewed. If a
2 certification has expired for more than 90 days, the person is required
3 to obtain a new certification.

4 g. Nothing in this section shall be construed to restrict or otherwise
5 affect the right of any person to engage in painting, woodworking,
6 structural renovation or other indoor or outdoor contracting services
7 that may result in the disturbance of paint, or to engage in lead safe
8 maintenance work, but a person shall not hold himself out as certified
9 by the department or otherwise represent that he has specialized
10 competency to perform lead evaluation or abatement work, unless he
11 has been certified or otherwise specifically authorized pursuant to
12 sections 1 through 12 of P.L.1993, c.288 (C.26:2Q-1 through
13 C.26:2Q-12).

14 A person who utilizes interim controls to reduce the risk of lead-
15 based paint exposure shall utilize only those methods approved by the
16 appropriate federal agencies, including specialized cleaning, repairs,
17 maintenance, painting, temporary containment, ongoing monitoring of
18 lead-based paint hazards or potential hazards, as may be set forth
19 under 42 U.S.C.s.4851b or those methods set forth in guidelines
20 established by the Commissioner of Community Affairs, but shall not
21 be required to be certified pursuant to this section unless performing
22 lead abatement.

23 (cf: P.L.1993, c.288, s.3)

24

25 17. Section 7 of P.L.1967, c.76 (C.55:13A-7) is amended to read
26 as follows:

27 7. The commissioner shall issue and promulgate, in the manner
28 specified in section 8 of [this act] P.L.1967, c.76 (C.55:13A-8), such
29 regulations as [he] the commissioner may deem necessary to assure
30 that any hotel or multiple dwelling will be [constructed and]
31 maintained in such manner as is consistent with, and will protect, the
32 health, safety and welfare of the occupants or intended occupants
33 thereof, or of the public generally.

34 Any such regulations issued and promulgated by the commissioner
35 pursuant to this section shall provide standards and specifications for
36 such [construction, conversion and alteration and] maintenance
37 materials, methods and techniques, fire warning and extinguisher
38 systems, elevator systems, emergency egresses, and such other
39 protective equipment as the commissioner shall deem reasonably
40 necessary to the health, safety and welfare of the occupants or
41 intended occupants of any units of dwelling space in any hotel or
42 multiple dwelling, including but not limited to:

43 (a) Structural adequacy ratings;

44 (b) Methods of egress, including fire escapes, outside fireproof
45 stairways, independent stairways, and handrails, railings, brackets,
46 braces and landing platforms thereon, additional stairways, and treads,

- 1 winders, and risers thereof, entrances and ramps;
2 (c) Bulkheads and scuttles, partitions, walls, ceilings and floors;
3 (d) Garbage and refuse collection and disposal, cleaning and
4 janitorial services, repairs, and extermination services;
5 (e) Electrical wiring and outlets, and paints and the composition
6 thereof;
7 (f) Doors, and the manner of opening thereof;
8 (g) Transoms, windows, shafts and beams;
9 (h) Chimneys, flues and central heating units;
10 (i) Roofing and siding materials;
11 (j) Lots, yards, courts and garages, including the size and location
12 thereof;
13 (k) Intakes, open ducts, offsets and recesses;
14 (l) Windows, including the size and height thereof;
15 (m) Rooms, including the area and height thereof, and the
16 permissible number of occupants thereof;
17 (n) Stairwells, skylights and alcoves;
18 (o) Public halls, including the lighting and ventilation thereof;
19 (p) Accessory passages to rooms;
20 (q) Cellars, drainage and air space;
21 (r) Water-closets, bathrooms and sinks;
22 (s) Water connections, including the provision of drinking and hot
23 and cold running water;
24 (t) Sewer connections, privies, cesspools, and private sewers;
25 (u) Rain water and drainage conductors; [and]
26 (v) Entrances and ramps; and.
27 (w) Presence of lead-based paint hazards.

28 (cf: P.L.1967, c. 6, s.7)

29

30 18. Section 19 of P.L.1967, c.76 (C.55:13A-19) is amended to
31 read as follows:

32 19. (a) No person shall

33 (1) Obstruct, hinder, delay or interfere with, by force or otherwise,
34 the commissioner in the exercise of any power or the discharge of any
35 function or duty under the provisions of this act; or

36 (2) Prepare, utter or render any false statement, report, document,
37 plans or specifications permitted or required to be prepared, uttered
38 or rendered under the provisions of this act; or

39 (3) Render ineffective or inoperative any protective equipment
40 installed, or intended to be installed, in any hotel or multiple dwelling;
41 or

42 (4) Refuse or fail to comply with any lawful ruling, action, order
43 or notice of the commissioner; or

44 (5) Violate, or cause to be violated, any of the provisions of this
45 act.

46 (b) Any person who violates, or causes to be violated, any

1 provision of subsection (a) of this section shall be liable to a penalty
2 of not less than \$50.00 nor more than \$500.00 for each violation, and
3 a penalty of not less than \$500.00 nor more than \$5,000.00 for each
4 continuing violation. Where any violation of subsection (a) of this
5 section is of a continuing nature, each day during which such
6 continuing violation remains unabated after the date fixed by the
7 commissioner in any order or notice for the correction or termination
8 of such continuing violation, shall constitute an additional, separate
9 and distinct violation, except during the time an appeal from said order
10 may be taken or is pending. The commissioner, in the exercise of his
11 administrative authority pursuant to this act, may levy and collect
12 penalties in the amounts set forth in this section. Where the
13 administrative penalty order has not been satisfied within 30 days of
14 its issuance the penalty may be sued for, and recovered by and in the
15 name of the commissioner in a civil action by a summary proceeding
16 under the Penalty Enforcement Law (N.J.S.2A:58-1 et seq.) in the
17 Superior Court.

18 (c) Any person shall be deemed to have violated, or to have caused
19 to be violated, any provision of subsection (a) of this section whenever
20 any officer, agent or employee thereof, under the control of and with
21 the knowledge of said person shall have violated or caused to be
22 violated any of the provisions of subsection (a) of this section.

23 (d) The commissioner may cancel and revoke any permit, approval
24 or certificate required or permitted to be granted or issued to any
25 person pursuant to the provisions of this act if the commissioner shall
26 find that any such person has violated, or caused to be violated, any of
27 the provisions of subsection (a) of this section.

28 (e) Any penalties collected pursuant to this section levied as the
29 result of a violation of subsection (w) of section 7 of P.L.1967, c.76
30 (C.55:13A-7) and which occurred pursuant to inspection for lead-
31 based paint hazards shall be deposited in the Lead Hazard Control
32 Assistance fund established pursuant to section 4 of P.L. _____, c. _____
33 (C. _____)(now before the Legislature as this bill). Penalties levied as
34 the result of multiple violations shall be allocated to the Lead Hazard
35 Control Assistance fund in such proportion as the commissioner shall
36 prescribe.

37 (cf: P.L.1970, c.138, s.11)

38

39 19. (New section) On or before the last day of the 24th month
40 ending after the effective date of this section, and each two years
41 thereafter, the Commissioner of Community Affairs and the Executive
42 Director of the New Jersey Housing and Mortgage Finance Agency
43 shall jointly issue a report to the Legislature on the effectiveness of the
44 provisions of P.L. _____, c. _____ (C. _____)(now before the Legislature as this
45 bill), which report shall include:

46 a. Details on the number and amounts of loans and grants provided

1 and the households served;

2 b. Information obtained and entered on the housing registry created
3 pursuant to P.L. , c. (C.)(now before the Legislature as this
4 bill); and

5 c. The costs incurred and the revenues derived by the department
6 and the agency in administering the act, including information
7 regarding any fees which may be authorized to be charged or increased
8 pursuant to P.L. , c. (C.)(now before the Legislature as this
9 bill).

10

11 20. Section 2 of P.L.1974, c.49 (C.2A:18-61.1) is amended to read
12 as follows:

13 2. No lessee or tenant or the assigns, under-tenants or legal
14 representatives of such lessee or tenant may be removed by the
15 Superior Court from any house, building, mobile home or land in a
16 mobile home park or tenement leased for residential purposes, other
17 than (1) owner-occupied premises with not more than two rental units
18 or a hotel, motel or other guest house or part thereof rented to a
19 transient guest or seasonal tenant; (2) a dwelling unit which is held in
20 trust on behalf of a member of the immediate family of the person or
21 persons establishing the trust, provided that the member of the
22 immediate family on whose behalf the trust is established permanently
23 occupies the unit; and (3) a dwelling unit which is permanently
24 occupied by a member of the immediate family of the owner of that
25 unit, provided, however, that exception (2) or (3) shall apply only in
26 cases in which the member of the immediate family has a
27 developmental disability, except upon establishment of one of the
28 following grounds as good cause and if proof of compliance by the
29 landlord with the registration provisions of section 2 of P.L.1974, c.50
30 (C.46:8-28) is documented:

31 a. The person fails to pay rent due and owing under the lease
32 whether the same be oral or written; provided that, for the purposes
33 of this section, any portion of rent unpaid by a tenant to a landlord but
34 utilized by the tenant to continue utility service to the rental premises
35 after receiving notice from an electric, gas, water or sewer public
36 utility that such service was in danger of discontinuance based on
37 nonpayment by the landlord, shall not be deemed to be unpaid rent.

38 b. The person has continued to be, after written notice to cease,
39 so disorderly as to destroy the peace and quiet of the occupants or
40 other tenants living in said house or neighborhood.

41 c. The person has willfully or by reason of gross negligence
42 caused or allowed destruction, damage or injury to the premises.

43 d. The person has continued, after written notice to cease, to
44 substantially violate or breach any of the landlord's rules and
45 regulations governing said premises, provided such rules and
46 regulations are reasonable and have been accepted in writing by the
47 tenant or made a part of the lease at the beginning of the lease term.

1 e. (1) The person has continued, after written notice to cease, to
2 substantially violate or breach any of the covenants or agreements
3 contained in the lease for the premises where a right of reentry is
4 reserved to the landlord in the lease for a violation of such covenant
5 or agreement, provided that such covenant or agreement is reasonable
6 and was contained in the lease at the beginning of the lease term.

7 (2) In public housing under the control of a public housing
8 authority or redevelopment agency, the person has substantially
9 violated or breached any of the covenants or agreements contained in
10 the lease for the premises pertaining to illegal uses of controlled
11 dangerous substances, or other illegal activities, whether or not a right
12 of reentry is reserved to the landlord in the lease for a violation of such
13 covenant or agreement, provided that such covenant or agreement
14 conforms to federal guidelines regarding such lease provisions and was
15 contained in the lease at the beginning of the lease term.

16 f. The person has failed to pay rent after a valid notice to quit and
17 notice of increase of said rent, provided the increase in rent is not
18 unconscionable and complies with any and all other laws or municipal
19 ordinances governing rent increases.

20 g. The landlord or owner (1) seeks to permanently board up or
21 demolish the premises because he has been cited by local or State
22 housing inspectors for substantial violations affecting the health and
23 safety of tenants and it is economically unfeasible for the owner to
24 eliminate the violations; (2) seeks to comply with local or State
25 housing inspectors who have cited him for substantial violations
26 affecting the health and safety of tenants and it is unfeasible to so
27 comply without removing the tenant; simultaneously with service of
28 notice of eviction pursuant to this clause, the landlord shall notify the
29 Department of Community Affairs of the intention to institute
30 proceedings and shall provide the department with such other
31 information as it may require pursuant to rules and regulations. The
32 department shall inform all parties and the court of its view with
33 respect to the feasibility of compliance without removal of the tenant
34 and may in its discretion appear and present evidence; (3) seeks to
35 correct an illegal occupancy because he has been cited by local or
36 State housing inspectors or zoning officers and it is unfeasible to
37 correct such illegal occupancy without removing the tenant; or (4) is
38 a governmental agency which seeks to permanently retire the premises
39 from the rental market pursuant to a redevelopment or land clearance
40 plan in a blighted area. In those cases where the tenant is being
41 removed for any reason specified in this subsection, no warrant for
42 possession shall be issued until P.L.1967, c.79 (C.52:31B-1 et seq.)
43 and P.L.1971, c.362 (C.20:4-1 et seq.) have been complied with.

44 h. The owner seeks to retire permanently the residential building
45 or the mobile home park from residential use or use as a mobile home
46 park, provided this subsection shall not apply to circumstances

1 covered under subsection g. of this section.

2 i. The landlord or owner proposes, at the termination of a lease,
3 reasonable changes of substance in the terms and conditions of the
4 lease, including specifically any change in the term thereof, which the
5 tenant, after written notice, refuses to accept; provided that in cases
6 where a tenant has received a notice of termination pursuant to
7 subsection g. of section 3 of P.L.1974, c.49 (C.2A:18-61.2), or has a
8 protected tenancy status pursuant to section 9 of the "Senior Citizens
9 and Disabled Protected Tenancy Act," P.L.1981, c.226
10 (C.2A:18-61.30), or pursuant to the "Tenant Protection Act of 1992,"
11 P.L.1991, c.509 (C.2A:18-61.40 et al.), the landlord or owner shall
12 have the burden of proving that any change in the terms and conditions
13 of the lease, rental or regulations both is reasonable and does not
14 substantially reduce the rights and privileges to which the tenant was
15 entitled prior to the conversion.

16 j. The person, after written notice to cease, has habitually and
17 without legal justification failed to pay rent which is due and owing.

18 k. The landlord or owner of the building or mobile home park is
19 converting from the rental market to a condominium, cooperative or
20 fee simple ownership of two or more dwelling units or park sites,
21 except as hereinafter provided in subsection l. of this section. Where
22 the tenant is being removed pursuant to this subsection, no warrant for
23 possession shall be issued until this act has been complied with. No
24 action for possession shall be brought pursuant to this subsection
25 against a senior citizen tenant or disabled tenant with protected
26 tenancy status pursuant to the "Senior Citizens and Disabled Protected
27 Tenancy Act," P.L.1981, c.226 (C.2A:18-61.22 et al.), or against a
28 qualified tenant under the "Tenant Protection Act of 1992," P.L.1991,
29 c.509 (C.2A:18-61.40 et al.), as long as the agency has not terminated
30 the protected tenancy status or the protected tenancy period has not
31 expired.

32 l. (1) The owner of a building or mobile home park, which is
33 constructed as or being converted to a condominium, cooperative or
34 fee simple ownership, seeks to evict a tenant or sublessee whose initial
35 tenancy began after the master deed, agreement establishing the
36 cooperative or subdivision plat was recorded, because the owner has
37 contracted to sell the unit to a buyer who seeks to personally occupy
38 it and the contract for sale calls for the unit to be vacant at the time of
39 closing. However, no action shall be brought against a tenant under
40 paragraph (1) of this subsection unless the tenant was given a
41 statement in accordance with section 6 of P.L.1975, c.311
42 (C.2A:18-61.9);

43 (2) The owner of three or less condominium or cooperative units
44 seeks to evict a tenant whose initial tenancy began by rental from an
45 owner of three or less units after the master deed or agreement
46 establishing the cooperative was recorded, because the owner seeks to

1 personally occupy the unit, or has contracted to sell the unit to a buyer
2 who seeks to personally occupy it and the contract for sale calls for
3 the unit to be vacant at the time of closing;

4 (3) The owner of a building of three residential units or less seeks
5 to personally occupy a unit, or has contracted to sell the residential
6 unit to a buyer who wishes to personally occupy it and the contract for
7 sale calls for the unit to be vacant at the time of closing.

8 m. The landlord or owner conditioned the tenancy upon and in
9 consideration for the tenant's employment by the landlord or owner as
10 superintendent, janitor or in some other capacity and such employment
11 is being terminated.

12 n. The person has been convicted of or pleaded guilty to, or if a
13 juvenile, has been adjudicated delinquent on the basis of an act which
14 if committed by an adult would constitute an offense under the
15 "Comprehensive Drug Reform Act of 1987," N.J.S.2C:35-1 et al.
16 involving the use, possession, manufacture, dispensing or distribution
17 of a controlled dangerous substance, controlled dangerous substance
18 analog or drug paraphernalia within the meaning of that act within or
19 upon the leased premises or the building or complex of buildings and
20 land appurtenant thereto, or the mobile home park, in which those
21 premises are located, and has not in connection with his sentence for
22 that offense either (1) successfully completed or (2) been admitted to
23 and continued upon probation while completing, a drug rehabilitation
24 program pursuant to N.J.S.2C:35-14; or, being the tenant or lessee of
25 such leased premises, knowingly harbors or harbored therein a person
26 who has been so convicted or has so pleaded, or otherwise permits or
27 permitted such a person to occupy those premises for residential
28 purposes, whether continuously or intermittently, except that this
29 subsection shall not apply to a person harboring or permitting a
30 juvenile to occupy the premises if the juvenile has been adjudicated
31 delinquent upon the basis of an act which if committed by an adult
32 would constitute the offense of use or possession under the said act.
33 No action for removal may be brought pursuant to this subsection
34 more than two years after the date of the adjudication or conviction or
35 more than two years after the person's release from incarceration
36 whichever is the later.

37 o. The person has been convicted of or pleaded guilty to, or if a
38 juvenile, has been adjudicated delinquent on the basis of an act which
39 if committed by an adult would constitute an offense under
40 N.J.S.2C:12-1 or N.J.S.2C:12-3 involving assault, or terroristic threats
41 against the landlord, a member of the landlord's family or an employee
42 of the landlord; or, being the tenant or lessee of such leased premises,
43 knowingly harbors or harbored therein a person who has been so
44 convicted or has so pleaded, or otherwise permits or permitted such
45 a person to occupy those premises for residential purposes, whether
46 continuously or intermittently. No action for removal may be brought

1 pursuant to this subsection more than two years after the adjudication
2 or conviction or more than two years after the person's release from
3 incarceration whichever is the later.

4 p. The person has been found, by a preponderance of the
5 evidence, liable in a civil action for removal commenced under this act
6 for an offense under N.J.S.2C:20-1 et al. involving theft of property
7 located on the leased premises from the landlord, the leased premises
8 or other tenants residing in the leased premises, or N.J.S.2C:12-1 or
9 N.J.S.2C:12-3 involving assault or terroristic threats against the
10 landlord, a member of the landlord's family or an employee of the
11 landlord, or under the "Comprehensive Drug Reform Act of 1987,"
12 N.J.S.2C:35-1 et al., involving the use, possession, manufacture,
13 dispensing or distribution of a controlled dangerous substance,
14 controlled dangerous substance analog or drug paraphernalia within
15 the meaning of that act within or upon the leased premises or the
16 building or complex of buildings and land appurtenant thereto, or the
17 mobile home park, in which those premises are located, and has not in
18 connection with his sentence for that offense either (1) successfully
19 completed or (2) been admitted to and continued upon probation while
20 completing a drug rehabilitation program pursuant to N.J.S.2C:35-14;
21 or, being the tenant or lessee of such leased premises, knowingly
22 harbors or harbored therein a person who committed such an offense,
23 or otherwise permits or permitted such a person to occupy those
24 premises for residential purposes, whether continuously or
25 intermittently, except that this subsection shall not apply to a person
26 who harbors or permits a juvenile to occupy the premises if the
27 juvenile has been adjudicated delinquent upon the basis of an act which
28 if committed by an adult would constitute the offense of use or
29 possession under the said "Comprehensive Drug Reform Act of 1987."

30 q. The person has been convicted of or pleaded guilty to, or if a
31 juvenile, has been adjudicated delinquent on the basis of an act which
32 if committed by an adult would constitute an offense under
33 N.J.S.2C:20-1 et al. involving theft of property from the landlord, the
34 leased premises or other tenants residing in the same building or
35 complex; or, being the tenant or lessee of such leased premises,
36 knowingly harbors therein a person who has been so convicted or has
37 so pleaded, or otherwise permits such a person to occupy those
38 premises for residential purposes, whether continuously or
39 intermittently.

40 For purposes of this section, (1) "developmental disability" means
41 any disability which is defined as such pursuant to section 3 of
42 P.L.1977, c.82 (C.30:6D-3); (2) "member of the immediate family"
43 means a person's spouse, parent, child or sibling, or a spouse, parent,
44 child or sibling of any of them; and (3) "permanently" occupies or
45 occupied means that the occupant maintains no other domicile at
46 which the occupant votes, pays rent or property taxes or at which rent

1 or property taxes are paid on the occupant's behalf.
2 (cf: P.L.2000, c.113, s.3)

3
4 21. There is appropriated from the General Fund to the
5 Department of Community Affairs for deposit into the "Lead Hazard
6 Control Assistance Fund" the amount of \$2,000,000 for the purpose of
7 providing grants pursuant to P.L. , c. (C.) (now before the
8 Legislature as this bill).

9
10 22. This act shall take effect 90 days following enactment, except
11 that section 7 shall take effect immediately.

12
13
14 STATEMENT

15
16 This bill, entitled the "Lead Hazard Control Assistance Act,"
17 establishes a fund from which loans and grants to the owners of rental
18 residences may be made for lead-based paint hazard control work.

19 Lead hazard control work is the process of rendering dwellings
20 lead-safe, but does not require total, permanent lead removal (or "lead
21 abatement"). The bill provides low-interest loans (of not more than
22 \$150,000 per project) and loan guarantees under a program to be
23 established by the New Jersey Housing and Mortgage Finance Agency.
24 Grants will be provided under a program to be established by the
25 Department of Community Affairs (DCA) for persons without the
26 financial ability to qualify for loans.

27 The bill establishes a registry of lead-safe rental housing within
28 DCA, which can be utilized to track progress of the State's lead hazard
29 control work programs, as well as to identify lead-safe housing.

30 The bill allows the Commissioner of the DCA to provide relocation
31 aid and assistance for the residents of rental housing, and to seek
32 reimbursement for the relocation aid from the owner of the rental
33 housing. In all cases involving the displacement of a household with
34 a child or a woman of childbearing age from a dwelling unit that has
35 been found not to be maintained in a lead-safe condition pursuant to
36 DCA or municipal ordinance standards, the relocation costs shall be
37 paid by the owner.

38 The bill changes the anti-eviction law to require that a landlord
39 must comply with the multiple dwelling registration law in order to be
40 permitted to proceed with eviction proceedings against a tenant.

41 The bill provides that the single and two-family rental homes which
42 are not owner occupied (and therefore not subject to inspection under
43 the Hotel and Multiple Dwelling Law) shall be inspected, for lead-
44 based paint hazard only, once every five years.

45 No inspection shall be required of a rental dwelling (whether or not
46 a multiple dwelling) if the unit has been certified to be lead free, was

1 constructed after 1977, or is a seasonal rental rented for less than six
2 months each year.

3 The bill authorizes the issuance of up to \$25 million in bonds by the
4 New Jersey Housing and Mortgage Finance Agency. The proceeds
5 of the bond sale will be available for the loan and loan guarantee
6 program. The actual costs of the bond issuance will depend on the
7 amount of bonds issued and market interest rates at the time of their
8 issuance. The effective "cost" of the loan program will depend on
9 interest rates and loan repayment schedules, which have yet to be
10 determined.

11 The bill appropriates \$2 million for funding the grant program
12 under the bill.

13 The bill authorizes an additional fee of \$10 per unit to be charged
14 for inspection fees of multiple dwellings under the "Hotel and
15 Multiple Dwelling Law," P.L.1967, c.76 (C.55:13A-1 et seq.) and
16 authorizes that the units not subject to the multiple dwelling law shall
17 be charged the costs of inspection, not to exceed \$35 per rental unit.

18 The bill permits payments to be made from the "Catastrophic Illness
19 in Children Relief Fund" for relocation assistance, if such relocation is
20 determined to be the most expedient method of eliminating lead hazard
21 risk for children living in residential rental premises.

ASSEMBLY BUDGET COMMITTEE

STATEMENT TO

ASSEMBLY, No. 1947

with committee amendments

STATE OF NEW JERSEY

DATED: JUNE 30, 2003

The Assembly Budget Committee reports favorably Assembly Bill No. 1947, with committee amendments.

Assembly Bill No. 1947, as amended establishes the "Lead Hazard Control Assistance Fund" for the purpose of making loans and grants to the owners of housing units for lead-based paint hazard control work. Lead hazard control work is the process of rendering dwellings lead-safe, but does not require total, permanent lead removal (or "lead abatement").

The bill provides low-interest loans (of not more than \$150,000 per building or project) under a program to be established by the Department of Community Affairs (DCA). Grants will be provided under a program to be established by the DCA for owners of single-family and two-family homes and multiple dwellings with no more than four separate dwelling units.

The bill requires the DCA to maintain a registry of lead-safe housing. The registry could be used to track progress of the State's lead hazard control work programs, as well as to identify lead-safe housing.

The bill allows the Commissioner of Community Affairs to provide relocation aid and assistance for residents of rental housing, and to seek reimbursement for the relocation aid from the owner of the rental housing if the owner has failed to maintain the property in a lead-safe condition.

The bill establishes a lead-safe inspection program for all residential rental dwellings but would exempt from the lead paint inspection and fee requirement those dwelling units that: are certified to be lead free, were constructed after 1977, are seasonal rental properties, or have been certified as having lead-free interiors.

The bill establishes the Emergency Lead Poisoning Relocation Fund and appropriates from the "Catastrophic Illness in Children Relief Fund" \$1,000,000 for emergency relocation assistance for lead poisoned children.

The bill requires the DCA to inspect every single-family and two-family rental dwelling, exclusive of owner-occupied units, for lead-

based paint hazards and to charge a fee for such inspection at a rate in accordance with the current "Hotel and Multiple Dwelling Law" fee schedule. The bill authorizes the imposition of an additional fee of \$20 per unit inspected to be charged for the inspection of lead hazards in single-family and two-family rental housing and multiple dwellings under the "Hotel and Multiple Dwelling Law," P.L.1967, c.76 (C.55:13A-1 et seq.). These additional fees will be deposited into the "Lead Hazard Control Assistance Fund." Additionally, the bill requires that the first \$7,000,000 of a certain portion of sales tax revenue set aside from the retail sales of paint be credited annually to the "Lead Hazard Control Assistance Fund".

FISCAL IMPACT:

The bill directs a portion of the sales and use tax collected on paint sold in New Jersey, up to an amount of \$7,000,000, be credited annually to the "Lead Hazard Control Assistance Fund."

The bill appropriates \$1,000,000 from the "Catastrophic Illness in Children Relief Fund" for emergency relocation assistance for lead poisoned children.

The bill imposes a \$20 fee upon the inspection of single-family and two-family rental dwellings (exclusive of owner-occupied units) and upon the inspections made under the "Hotel and Multiple Dwelling Law," or multiple dwellings which is to be deposited to the "Lead Hazard Control Assistance Fund." The bill permits the establishment of an inspection fee to cover the costs of inspection of multiple dwelling single-family and two-family rental dwellings for the presence of lead paint, commensurate with the fees established under the "Hotel and Multiple Dwelling Law."

COMMITTEE AMENDMENTS:

The amendments:

- * Take the New Jersey Housing and Mortgage Finance Agency (HMFA) out of the bill (at the request of HMFA and DCA) and remove bonding provisions from the bill. Under the bill, as amended, DCA will run both the loan and grant programs;
- * Require DCA to inspect single-family and two-family rental dwellings, exclusive of owner-occupied units, at least once every five years for lead-based paint hazards and to charge a fee for inspections commensurate with the existing "Hotel and Multiple Dwelling Law" fee schedule;
- * Except from the requirement to conduct lead inspections those units that: have been certified to be free of lead-based paint, were constructed after 1977, are seasonal rentals, or have been certified as having a lead-free interior;
- * Increase the additional fee to be imposed for deposit into the "Lead Hazard Control Assistance Fund" from \$10 to \$20 per unit inspected;
- * Conform language in DCA and DHSS statutes relating to lead

paint;

- * Add a provision that diverts \$0.50 of the sales and use tax (already collected) per gallon of paint from the General Fund to the "Lead Hazard Control Assistance Fund" commencing July 1, 2003, which will be collected on paint sold regardless of the size of the container, up to a diversion of \$7 million per year;
- * Change funding for the tenant relocation program to a \$1 million "start-up" appropriation from the "Catastrophic Illness in Children Relief Fund" to create an "Emergency Lead Paint Poisoning Relocation Fund;"
- * Require home inspectors to notify their clients of lead paint hazards whenever an inspection reveals peeling or degraded paint in pre-1978 construction; and
- * Delete an appropriation of \$2 million from the General Fund to the "Lead Hazard Control Assistance Fund."

As amended, Assembly, No.1947 is identical to Senate, No.1348 (1R), also amended this day.

ASSEMBLY HOUSING AND LOCAL GOVERNMENT
COMMITTEE

STATEMENT TO

[First Reprint]

ASSEMBLY, No. 1947

with committee amendments

STATE OF NEW JERSEY

DATED: JANUARY 8, 2004

The Assembly Housing and Local Government Committee reports favorably and with committee amendments Assembly Bill No. 1947 (1R).

As amended, the bill establishes the "Lead Hazard Control Assistance Fund" for the purpose of making loans and grants to the owners of housing units for lead-based paint hazard control work. The bill provides low-interest loans (of not more than \$150,000 per dwelling unit) under a program to be established by the Department of Community Affairs (DCA). Grants will be provided under a program to be established by the DCA for owners of single-family and two-family homes and multiple dwellings with no more than four separate dwelling units.

The bill requires the DCA to maintain a registry of lead-safe housing. The registry could be used to track progress of the State's lead hazard control work programs, as well as to identify lead-safe housing.

The bill establishes the Emergency Lead Poisoning Relocation Fund and appropriates in the first year from the "Catastrophic Illness in Children Relief Fund" \$1,000,000 for emergency relocation assistance for lead poisoned children.

The bill requires the DCA to inspect every multiple dwelling under the "Hotel and Multiple Dwelling Law," P.L.1967, c.76 (C.55:13A-1 et seq.) for lead-based paint hazards and authorizes the imposition of an additional fee of \$20 per unit inspected to be charged for deposit into the "Lead Hazard Control Assistance Fund." Additionally, the bill requires that a minimum of \$7,000,000 of a certain portion of sales tax revenue to be set aside from the retail sales of containers of paint for deposit annually into the "Lead Hazard Control Assistance Fund," with a limitation of the set-aside to no more than \$14 million per year. The bill creates a loan and grant program in the Department of Community Affairs for the remediation and removal of lead-based paint hazards

from residences. In addition, the bill, as amended, creates an inspection program for the identification of lead-based paint hazards in multiple dwellings.

Committee amendments.

The committee amended the bill to delete the requirement for inspection of single-family and two-family homes from inspection for lead-based paint hazards.

The amendments would clarify that inspections for lead would take place in common interest communities if the communities are otherwise subject to inspection under the multiple dwelling law and are rental units, but that inspection fees would be the responsibility of individual unit owners, not the homeowners' association, unless the association is the owner of the unit being inspected;

The amendments change the Sales and Use Tax set-aside of \$.50 per unit sold from the sale of gallons of paint to containers of paint and direct that a minimum of \$7 million be set aside from such sales tax, up to a maximum of \$14 million per year;

The amendments clarify that persons for hire who seek to engage in lead safe maintenance work or lead hazard control work must take a training course prescribed by the Commissioner of Community Affairs; homeowners doing such work on their own homes in which they occupy would not be required to take such a coursework. This is similar to the requirements under current law concerning abatement of lead-based paint hazards

The amendments would direct the Commissioner of Health and Senior Services to follow a protocol in response to the identification of a lead poisoned child. The protocol would require, as a first step, the evaluation of the interior of the residence of the child for lead-based paint hazard. If no lead-based paint hazard is found in the interior of the residence, then the exterior of the residence would be evaluated. If no lead-based paint hazard is discovered in either the interior or exterior of the residence, then the soil on the property on which the residence and other structures, if any, are located would be examined for lead hazards. The amendments also modify certain Department of Health statutes to provide that lead hazard control work may be used in lieu of abatement in controlling lead-based paint hazards in residences, thereby updating the comprehensive lead-based paint hazard reduction statutes first enacted in 1971.

This bill is identical to Senate Bill No. 1348 [2R] which was also released today by the committee with committee amendments.

LEGISLATIVE FISCAL ESTIMATE

[Second Reprint]

ASSEMBLY, No. 1947

STATE OF NEW JERSEY

210th LEGISLATURE

DATED: FEBRUARY 4, 2004

SUMMARY

- Synopsis:** Establishes lead-safe housing grant and loan program and registry plan; makes appropriations
- Type of Impact:** Reallocates funding from the Catastrophic Illness in Children Relief Fund to Emergency Lead Poisoning Relocation Fund and Lead Hazard Control Assistance Fund. Reallocates funding from the General Fund to Lead Hazard Control Assistance Fund.
- Agencies Affected:** Department of Community Affairs; Division of Taxation in the Department of the Treasury; Department of Health and Senior Services.

Office of Legislative Services Estimate

| Fiscal Impact | <u>Year 1</u> | <u>Year 2</u> | <u>Year 3</u> |
|----------------------|---|---|---|
| State Cost | Up to \$19.8 million | Up to \$16.8 million | Up to \$16.8 million |
| State Revenue | \$2.8 million lead inspection surcharge for multiple dwellings | \$2.8 million lead inspection surcharge for multiple dwellings | \$2.8 million lead inspection surcharge for multiple dwellings |

- * This bill creates a loan and grant program in the Department of Community Affairs for the remediation and removal of lead-based paint hazards from residences and creates an inspection program for the identification of lead based paint hazards in multiple dwellings.
- * The bill also establishes a Lead Hazard Control Assistance Fund (LHCAF) for the purpose of funding loans and grants to eligible owners of multifamily housing and to eligible owners of single-family and two-family homes for lead hazard control work in compliance with the terms set forth in the bill. The LHCAF will be funded from a portion of the sales tax revenue equal to \$0.50 or the amount of sales tax collected from every retail sale of a container of paint or other surface coating material, and directs that a minimum of \$7 million per year, and a maximum of \$14 million per year, be set aside from such sales tax revenue.
- * In the first year the bill appropriates \$2.0 million from the Catastrophic Illness in Children Relief Fund (CICRF) to the LHCAF for the purpose of making grants.
- * An additional \$1.0 million will be drawn from the CICRF in the first year for deposit into the Emergency Lead Poisoning Relocation Fund (ELPRF) established under this bill for the

purpose of relocating children and their families who have tested positive for lead poisoning and have been removed from their dwelling unit in connection with an order to abate a lead-based paint hazard, or upon the order of the Commissioner of Community Affairs.

- * In addition, the bill allocates the proceeds of an additional \$20 per unit fee collected at the time of the inspections required of multiple dwellings pursuant to the "Hotel and Multiple Dwelling Law," P.L. 1967, c.76 (C.55:13A-1 et seq.). The Department of Community Affairs estimates that there are approximately 177,000 multiple dwellings inspected each year. Adjusting this figure downward for the exemptions provided under the bill for seasonal rentals and owner-occupied condominiums, the department has informally advised the Office of Legislative Services that there will be remaining approximately 140,000 multiple dwellings which will likely be subject to inspection for lead-based paint hazards per year under the bill. This will result in \$2,800,000 being collected and deposited in to the LHCAF.

BILL DESCRIPTION

Assembly Bill No. 1947 (2R) of 2002 establishes the Lead Hazard Control Assistance Fund for the purpose of making loans and grants to the owners of housing units for lead-based paint hazard control work. The bill provides low-interest loans (of not more than \$150,000 per dwelling unit) under a program to be established by the Department of Community Affairs (DCA). Grants will be provided under a program to be established by the DCA for owners of single-family and two-family homes and multiple dwellings with no more than four separate dwelling units.

The bill requires the DCA to maintain a registry of lead-safe housing. The registry could be used to track progress of the State's lead hazard control work programs, as well as to identify lead-safe housing.

The bill establishes the Emergency Lead Poisoning Relocation Fund and appropriates in the first year from the Catastrophic Illness in Children Relief Fund \$1,000,000 for emergency relocation assistance for lead poisoned children.

The bill requires the DCA to inspect every multiple dwelling for lead-based paint hazards and authorizes the imposition of an additional fee of \$20 per unit inspected to be charged for the inspection of lead hazards in multiple dwellings under the "Hotel and Multiple Dwelling Law," P.L. 1967, c.76 (C.55:13A-1 et seq.). These additional fees will be deposited into the Lead Hazard Control Assistance Fund. Additionally, the bill requires that a minimum of \$7,000,000 of a portion of the sales tax revenue equal to \$0.50 or the amount of sales tax collected from every retail sale of a container of paint or other surface coating material be set aside from the sales tax collected from the retail sales of paint for deposit annually into the Lead Hazard Control Assistance Fund, up to a maximum of \$14.0 million per year.

FISCAL ANALYSIS

EXECUTIVE BRANCH

None received.

OFFICE OF LEGISLATIVE SERVICES

The Office of Legislative Services (OLS) estimates the cost of the establishment of the lead-

safe housing grant and loan program and registry pursuant to this bill to be \$19.8 million in the first year of the program, and \$16.8 million in each of the second and third years of the program. The OLS notes that the bill directs a minimum of \$7,000,000, or the amount actually collected up to a maximum of \$14,000,000, from a portion of the sales and use tax revenue collected on retail paint sold in New Jersey to be credited annually to the Lead Hazard Control Assistance Fund. In addition, \$2.0 million will be appropriated in the first year from the Catastrophic Illness in Children Relief Fund (CICRF) to the Lead Hazard Control Assistance Fund for the purpose of making grants under the program established under the bill.

The bill also appropriates \$1,000,000 in the first year from the Catastrophic Illness in Children Relief Fund into the Emergency Lead Poisoning Relocation Fund for emergency relocation assistance for lead poisoned children.

The bill imposes a \$20 fee (in addition to regular inspection fees) upon the inspection of multiple dwellings under the "Hotel and Multiple Dwelling Law" for lead-based hazards with the proceeds of these funds to be deposited into the Lead Hazard Control Assistance Fund. In addition, the bill provides that the proceeds of penalty fees collected from violations resulting lead-based paint hazards in multiple dwellings be deposited into the Lead Hazard Control Assistance Fund. As noted above, this fee is estimated to produce \$2.8 million in new revenue to the fund, based on 140,000 multiple dwelling unit inspections annually to which the fund will pertain.

Section: *Local Government*

Analyst: *Pedro Carrasquillo*
Assistant Fiscal Analyst

Approved: *David J. Rosen*
Legislative Budget and Finance Officer

This fiscal estimate has been prepared pursuant to P.L.1980, c.67.

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Press Releases

PO BOX 004
TRENTON, NJ 08625

Contact: Micah Rasmussen
609-777-2600

RELEASE: January 20, 2004

[Previous Screen](#)

McGreevey Signs Law to Protect Children From Lead Paint

Part of Governor's effort to Build a Better New Jersey

(NEWARK)—Governor James E. McGreevey continued his efforts today to protect the health of New Jersey's children as he signed legislation that will create a statewide lead abatement fund for landlords.

The law's enactment comes one week after the Governor's State of the State announcement to "Build a Better New Jersey" by reducing soot and smog air pollution by 20 percent over the next decade, reducing diesel emissions, and setting the strongest limit on the mercury and arsenic that taints our water and air. The Governor also proposed giving every new mother a lead detection kit before she leaves the hospital.

"We must protect our children where they spend the most time—in their home," said McGreevey. "Every mother and father, myself included, wants their children to grow up in a home that is safe and lead-free. Now, thanks to Senator Rice's leadership and commitment, this new law will help ensure the continued safety of our children. From the water they drink, to the air that they breathe, we are putting the health of our children first, and that will build a better New Jersey."

"Families in urban areas have enough to worry about on a daily basis, without wondering if their house is killing them," said Senator Ronald L. Rice, who was the prime sponsor of the bill. "The Governor's signature on this new law brings to a close a hard-won victory in a war I've been waging on behalf of my constituents for more than a year."

Under Senator Rice's bill, the Department of Community Affairs (DCA) will establish a "Lead Hazard Control Assistance Fund" to provide low-interest loans to the owners of housing units for lead-based paint hazard control work. Funding for these loans will be generated from inspection fees and a portion of the tax revenue from the sales of paint containers. Additional grants will be made for owners of single- and two-family homes, and multiple dwellings with no more than four separate dwelling units.

DCA will also establish and maintain a registry of lead-safe housing to track the state's progress of lead hazard control programs, as well as to identify lead-safe housing in multiple dwelling units. Additionally, DCA's Division of Codes and Standards will now be required to inspect multiple dwellings for lead-based paint hazards, over and above regular inspections as designated in the state's "Hotel and Multiple Dwelling Law."

The bill will also require DCA to create the Emergency Lead Poisoning Relocation Fund, which in its first year will appropriate \$2 million from the "Catastrophic Illness in Children Relief Fund" for emergency relocation assistance for lead poisoned children.

To further coordinate state resources, the Department of Health and Senior Services will create and follow a standard protocol when investigating children with lead poisoning. This protocol will work to determine the origin of contamination in a child, whether it is from the interior or exterior of a residence, soil on the property or another structure.

Dr. Benjamin Hooks, former Executive Director and CEO of NAACP said, "This problem cannot only be solved at the national level. We must have the commitment of state leaders, like Governor McGreevey and Senator Rice, to make it work. This legislation should be a model for other states with lead problems."

John Weber, organizer for NJ Citizen Action said, "We know that removing lead paint hazards is one of the best ways to prevent childhood lead poisoning. We also know the financial difficulties property owners have when faced with lead abatement. By helping property owners we are helping children; in this law everyone wins."

According to the NJ Department of Health and Senior Services, more than 5,230 children tested positive for lead in 2003, 4.2% less than the 5,457 in 2002. While every county in New Jersey reported children with lead poisoning, Essex County had the highest elevated blood lead results with 1,879 children. More than 172,900 children were tested for lead poisoning in 2003.

DCA Commissioner Susan Bass Levin said, "With the signing of this bill, New Jersey citizens will no longer have to wonder if the paint in their homes is dangerous. Today, Governor McGreevey has shown that through teamwork – the state working with legislators and community organizations – the health of our families comes first."

Additional sponsors of S1348 were Senator Anthony Bucco and Assemblypersons Loretta Weinberg, Craig Stanley, William Payne and Donald Tucker.

"Lead poisoning is a serious problem in New Jersey," said Weinberg (D-Bergen). "Thousands of children are at risk of poisoning from lead-based paint, especially in older homes and apartments."

"Newark has scores of lead-contaminated buildings containing multiple rental units," said Stanley (D-Essex). "This new law will help remedy exposure to lead-paint by children and other family members in Newark and in other urban neighborhoods, where this problem is most prevalent."

"Thousands of New Jersey children are exposed annually to lead," said Payne (D-Essex). "Making grants and loan programs available to assist apartment owners in remediating this problem will go a long way in decreasing exposure to our state's most precious resource--our children."

"If lead paint is identified and remediated, lead poisoning can be prevented," said Tucker (D-

Essex). "Anything the state can do to help eliminate the risk of exposure to lead paint is an investment worth undertaking."



State of New Jersey Governor's Office

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