

## CHAPTER 311

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

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

C.52:27D-437.1 Short title.

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

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

2. The Legislature finds and declares:

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

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

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

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

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

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

3. As used in this act:

"Commissioner" means the Commissioner of Community Affairs;

"Department" means the Department of Community Affairs;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

#### C.52:27D-437.4 "Lead Hazard Control Assistance Fund."

4. a. There is hereby established in the department the "Lead Hazard Control Assistance Fund" hereinafter referred to as the "fund," which shall be continuing and nonlapsing, for the purpose of funding loans and grants authorized pursuant to P.L.2003, c.311 (C.52:27D-437.1 et al.). Moneys in the fund not immediately required for payment or liquid reserves may be invested and reinvested by the department in the same manner in which other department funds may be invested.

b. There shall be paid into the fund:

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

(2) any income earned upon investment of moneys in the fund by the department pursuant to subsection a. of this section; and

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

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

(1) funding loans and grants made by the department pursuant to section 5 of P.L.2003, c.311 (C.52:27D-437.5);

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

(3) defraying the administrative costs of the department in carrying out the purposes and provisions of P.L.2003, c.311 (C.52:27D-437.1 et al.) up to an amount not to exceed 5% of the total moneys appropriated to the fund during the fiscal year. The department shall determine the amounts to be made available from the fund for the purposes of grants and loans, respectively, on an annual basis.

d. All balances in the Lead Hazard Control Assistance Fund are appropriated for the purposes of the fund.

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

5. a. The department is hereby authorized to provide financial assistance in the form of grants or loans, or a combination thereof, with moneys available from the fund to eligible owners of

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

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

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

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

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

f. The department shall establish a program to provide the grants authorized pursuant to this section. Grants shall not be made available to owners of multiple dwellings comprising more than four separate dwelling units. Priority shall not be granted to any applicant on the basis of the location of the housing. Priority may be given, however, to those residences in which children under the age of six reside. The department may award the grants on a pro-rata basis to the applicants, if there is an insufficient amount in the fund to award grants for the full amount of the projected cost of the lead hazard control work.

#### C.52:27D-437.6 Rules, regulations.

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

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

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

a. lead-free, which shall include any housing constructed after 1977 and housing certified to be free of lead-based paint by a certified inspector;

b. lead-abated, including housing where lead-based paint hazards have been permanently

abated;

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

d. lead-free interior, which shall include housing certified to have a lead-free interior by a certified inspector.

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

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

8. a. The Commissioner of Community Affairs shall review any case referred to the department in which a lead hazard condition has been found to exist and which poses an immediate risk of continuing exposure to lead hazard for any children living in the housing. If the lead hazard has been found to exist in a rental housing unit, the commissioner shall determine whether the removal of the residents from the rental housing unit containing that lead hazard is warranted.

b. If the commissioner determines that the removal and relocation of the residents from such housing is warranted, then the commissioner shall authorize the payment of relocation assistance pursuant to P.L.2003, c.311 (C.52:27D-437.1 et al.), and shall assist in the relocation of such residents to lead-safe housing.

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

d. In the case of any displacement of a household from a unit of rental housing that has been found, in a final administrative or judicial determination, not to be maintained in lead-safe condition in accordance with standards established by rule of the Department of Community Affairs or by municipal ordinance, all relocation costs incurred by a public agency to relocate that household shall be paid by the owner of the rental housing to the public agency making relocation payments upon presentation to the owner by the public agency of a statement of those relocation costs and of the date upon which the relocation costs are due and payable.

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

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

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

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

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

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

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

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

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

C.52:27D-437.10 Additional fee per unit inspected.

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

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

11. a. There shall be credited to the "Lead Hazard Control Assistance Fund," established pursuant to section 4 of P.L.2003, c.311 (C.52:27D-437.4), for each State fiscal year commencing on and after July 1, 2004, an amount equivalent to the greater of \$7,000,000 or the amount of revenue required to be set aside pursuant to subsection b. of this section.

b. There shall be set aside from the State revenue collected from the State tax imposed under the "Sales and Use Tax Act," pursuant to P.L.1966, c.30 (C.54:32B-1 et seq.), as amended and supplemented, or any other subsequent law of similar effect, an amount equal to the lesser of \$0.50 or the tax imposed on every retail sale of a container of paint, or other surface coating material, which shall include any pigmented, liquid substance to be applied to surfaces by brush, roller, spray or other means, including but not limited to, white base paint and colorants; provided, however, that the total amount set aside pursuant to this section shall not exceed \$14,000,000 annually.

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

C.52:27D-437.12 Exemptions from inspection.

12. a. Notwithstanding any other provisions of this act, a dwelling unit shall not be subject to inspection and evaluation or subject to any fees for the presence of lead-based paint hazards if the unit:

- (1) has been certified to be free of lead-based paint;
- (2) was constructed during or after 1978;
- (3) is a seasonal rental unit which is rented for less than six months' duration each year;
- (4) has been certified as having a lead-free interior by a certified inspector; or
- (5) is occupied by the owner of the dwelling unit.

b. In a common interest community, any inspection fee charged shall be the responsibility of the unit owner and not the homeowners' association unless the association is the owner of the unit.

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

C.24:14A-6 Responsibilities of board; enforcement, reports.

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

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

C.24:14A-7 Order for remediation, disposition of lead-based paint hazard.

7. When the board of health having primary jurisdiction under P.L.1971, c.366 (C.24:14A-1 et seq.) finds that there is a lead-based paint hazard on the interior walls, ceilings, doors, floors, baseboards or window sills and frames of any dwelling, or any exterior surface that is readily accessible to children it may order the remediation and appropriate disposition of such lead-based paint hazard by using abatement or lead hazard control methods approved in accordance with the provisions of n accordance with the provisions of P.L.2003, c.311 (C.52:27D-437.1 et al.), under such safety conditions as it may specify, and as shall be approved by the department.

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

C.24:14A-8 Notification to owner of hazard, contents.

8. When the board of health having primary jurisdiction hereunder finds that there is a lead-based paint hazard on the interior walls, ceilings, doors, floors, baseboards or window sills and frames of any dwelling or any exterior surface that is readily accessible to children and further finds a person occupying or using such dwelling is an unequivocal case of lead poisoning or at high risk of lead intoxication as defined by department regulation it shall at once notify the owner that he is maintaining a public nuisance and order him to remediate the nuisance by using abatement or lead hazard control methods approved in accordance with P.L.2003, c.311 (C.52:27D-437.1 et al.) and in accordance with the following:

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

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

c. 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 shall be examined for lead hazards.

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

C.52:27D-437.13 Inapplicability of payment limitations.

16. The payment limitations set forth in the "Relocation Assistance Act," P.L.1971, c.362

(C.20:4-1 et seq.) shall not apply to payments made from the "Catastrophic Illness in Children Relief Fund," established pursuant to section 3 of P.L. 1987, c. 370 (C.26:2-150) for the purposes of relocating a lead-poisoned child pursuant to P.L.2003, c.311 (C.52:27D-437.1 et al.).

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

C.26:2Q-2 Definitions.

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

"Commissioner" means the Commissioner of Health and Senior Services.

"Department" means the Department of Health and Senior Services.

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

"Lead abatement" means a set of measures designed to permanently eliminate lead-based paint hazards in accordance with standards established by the Commissioner of Community Affairs in compliance with standards promulgated by the appropriate federal agencies. Such term includes:

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

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

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

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

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

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

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

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

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

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

C.26:2Q-3 Certification required for performance of lead evaluation, abatement work.

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

b. The commissioner shall establish a certification program to assure the competency of persons to perform lead evaluations or lead abatement work in a safe and reliable manner. The commissioner may establish different classes of certification reflecting the different types and

complexities of lead evaluation and abatement activities.

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

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

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

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

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

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

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

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

C.55:13A-7 Rules, regulations.

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

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

- (a) Structural adequacy ratings;
- (b) Methods of egress, including fire escapes, outside fireproof stairways, independent stairways, and handrails, railings, brackets, braces and landing platforms thereon, additional stairways, and treads, winders, and risers thereof, entrances and ramps;
- (c) Bulkheads and scuttles, partitions, walls, ceilings and floors;
- (d) Garbage and refuse collection and disposal, cleaning and janitorial services, repairs, and extermination services;
- (e) Electrical wiring and outlets, and paints and the composition thereof;
- (f) Doors, and the manner of opening thereof;
- (g) Transoms, windows, shafts and beams;
- (h) Chimneys, flues and central heating units;
- (i) Roofing and siding materials;
- (j) Lots, yards, courts and garages, including the size and location thereof;
- (k) Intakes, open ducts, offsets and recesses;
- (l) Windows, including the size and height thereof;
- (m) Rooms, including the area and height thereof, and the permissible number of occupants thereof;
- (n) Stairwells, skylights and alcoves;
- (o) Public halls, including the lighting and ventilation thereof;
- (p) Accessory passages to rooms;
- (q) Cellars, drainage and air space;
- (r) Water-closets, bathrooms and sinks;
- (s) Water connections, including the provision of drinking and hot and cold running water;
- (t) Sewer connections, privies, cesspools, and private sewers;
- (u) Rain water and drainage conductors;
- (v) Entrances and ramps; and
- (w) Presence of lead-based paint hazards in multiple dwellings, exclusive of owner-occupied dwelling units, subject to P.L.2003, c.311 (C.52:27D-437.1 et al.). In a common interest community, any inspection fee for and violation found within a unit which is solely related to this subsection shall be the responsibility of the unit owner and not the homeowners' association, unless the association is the owner of the unit.

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

C.55:13A-19 Violations, penalties.

19. (a) No person shall

- (1) Obstruct, hinder, delay or interfere with, by force or otherwise, the commissioner in the exercise of any power or the discharge of any function or duty under the provisions of this act; or
- (2) Prepare, utter or render any false statement, report, document, plans or specifications permitted or required to be prepared, uttered or rendered under the provisions of this act; or
- (3) Render ineffective or inoperative any protective equipment installed, or intended to be installed, in any hotel or multiple dwelling; or
- (4) Refuse or fail to comply with any lawful ruling, action, order or notice of the commissioner; or
- (5) Violate, or cause to be violated, any of the provisions of this act.

(b) Any person who violates, or causes to be violated, any provision of subsection (a) of this section shall be liable to a penalty of not less than \$50.00 nor more than \$500.00 for each violation, and a penalty of not less than \$500.00 nor more than \$5,000.00 for each continuing violation. Where any violation of subsection (a) of this section is of a continuing nature, each day during which such continuing violation remains unabated after the date fixed by the commissioner in any order or notice for the correction or termination of such continuing violation, shall constitute an additional, separate and distinct violation, except during the time an appeal from said order may be taken or is pending. The commissioner, in the exercise of his administrative authority pursuant to this act, may levy and collect penalties in the amounts set

forth in this section. Where the administrative penalty order has not been satisfied within 30 days of its issuance the penalty may be sued for, and recovered by and in the name of the commissioner in a civil action by a summary proceeding under "The Penalty Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-10 et seq.) in the Superior Court.

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

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

(e) Any penalties collected pursuant to this section levied as the result of a violation of subsection (w) of section 7 of P.L.1967, c.76 (C.55:13A-7) and which occurred pursuant to inspection for lead-based paint hazards shall be deposited in the Lead Hazard Control Assistance fund established pursuant to section 4 of P.L.2003, c.311 (C.52:27D-437.4). Penalties levied as the result of multiple violations shall be allocated to the Lead Hazard Control Assistance fund in such proportion as the commissioner shall prescribe.

C.52:27D-437.14 Report to Legislature.

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

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

22. Section 14 of P.L.1993, c.288 (C.52:27D-427) is amended to read as follows:

C.52:27D-427 Definitions.

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

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

"Commissioner" means the Commissioner of Community Affairs.

"Department" means the Department of Community Affairs.

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

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

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

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

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

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

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

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

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

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

23. Section 15 of P.L.1993, c.288 (C.52:27D-428) is amended to read as follows:

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

15. a. A business firm shall neither directly nor indirectly perform lead evaluation or abatement work without first obtaining certification from the department. Certification may be issued to perform lead evaluation or abatement work if the business firm employs or will employ sufficient numbers and types of personnel certified by the Department of Health and Senior Services pursuant to section 3 of P.L.1993, c.288 (C.26:2Q-3) to perform lead abatement work and meets all other requirements that the commissioner may establish pursuant to section 23 of P.L.1993, c.288 (C.52:27D-436). The certification shall be in writing, shall contain an expiration date, and shall be signed by the commissioner.

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

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

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

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

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

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

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

A business firm that utilizes interim controls to reduce the risk of lead-based paint exposure shall utilize only those methods approved by the appropriate federal agencies, including specialized cleaning, repairs, maintenance, painting, temporary containment, ongoing monitoring of lead-based paint hazards or potential hazards, as may be set forth under 42 U.S.C.s.4851b or those methods set forth in guidelines established by the commissioner, but shall not be required to be certified pursuant to this section unless performing lead abatement.

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

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

25. There is appropriated from the Catastrophic Illness in Children Relief Fund to the Department of Community Affairs for deposit into the "Lead Hazard Control Assistance Fund" the amount of \$2,000,000 for the purpose of providing grants pursuant to P.L.2003, c.311 (C.52:27D-437.1 et al.).

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

Approved January 20, 2004.