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By: **Delegates Oaks, Malone, Carter, Rosenberg, Bobo, Bromwell, Cane,  
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McIntosh, Murray, and Quinter Quinter, and Holmes**

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Assigned to: Environmental Matters

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Committee Report: Favorable with amendments  
House action: Adopted with floor amendments  
Read second time: March 27, 2004

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CHAPTER 540

1 AN ACT concerning

2 **Real Property – ~~Repossession by Landlord~~ - Compliance with Lead**  
3 **Poisoning Prevention Requirements**

4 FOR the purpose of requiring a court to allow discovery limited solely to a certain  
5 issue, determine if there are any disputes of certain material fact, hold a certain  
6 evidentiary hearing, and determine as a matter of law whether an owner is  
7 entitled to certain immunity from liability in an action in which the owner's  
8 immunity from liability under certain lead poisoning prevention provisions is  
9 challenged under certain circumstances; requiring the owner of residential  
10 property that is rented or leased to make certain statements under certain  
11 circumstances to the local government that regulates the residential property  
12 regarding the residential property and certain requirements regarding lead risk  
13 reduction; applying certain provisions of this Act to the regulation in any  
14 manner by a local government of residential property that is rented or leased;  
15 authorizing a local government to forward to the Department of the  
16 Environment any information obtained under certain provisions of this Act  
17 regarding residential property; requiring a landlord's written complaint in an  
18 action to repossess certain property to state that the landlord has ~~satisfied~~  
19 registered the property as required under certain requirements relating to lead  
20 ~~paint~~ risk reduction and to include, under certain circumstances, a certain  
21 inspection certificate number or a certain statement related to an owner  
22 performing certain work; providing that certain information required in a  
23 landlord's written complaint in an action to repossess is not an issue of fact in a  
24 trial under certain circumstances; defining certain terms; providing for the  
25 application of certain provisions of this Act; providing for the effective dates of  
26 this Act; and generally relating to ~~a landlord's written complaint in an action to~~

1 ~~repossess property~~ compliance with lead poisoning prevention requirements.

2 BY adding to

3 Article - Environment

4 Section 6-836.1

5 Annotated Code of Maryland

6 (1996 Replacement Volume and 2003 Supplement)

7 BY adding to

8 Article 24 - Political Subdivisions - Miscellaneous Provisions

9 Section 18-101 through 18-104, inclusive, to be under the new title "Title 18.

10 Regulation of Residential Property for Rent or Lease"

11 Annotated Code of Maryland

12 (2001 Replacement Volume and 2003 Supplement)

13 BY repealing and reenacting, without amendments,

14 Article - Environment

15 Section 6-801(b) and (t), 6-803, 6-804, and 6-848.2

16 Annotated Code of Maryland

17 (1996 Replacement Volume and 2003 Supplement)

18 BY repealing and reenacting, with amendments,

19 Article - Real Property

20 Section 8-401(b) and (c)

21 Annotated Code of Maryland

22 (2003 Replacement Volume and 2003 Supplement)

23 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF

24 MARYLAND, That the Laws of Maryland read as follows:

25 **Article - Environment**

26 6-836.1.

27 IN AN ACTION IN WHICH THE OWNER'S IMMUNITY FROM LIABILITY UNDER §  
28 6-835 OR § 6-836 OF THIS SUBTITLE IS CHALLENGED, UPON MOTION BY ANY PARTY  
29 AND PRIOR TO AUTHORIZING FURTHER PROCEEDINGS IN THE ACTION, THE COURT  
30 SHALL:

31 (1) ALLOW DISCOVERY LIMITED SOLELY TO THE ISSUE OF THE OWNER'S  
32 IMMUNITY UNDER § 6-835 OR § 6-836 OF THIS SUBTITLE;

33 (2) DETERMINE IF THERE ARE ANY DISPUTES OF MATERIAL FACT AS TO  
34 WHETHER THE OWNER IS ENTITLED TO IMMUNITY UNDER § 6-835 OR § 6-836 OF THIS  
35 SUBTITLE;

1           (3)     HOLD AN EVIDENTIARY HEARING ON ISSUES OF MATERIAL FACT AS  
2 TO THE IMMUNITY, IF ANY, WHICH SHALL, UPON REQUEST OF ANY PARTY, BE BEFORE  
3 A JURY; AND

4           (4)     DETERMINE AS A MATTER OF LAW WHETHER THE OWNER IS  
5 ENTITLED TO IMMUNITY FROM LIABILITY UNDER § 6-835 OR § 6-836 OF THIS  
6 SUBTITLE.

7     SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland  
8 read as follows:

9                     **Article 24 - Political Subdivisions - Miscellaneous Provisions**

10                    TITLE 18. REGULATION OF RESIDENTIAL PROPERTY FOR RENT OR LEASE.

11 18-101.

12     (A)     IN THIS TITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

13     (B)     "AFFECTED PROPERTY" HAS THE MEANING STATED IN § 6-801(B) OF THE  
14 ENVIRONMENT ARTICLE.

15     (C)     "LOCAL GOVERNMENT" MEANS:

16               (1)     A COUNTY; OR

17               (2)     A MUNICIPAL CORPORATION.

18     (D)     (1)     "RESIDENTIAL PROPERTY" MEANS A BUILDING OR A PORTION OF A  
19 BUILDING THAT PROVIDES COMPLETE LIVING FACILITIES, INCLUDING, AT A  
20 MINIMUM, FACILITIES FOR COOKING, SANITATION, AND SLEEPING.

21               (2)     "RESIDENTIAL PROPERTY" INCLUDES:

22                     (I)     A SINGLE-FAMILY UNIT IN A MULTIFAMILY DWELLING; AND

23                     (II)    A "RENTAL DWELLING UNIT" AS DEFINED UNDER § 6-801(T) OF  
24 THE ENVIRONMENT ARTICLE.

25 18-102.

26     THIS TITLE APPLIES TO THE REGULATION IN ANY MANNER BY A LOCAL  
27 GOVERNMENT OF RESIDENTIAL PROPERTY THAT IS RENTED OR LEASED, INCLUDING  
28 REGULATION BY THE ISSUANCE OR RENEWAL OF:

29               (1)     A LICENSE OR REGISTRATION TO AUTHORIZE THE OWNER OF  
30 RESIDENTIAL PROPERTY TO ENGAGE IN THE BUSINESS OF RENTING OR LEASING  
31 THE RESIDENTIAL PROPERTY;

32               (2)     A LICENSE OR REGISTRATION TO AUTHORIZE RESIDENTIAL  
33 PROPERTY TO BE RENTED OR LEASED; OR



1           (2)     "Affected property" includes an individual rental dwelling unit within  
2 a multifamily rental dwelling.

3           (3)     "Affected property" does not include property exempted under §  
4 6-803(b) of this subtitle.

5       (t)     (1)     "Rental dwelling unit" means a room or group of rooms that form a  
6 single independent habitable rental unit for permanent occupation by one or more  
7 individuals that has living facilities with permanent provisions for living, sleeping,  
8 eating, cooking, and sanitation.

9           (2)     "Rental dwelling unit" does not include:

10           (i)     An area not used for living, sleeping, eating, cooking, or  
11 sanitation, such as an unfinished basement;

12           (ii)    A unit within a hotel, motel, or similar seasonal or transient  
13 facility;

14           (iii)   An area which is secured and inaccessible to occupants; or

15           (iv)    A unit which is not offered for rent.

16 6-803.

17       (a)     This subtitle applies to:

18           (1)     Affected property; and

19           (2)     Notwithstanding subsection (b) of this section, any residential rental  
20 property, the owner of which elects to comply with this subtitle.

21       (b)     This subtitle does not apply to:

22           (1)     Property not expressly covered in subsection (a) of this section;

23           (2)     Affected property owned or operated by a unit of federal, State, or  
24 local government, or any public, quasi-public, or municipal corporation, if the  
25 affected property is subject to lead standards that are equal to, or more stringent  
26 than, the risk reduction standard established under § 6-815 of this subtitle; or

27           (3)     Affected property which is certified to be lead-free pursuant to §  
28 6-804 of this subtitle.

29 6-804.

30       (a)     Affected property is exempt from the provisions of Part IV of this subtitle  
31 if the owner submits to the Department an inspection report that:



1 (V) IF THE PROPERTY TO BE REPOSSESSED IS AN AFFECTED  
 2 PROPERTY AS DEFINED IN § 6-801 OF THE ENVIRONMENT ARTICLE, STATING:

3 ~~1. THAT THE LANDLORD HAS SATISFIED THE~~  
 4 ~~REQUIREMENTS OF §§ 6-811, 6-812, 6-815, AND 6-819 REGISTERED THE AFFECTED~~  
 5 ~~PROPERTY AS REQUIRED UNDER § 6-811 OF THE ENVIRONMENT ARTICLE AND~~  
 6 ~~RENEWED THE REGISTRATION AS REQUIRED UNDER § 6-812 OF THE ENVIRONMENT~~  
 7 ~~ARTICLE; AND ARTICLE AND:~~

8 ~~2. 1. A. IF THE CURRENT TENANT MOVED INTO THE~~  
 9 ~~PROPERTY ON OR AFTER FEBRUARY 24, 1996, STATING THE INSPECTION~~  
 10 ~~CERTIFICATE NUMBER FOR THE INSPECTION CONDUCTED PRIOR TO FOR THE~~  
 11 ~~CURRENT TENANCY AS REQUIRED UNDER § 6-815(C) OF THE ENVIRONMENT ARTICLE;~~  
 12 ~~OR~~

13 ~~B. ON OR AFTER FEBRUARY 24, 2006, STATING THE~~  
 14 ~~INSPECTION CERTIFICATE NUMBER FOR THE INSPECTION CONDUCTED FOR THE~~  
 15 ~~CURRENT TENANCY AS REQUIRED UNDER § 6-815(C), § 6-817(B), OR § 6-819(E) OF THE~~  
 16 ~~ENVIRONMENT ARTICLE; OR~~

17 ~~2. STATING THAT THE OWNER IS UNABLE TO PROVIDE AN~~  
 18 ~~INSPECTION CERTIFICATE NUMBER BECAUSE:~~

19 ~~A. THE OWNER HAS REQUESTED THAT THE TENANT ALLOW~~  
 20 ~~THE OWNER ACCESS TO THE PROPERTY TO PERFORM THE WORK REQUIRED UNDER~~  
 21 ~~TITLE 6, SUBTITLE 8 OF THE ENVIRONMENT ARTICLE;~~

22 ~~B. THE OWNER HAS OFFERED TO RELOCATE THE TENANT IN~~  
 23 ~~ORDER TO ALLOW THE OWNER TO PERFORM WORK IF THE WORK WILL DISTURB THE~~  
 24 ~~PAINT ON THE INTERIOR SURFACES OF THE PROPERTY AND TO PAY THE~~  
 25 ~~REASONABLE EXPENSES THE TENANT WOULD INCUR DIRECTLY RELATED TO THE~~  
 26 ~~RELOCATION; AND~~

27 ~~C. THE TENANT HAS REFUSED TO ALLOW ACCESS TO THE~~  
 28 ~~OWNER OR REFUSED TO VACATE THE PROPERTY IN ORDER FOR THE OWNER TO~~  
 29 ~~PERFORM THE REQUIRED WORK.~~

30 (2) For the purpose of the court's determination under subsection (c) of  
 31 this section the landlord shall also specify the amount of rent due for each rental  
 32 period under the lease, the day that the rent is due for each rental period, and any  
 33 late fees for overdue rent payments.

34 (3) The District Court shall issue its summons, directed to any constable  
 35 or sheriff of the county entitled to serve process, and ordering the constable or sheriff  
 36 to notify the tenant, assignee, or subtenant by first-class mail:

37 (i) To appear before the District Court at the trial to be held on the  
 38 fifth day after the filing of the complaint; and

1 (ii) To answer the landlord's complaint to show cause why the  
2 demand of the landlord should not be granted.

3 (4) (i) The constable or sheriff shall proceed to serve the summons  
4 upon the tenant, assignee, or subtenant or their known or authorized agent as  
5 follows:

6 1. If personal service is requested and any of the persons  
7 whom the sheriff shall serve is found on the property, the sheriff shall serve any such  
8 persons; or

9 2. If personal service is requested and none of the persons  
10 whom the sheriff is directed to serve shall be found on the property and, in all cases  
11 where personal service is not requested, the constable or sheriff shall affix an attested  
12 copy of the summons conspicuously upon the property.

13 (ii) The affixing of the summons upon the property after due  
14 notification to the tenant, assignee, or subtenant by first-class mail shall conclusively  
15 be presumed to be a sufficient service to all persons to support the entry of a default  
16 judgment for possession of the premises, together with court costs, in favor of the  
17 landlord, but it shall not be sufficient service to support a default judgment in favor of  
18 the landlord for the amount of rent due.

19 (5) Notwithstanding the provisions of paragraphs (1) through (4) of this  
20 subsection, in Wicomico County, in an action to repossess any premises under this  
21 section, service of process on a tenant may be directed to any person authorized under  
22 the Maryland Rules to serve process.

23 (c) (1) If, at the trial on the fifth day indicated in subsection (b) of this  
24 section, the court is satisfied that the interests of justice will be better served by an  
25 adjournment to enable either party to procure their necessary witnesses, the court  
26 may adjourn the trial for a period not exceeding 1 day, except with the consent of all  
27 parties, the trial may be adjourned for a longer period of time.

28 (2) (i) THE INFORMATION REQUIRED UNDER SUBSECTION (B)(1)(V) OF  
29 THIS SECTION MAY NOT BE AN ISSUE OF FACT IN A TRIAL UNDER THIS SECTION.

30 (II) If, when the trial occurs, it appears to the satisfaction of the  
31 court, that the rent, or any part of the rent and late fees are actually due and unpaid,  
32 the court shall determine the amount of rent and late fees due as of the date the  
33 complaint was filed, if the trial occurs within the time specified by subsection (b)(3) of  
34 this section.

35 [(ii)] (III) 1. If the trial does not occur within the time specified in  
36 subsection (b)(3)(i) of this section and the tenant has not become current since the  
37 filing of the complaint, the court, if the complaint so requests, shall enter a judgment  
38 in favor of the landlord for possession of the premises and determine the rent and late  
39 fees due as of the trial date.



