

CHAPTER 48**LEAD HAZARD CONTROL ASSISTANCE FUND****Authority**

N.J.S.A. 52:27D-437.6.

Source and Effective Date

R.2004 d.396, effective October 18, 2004.
See: 36 N.J.R. 2610(a), 36 N.J.R. 4815(a).

Chapter Expiration Date

Chapter 48, Lead Hazard Control Assistance Fund, expires on October 18, 2009.

Chapter Historical Note

Chapter 48, Lead Hazard Control Assistance Fund, was adopted as R.2004 d.396, effective October 18, 2004. See: Source and Effective Date.

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SUBCHAPTER 1. GENERAL PROVISIONS**5:48-1.1 Purpose**

The purpose of the Lead Hazard Control Assistance Act is to provide a comprehensive program to identify lead hazards in residential housing and also to identify housing which is safe from exposure to lead hazards in order to eradicate the

major source of lead exposure of our State's children. These rules are intended as part of a comprehensive program intended to safeguard children with emphasis upon rental housing and require the State to track the progress of making all of New Jersey's housing stock lead hazard controlled.

5:48-1.2 Definitions

The following words and terms, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise:

“Abatement project” means a project which utilizes abatement as the method or primary method of controlling lead-based paint hazards.

“Area median income” see Median income.

“Causative factor” means any housing condition that contributes to the deterioration of paint or the significant accumulation of household dust, such as: the failure of a system designed to prevent moisture infiltration (roof, siding, windows), leaks or other deficiencies in household plumbing or heating, horizontal surfaces which are damaged, worn and/or not washable (floors, window wells, stair treads).

“Commissioner” means the Commissioner of Community Affairs.

“Concurrent rehabilitation” means work undertaken to correct a housing condition considered to be a “causative factor” immediately prior to or simultaneous with the lead hazard control work being funded with LHCA funds.

“Department” means the Department of Community Affairs.

“Division” means the Division of Housing and Community Resources.

“ELPR” means Emergency Lead Poisoning Relocation.

“Eligible loan” means a loan made in accordance with the provisions of this chapter for the purpose of financing lead hazard control work in housing located in the State.

“Financial assistance” means loans and deferred payment loans with provisions for forgiveness.

“Gross annual income” means the total calculated amount of a household's income from all sources including, but not limited to, salary, wages, regular overtime, interest, dividends, alimony, child support, pensions, social security, unemployment, disability, business income and capital gains, tips, welfare benefits and imputed income from assets. Income is calculated based upon a weekly, bi-weekly, semi-monthly or monthly figure that is effective at the time of the income certification interview and estimated for a 12-month period.

“Household” means one or more persons occupying a dwelling unit.

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

“Interim control project” means a project which uses solely interim controls to reduce or temporarily control lead-based paint hazards.

“Lead abatement” means a set of measures designed to permanently eliminate lead-based paint hazards in accordance with standards established by the Commissioner at N.J.A.C. 5:17, provided that such standards shall be consistent with applicable Federal standards. The term includes:

1. 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

2. 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 percent 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 evaluation” means a surface-by-surface investigation to determine the presence and condition of lead-based paint and the provision of a report explaining the results of the investigation, including, but not limited to, hazards found and recommendations for abatement.

“Lead-free” means having no lead-based paint on any surface within a dwelling unit, common area or building.

“Lead hazard control work” means work to make housing lead-safe, or to mitigate, through the use of interim controls as permitted under Federal law and as defined in 42 U.S.C. § 4851b, or to eliminate permanently lead-based paint hazards on a premises by a business firm or person certified to perform lead abatement work pursuant to sections 1 through 12 of P.L. 1993, c.288 (N.J.S.A. 26:2Q-1 et seq.) and sections 14 through 24 of P.L. 1993, c.288 (N.J.S.A. 52:27D-427 et seq.) and the costs of temporary relocation, as prescribed at N.J.A.C. 5:48-2.9(a)7, 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 (N.J.S.A. 52:14B-1

et seq.) and the Uniform Administrative Procedure Rules, N.J.A.C. 1:1.

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

“LHCA” means Lead Hazard Control Assistance.

“Low-income household” means a household whose gross annual income is equal to 50 percent or less of the median gross income established by geographic region and household size using income figures and family size adjustment methodology published periodically in the Federal register by the U.S. Department of Housing and Urban Development and approved for use by the Council on Affordable Housing.

“Median income” means gross annual incomes established by geographic region and household size using income figures and family size adjustment methodology published periodically in the Federal Register by the U.S. Department of Housing and Urban Development.

“Moderate-income household” means a household whose gross annual income is equal to 80 percent or less, but more than 50 percent, of the median gross income established by geographic region and household size using income figures and family size adjustment methodology published periodically in the Federal Register by the U.S. Department of Housing and Urban Development and approved for use by the Council on Affordable Housing.

“Multifamily housing” means a dwelling unit in a multiple dwelling as defined in section 3 of P.L. 1967, c.76 (N.J.S.A. 55:13A-3).

“Primary residence” means the dwelling unit wherein a household maintains continuing residence for no less than nine months each calendar year.

“Project” means a site or an entire building or two or more buildings together with the site or sites on which the building or buildings are located that are under common ownership, management and financing and are to be assisted with LHCA funds under a commitment by the owner as a single undertaking.

“Qualified contractor” means a firm that uses individuals trained in lead-safe work practices when performing interim controls or rehabilitation funded in whole or in part with LHCA funds.

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

Amended by R.2007 d.186, effective June 4, 2007.
See: 39 N.J.R. 724(a), 39 N.J.R. 2241(a).

Added definition “Moderate-income household”.