SPONSOR: Rep. Harris & Sen. Pinkney
Rep. Lambert

HOUSE OF REPRESENTATIVES
153rd GENERAL ASSEMBLY

HOUSE SUBSTITUTE NO. 2
FOR
HOUSE BILL NO. 70
AS AMENDED BY
HOUSE AMENDMENT NO. 1
AND
SENATE AMENDMENT NO. 2

AN ACT TO AMEND TITLES 16 AND 25 OF THE DELAWARE CODE RELATING TO LEAD-BASED PAINT.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. Amend Part III, Title 25 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

Chapter 54. LEAD-BASED PAINT HAZARD REDUCTION

§ 5401. Definitions.

For purposes of this chapter:

(1) "Alternative housing" means as defined by the regulations promulgated by the Department and includes reasonable out-of-pocket expenses incurred as a result of relocating a tenant to the alternative housing such as rent charged for the alternative housing above the cost of the tenant's existing unit, costs to move back and forth from the alternative housing, and storage costs for personal belongings.

(2) "Constructed" means the date on which a construction permit was obtained. If no construction permit was obtained, it means the date that construction was started.

(3) "Department" means the Department of Health and Social Services.

(4) "Elevated blood lead level" means as defined in § 2601 of Title 16.

(5) "Landlord" means the owner of a rental unit.

(6) "Large property owner" means a person who owns or controls 20 or more rental units.

(7) "Lead-based paint hazard" means as defined by regulations promulgated by the Department.

(8) "Lead free" means that lead is not present in any form anywhere in the rental unit or premises.

(9) "Lead inspector" means as defined in regulations promulgated by the Department.



HD : LTK : DS : 3491530080
DLS : HVW : CBM : 5081530126
Released: 06/30/2025 11:24 PM

(10) “Lead safe” means that a lead inspector has determined that a rental unit and premises do not have a lead-based paint hazard at the time of the inspection.

(11) “Owner” includes corporations, companies, associations, firms, partnerships, societies, and joint-stock companies, as well as individuals.

(12) “Regularly visited” means visited at least 2 times a week for 3 or more hours at least 10 weeks per year.

(13) “Rental unit” means as defined in § 5141 of Title 25.

(14) “Rental unit constructed before” a given date means a rental unit for which a construction permit was obtained before that date. If no permit was obtained, it means that construction of the rental unit was started before that date.

(15) ”Significant economic burden” means the required expenditure would materially affect the landlord’s ability to maintain or operate the rental property. The Department must take the following factors into consideration when determining if an expenditure is a significant economic burden to the landlord:

a. The total costs associated with lead abatement and remediation, including alternative housing.

b. The overall financial resources of the landlord, including rental income, reserves, other sources of income, and financial obligations.

c. The risk to tenant health and safety if the expenditure is delayed.

(16) “Small property owner” means a person who own or controls 19 or fewer rental units.

§ 5402. Certification of Rental Units as Lead Free or Lead Safe – Small Property Owners.

(a) Starting after the [implementation date under paragraph (2) of Section 5 of this Act], a small property owner must obtain certification from a lead inspector that each of the owner’s rental units constructed before January 1, 1978, is “lead free” or “lead safe.” The certificate must be obtained and filed with the Department prior to the commencement of a rental agreement with a new tenant, but no more than 4 years after [the implementation date under paragraph (2) of Section 5 of this Act].

(b) The certificate required by subsection (a) of this section must include all of the following information:

(1) The name and address of the landlord and any property manager.

(2) The address of the rental unit.

(3) The name of the lead inspector issuing the certificate.

(4) The date the certificate was issued.

(5) The date of the inspection of the rental unit and premises.

(6) Whether the rental unit and premises are certified as lead free or lead safe.

(c)(1) The failure to obtain and file a certificate prior to the required date is a violation of this section. The Department may assess a civil penalty up to $100 per day per rental unit until the required certificate is obtained and filed with the Department. No civil penalty may be imposed if a certificate deferment is issued by the Department prior to the date on which certification is required.

(2) A certificate deferment may only be issued upon a showing that any of the following circumstances exist:

a. No lead inspectors approved by the Department are available to provide an inspection of the rental unit prior to the certification deadline. The landlord must show evidence that the landlord contacted at least 3 lead inspectors to schedule an inspection before the certification deadline.

b. The landlord shows in good faith that it is a significant economic burden for the landlord to comply with the statutory deadlines required under subsection (a) of this section. Good faith includes evidence that the landlord has applied to the lead-based paint hazard control grant and loan program for assistance under § 5408 of this chapter. If there are no funds in the lead-based paint hazard control grant and loan program and compliance with this chapter is a significant economic burden, the landlord must receive a deferment.

c. No contractors certified to perform lead-abatement or remediation work are available to complete any required lead abatement or remediation work prior to the certification deadline. The landlord must provide evidence to the Department that the landlord contacted at least 3 certified contractors before the certification deadline.

d. The property is a multi-unit property and qualifies for deferment under subsection (g) of this section.

(3) The length of the certificate deferment may not exceed 6 months, except as permitted under subsection (g) of this section. The Department may issue an additional deferment if the applicant shows that the circumstances under paragraph (c)(2) of this section continue to exist and the landlord is acting in good faith.

(4) At least 30 days before the Department begins to assess a civil penalty against a landlord under this section, the Department must notify the landlord that the landlord is in violation of this section. The notice provided by the Department must provide the landlord with the opportunity to fix the violation, including the opportunity to seek a deferment or apply for a grant or loan under § 5408 of this title.

(d) No certificate deferment may be issued if a lead hazard exists that makes the rental unit uninhabitable unless the landlord provides the tenant alternative housing as required by this chapter.

(e) A tenant must permit reasonable access to the rental unit and premises for an inspection and evaluation by a lead inspector as required by this chapter and in accordance with § 5509 of this title.

(f) The landlord must provide for alternative housing when an inspection and evaluation by a lead inspector reveals that the rental unit is uninhabitable as a result of a lead-based paint hazard. The alternative housing must be provided before or during the abatement or remediation of the rental unit. The landlord must provide the tenant with at least 10 days advance notice before the tenant is required to move into or out of the alternative housing. Nothing in this chapter precludes a tenant and landlord from agreeing to terminate a rental agreement so long as such agreement is voluntary and not coerced.

(g) Where the property requiring certification is a multi-unit building under the control of a small property owner, the lead inspector may choose 5 units in the building to inspect in lieu of an inspection of all units in the multi-unit building. If the 5 units are selected by the lead inspector at random and are found to be lead safe by the lead inspector, only those rental units inspected by the lead inspector may be certified as lead safe and the rest of the units may receive a certificate deferral under this section for no more than 4 years. If any of the 5 units selected by the lead inspector at random are found to contain a lead-based paint hazard, then all the units in the multi-unit building must be inspected and receive certification under this chapter. The landlord must provide any tenant in a rental unit receiving a certificate deferral under this subsection notice that the tenant's rental unit has not been inspected pursuant to this section.

§ 5403. Certification of Rental Units as Lead Free or Lead Safe – Large Property Owners.

(a) Starting after [the implementation date under paragraph (2) of Section 5 of this Act], a large property owner must obtain certification from a lead inspector that each of the owner's rental units constructed before January 1, 1978, is "lead free" or "lead safe." The certificate must be obtained and filed with the Department prior to the commencement of a rental agreement with a new tenant, but no more than 4 years after the [implementation date under paragraph (2) of Section 5 of this Act].

(b) The certificate required by subsection (a) of this section must include all of the following information:

(1) The name and address of the landlord and any property manager.

(2) The address of the rental unit.

(3) The name of the lead inspector issuing the certificate.

(4) The date the certificate was issued.

(5) The date of the inspection of the rental unit and premises.

(6) Whether the rental unit and premises are certified as lead free or lead safe.

(c) The failure to obtain and file a certificate prior to the required date is a violation of this section. The Department may assess a civil penalty as follows:

(1) For the first 30 days of noncompliance, a civil penalty of up to $500 per day per rental unit until the certificate is filed.

(2) After the first 30 days, a civil penalty of up to $750 per day per rental unit until the certificate is filed.

(3) After 60 days of noncompliance, a civil penalty of up to $1000 per day per rental unit until the certificate is filed.

(d) (1) No civil penalty may be imposed if a certificate deferment is issued by the Department prior to the date on which certification is required. A certificate deferment may only be issued upon a showing, in good faith, that any of the following circumstances exist:

a. No lead inspectors approved by the Department are available to provide an inspection of the rental unit prior to the certification deadline. The landlord must show evidence that the landlord contacted at least 3 lead inspectors to schedule an inspection before the certification deadline.

b. The landlord shows that it is a significant economic burden for the landlord to comply with the statutory deadline required under subsection (a) of this section. Good faith includes evidence that the landlord has applied to the lead-based paint hazard control grant and loan program for assistance under § 5408 of this chapter. If there are no funds in the lead-based paint hazard control grant and loan program and compliance with this chapter is a significant economic burden, the landlord must receive a deferment.

c. No contractors certified to perform lead-abatement or remediation work are available to complete any required lead abatement or remediation work prior to the certification deadline. The landlord must provide evidence to the Department that the landlord contacted at least 3 certified contractors before the certification deadline.

(2) The length of the certificate deferment may not exceed 6 months and shall be limited to the period of time required for the applicant to have an inspection conducted or the abatement or remediation work completed.

(e) No certificate deferment may be issued if a lead hazard exists that makes the rental unit uninhabitable unless the landlord provides the tenant alternative housing as required by this chapter.

(f) A tenant must permit reasonable access to the rental unit and premises for an inspection and evaluation by a lead inspector as required by this chapter and in accordance with § 5509 of this title.

(g) The landlord must provide for alternative housing when an inspection and evaluation by a lead inspector reveals that the rental unit is uninhabitable as a result of a lead-based paint hazard. The alternative housing must be provided before or during the abatement or remediation of the rental unit. The landlord must provide the tenant with at least 10 days advance notice before the tenant is required to move into or out of the alternative housing. Nothing in this chapter precludes a tenant and landlord from agreeing to terminate a rental agreement so long as such agreement is voluntary and not coerced.

(h) At least 30 days before the Department begins to assess a civil penalty against a landlord under this section, the Department must notify the landlord that the landlord is in violation of this section. The notice provided by the Department must provide the landlord with the opportunity to fix the violation, including the opportunity to seek a deferment or apply for a grant or loan under § 5408 of this title.

§ 5404. Lead inspectors.

(a) Only individuals approved as lead inspectors by the Department may issue certificates. No individual may be approved by the Department as a lead inspector unless the individual has successfully completed a training program approved by the Department on the identification and evaluation of lead-based paint hazards or a training program of another state that the Department has determined to be as stringent as the program approved by the Department.

(b) No certificate may be issued unless the lead inspector conducts an inspection and evaluation of the rental unit and premises in a manner required by Department regulations.

(c) The Department must establish and maintain a list of all lead inspectors. The list must be available to the public.

(d) The lead inspector must inform the Department, the landlord, and tenant of any lead-based paint hazard revealed during an inspection and evaluation of a rental unit. The lead inspector must provide the landlord and tenant with information regarding the safe remediation and abatement of lead-based paint hazards as required by Department regulations.

§ 5405. Recertification of rental units as lead free or lead safe.

(a) A rental unit certified as lead safe must be recertified in each of the following circumstances:

(1) Prior to the commencement of a rental agreement that begins more than 4 years after the date on which the unit was last certified as lead safe.

(2) When an elevated blood lead level is found in an individual residing in the unit.

(3) When a lead-based paint hazard is discovered in the rental unit or premises.

(b) A rental unit certified as lead free must be recertified if any of the following occurs:

(1) A lead-based paint hazard is discovered in the rental unit or premises.

(2) An elevated blood lead level is found in an individual residing in the unit.

§ 5406. Disclosure of certification.

(a) Effective [the implementation date under paragraph (2) of Section 5 of this Act], every rental agreement on a rental unit constructed prior to January 1, 1978, must contain a disclosure as to whether the rental unit and premises have been certified as lead safe or lead free, the date of the certification, and the name of the lead inspector issuing the certificate.

(b) If a certificate is required under this chapter, the landlord must provide the tenant with a copy of a lead safe or lead free certificate identified in the rental agreement within 7 days of a request for the certificate. Failure to provide the certificate is a violation of this section and the landlord may be assessed a civil penalty of $50 per day until the certificate is provided to the tenant.

(c) The Department may promulgate regulations addressing the format of the disclosures required by this chapter.

§ 5407. Educational material.

(a) The landlord must provide the tenant with any educational material required to be provided by Department regulations and the U.S. Environmental Protection Agency relating to lead hazards.

(b) The material must be provided before the tenant occupies the rental unit. Failure to provide the required educational materials is a violation of this section and the landlord may be assessed a civil penalty of $20 per day until the material is provided to the tenant.

(c) Effective [the implementation date under paragraph (2) of Section 5 of this Act], every rental agreement on a rental unit constructed prior to January 1, 1978, must require that a tenant acknowledge receipt of the material required by this section.

§ 5408. Lead-based paint hazard control grant and loan program.

(a) The Department must establish and administer a lead-based paint hazard control grant and loan program to assist small and large property owners with the financial costs of complying with the requirements of this chapter, including any of the following:

(1) Obtaining a required certificate.

(2) The remediation or abatement of lead hazards in a rental unit.

(3) Paying for alternative housing for tenants when alternative housing is required by § 5402 of this title.

(b) Preference in grants must be given for rental units that are the primary residence for children under 6 years old, pregnant individuals, or tenants regularly visited by a child under 6 years old. Funds must be provided to small property

owners in the form of grants until January 1, 2029, after which time funds must be provided to small property owners only in the form of loans. Large property owners may only receive loans under this section.

(c) A landlord receiving grant or loan funds under this section is prohibited from raising the rental fee on the property for which the grant or loan was received for a period of 3 years from the date of the inspection that indicated the need for remediation or abatement of lead hazards.

(d) A small property owner who owns or controls 5 or fewer rental units may be awarded a grant or loan that covers up to 100% of the costs associated with complying with the requirements of this chapter.

(e) A small property owner who owns or controls 6 to 19 rental units may be awarded grants or loans that cover up to 50% of the costs associated with complying with the requirements of this chapter.

(f) A large property owner may qualify for a loan of up to 10% of the costs of lead remediation, abatement, and alternative housing if the property owner shows that the costs create a significant economic burden on the property owner. A large property owner may not receive a grant under this section.

(g) If a small or large property owner sells or transfers a rental unit that received the benefits of a grant or loan under this section and the transfer is within the 3 year period determined by subsection (c) of this section, the transferee and any subsequent transferee may not raise the rent on the rental unit until the end of the 3 year period determined by subsection (c) of this section.

§ 5409. Anti-discrimination provision.

(a) It is unlawful to discriminate against an individual because the individual has made a complaint, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing relating to the presence of a lead-based paint hazard in a rental unit or premises, or the failure to register the rental unit or to obtain or provide a certificate.

(b) It is unlawful to discriminate against an individual because the individual or someone residing with the individual in a rental unit has an elevated blood lead level or is perceived as having an elevated blood lead level. It is also unlawful to discriminate against an individual seeking to rent a rental unit because the individual or someone who would be residing in the rental unit has an elevated blood lead level or is perceived as having an elevated blood lead level.

(c) A violation of this section is considered a discriminatory housing practice under Chapter 46 of Title 6.

§ 5410. Feasibility review.

(a) There is established a committee known as the Lead-Based Paint Remediation Certification Committee ("the Committee"). The Committee consists of 10 members as follows:

(1) Four members appointed by the Governor, after consultation with Delaware business organizations and tenant advocacy organizations.

a. One member appointed under paragraph (a)(1) of this section must be a large property owner or represent large property owners.

b. One member appointed under paragraph (a)(1) of this section must represent tenants.

c. One member appointed under paragraph (a)(1) of this section must be a small property owner or represent small property owners.

d. One member appointed under paragraph (a)(1) of this section must be a lead remediation advocate.

(2) One member of the House of Representatives to be appointed by the Speaker of the House of Representatives.

(3) One member of the Senate to be appointed by the President Pro Tempore of the Senate.

(4) The Director of the Delaware State Housing Authority, or the Director's designee.

(5) The President of the Delaware Technical Community College, or the President's designee.

(6) The Secretary of the Department of Health and Social Services, or the Secretary's designee.

(7) The Director of the Delaware State Lead-Based Paint Program, or the Director's designee.

(b) A member serves until a replacement is appointed under the same process as the member's appointment.

(c) A majority of the members must be present at a Committee meeting in order to have quorum and conduct official business. A vacancy on the Committee is not counted for quorum.

(d) The Director of the Delaware State Housing Authority, or the Director's designee, will serve as chair of the Committee. Staff support for the Committee must be provided by the Delaware State Housing Authority.

(e) The Committee shall, on an ongoing basis, study the available workforce and available public funding to support the inspection and remediation efforts required by this chapter, along with any other factors impacting property owners' ability to comply with deadlines established in § 5402 and § 5403 of this title. The Committee must invite and accept input from the public in fulfilling its duties.

(f) By March 1, 2026, the Committee must issue a formal report to the Governor, the General Assembly, and the Director and Librarian of the Division of Legislative Services as to whether it is feasible for persons subject to the deadlines established in § 5402 and § 5403 of this title to comply with those deadlines. In addition to any other issues the Committee deems relevant to feasibility, the formal report must answer the following questions:

(1) Are the existing certification deadlines in this chapter feasible? If not, propose new deadlines to replace those enumerated in § 5402 and § 5403 of this title.

(2) How many current rental units in the State were constructed before January 1, 1978? How many are in each county?

(3) How many approved inspectors or certified contractors are there in the State who can perform lead inspection or lead remediation and abatement? How does the State incentivize and train additional inspectors and certified contractors to meet the needs of this chapter?

(4) What is an appropriate standard for a lead inspection? How should lead safe be defined and determined?

(5) What is the predicted demand for loans or grants under this chapter?

(6) If not the Department, what State or local agency, department, or program is better situated to implement and enforce this chapter?

(7) What is the potential impact this chapter will have on small property owners, mid-size property owners, and large property owners?

(8) If resources are limited, what geographic areas or types of rental units should be prioritized under this chapter?

(9) How will property owners be notified and informed of their obligations under this chapter, including the availability of grants and loans from the State?

(10) What procedures will be put in place for a property owner to obtain certification? What forms must be created prior to implementation of this chapter?

(11) What procedures and forms will the courts have in place for a landlord who seeks summary possession and must comply with § 5704A of this title? Are the new requirements under § 5704A of this title necessary to enforce Chapter 54 of this title?

(g) After the delivery of the initial report under subsection (f) of this section, the Committee must issue an updated report on January 1 of each calendar year through January 1, 2030. Every report issued under this subsection shall, if the Committee believes existing deadlines are not feasible, propose specific new deadlines to replace those enumerated in § 5402 and § 5403 of this title or enacted subsequently under this section.

(h) The Committee is dissolved upon the issuance of a report indicating that no new deadlines are required pursuant to subsection (g) of this section.

(i) If the Committee requires an extension of the deadline to issue an initial report under subsection (f) of this section, the Committee may request an extension from the General Assembly.

§ 5411. Regulations.

The Department shall adopt regulations to implement this chapter.

§ 5412. Reports.

(a) Beginning after [the implementation date under paragraph (2) of Section 5 of this Act], the Department shall create an annual report with the following information:

(1) The total number of certificates filed with the Department.

(2) The number of certificate deferrals issued by the Department and the basis for the deferrals.

(3) The number of certificate deferral requests that were denied and the reason for the denials.

(4) Any violations or civil penalties issued by the Department under this chapter.

(5) The number of inspections that disclosed a lead-based paint hazard.

(b) The Department shall submit the annual report under subsection (a) of this section to the Governor, the General Assembly, and the Director and the Librarian of the Division of Research of Legislative Council not later than January 1.

§ 5413. Anti-Loophole Provision

To prevent circumvention of this chapter, all owners of rental property must disclose to the Department their beneficial owner and any affiliation with other property owners. Any attempt to partition or transfer ownership to avoid classification as a large property owner must be considered a violation of this chapter and subject to penalties. Any rental unit transferred to a spouse, child, or parent of the property owner will be counted as a rental unit of the initial owner or transferor.

Section 2. Amend § 5305, Title 25 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 5305. Landlord obligations relating to the rental unit.

(a) The landlord shall, at all times during the ~~tenancy:~~ tenancy, do all of the following:

(1) Comply with all applicable provisions of any state or local statute, code, regulation or ordinance governing the maintenance, construction, use or appearance of the rental unit and the property of which it is a ~~part;~~ part.

(2) Provide a rental unit which shall not endanger the health, welfare or safety of the tenants or occupants and which is fit for the purpose for which it is expressly ~~rented;~~ rented.

(3) Keep in a clean and sanitary condition all common areas of the buildings, grounds, facilities and appurtenances thereto which are maintained by the ~~landlord;~~ landlord.

(4) Make all repairs and arrangements necessary to put and keep the rental unit and the appurtenances thereto in as good a condition as they were, or ought by law or agreement to have been, at the commencement of the ~~tenancy; and~~ tenancy.

(5) Maintain all electrical, plumbing and other facilities supplied by the landlord in good working order.

(6) Provide a rental unit that is free of lead-based paint hazards and certified as lead safe or lead free as required by Chapter 54 of this title.

Section 3. Amend Chapter 57, Title 25 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 5704A. Additional documentation relating to lead-based paint hazards.

(a) When filing a complaint for possession, the landlord must provide documentation to the court demonstrating that the property is in compliance with Chapter 54 of this title, relating to lead-based paint hazards.

(b) If the reason for the complaint is because the tenant will not provide reasonable access to the property so that the landlord may comply with Chapter 54 of this title, then documentation under subsection (a) of this section is not required.

Section 4. Amend § 2612, Title 16 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 2612. Remediation and abatement duties of Delaware State Lead-Based Paint Program.

(d) Competitive bid invitations issued by the Program for lead-based paint abatement or remediation must contain all of the following:

(1) Provisions requiring verification by bidders of procedures to be used for risk assessment.

(2) Provisions requiring verification by bidders of procedures to be specified by the Program to limit the generation of lead dust, contain lead dust within work areas, conduct daily and final cleanings, and perform clearance testing.

(3) Provisions requiring verification by bidders of procedures regarding treatment of exteriors, including siding and carpentry repairs, porch repairs, and garage repairs.

(4) Provisions requiring verification by bidders regarding the testing and treatment of soil.

(5) Provisions requiring verification by bidders of procedures regarding interior treatment, including initial and daily cleaning; repairs and component replacements; paint stabilization treatment of windows, doors, stairs, walls, ceilings, hard surface and basement floors, and radiators; and final cleaning.

(6) Provisions specifically providing for the safety of workers performing lead-based paint abatement or remediation work, including free blood testing for workers performing abatement or remediation work at least every 3 months.

Section 5. This Act is effective immediately and is to be implemented as follows:

(1) All of the following must be implemented immediately:

a. Section 5410 of Title 25, including completion of the formal report no later than March 1, 2026, under § 5410(f) of Title 25.

b. Section 2612(d)(6) of Title 16.

(2) Section 5402 through § 5409, §§ 5411 through 5413, § 5305(a)(6), and § 5704A of Title 25 must be implemented the earlier of the following, unless otherwise provided by a subsequent act of the General Assembly:

a. Twelve months following the date of publication in the Register of Regulations of a notice by the Director of the Delaware State Housing Authority that all of the following have occurred:

1. All necessary legislation and appropriations for the implementation and enforcement of Chapter 54 of Title 25 has been enacted.

2. Final regulations implementing Chapter 54 of Title 25 have been promulgated.

b. March 1, 2028.