

HOUSE BILL 424

M3
HB 1527/06 – ENV

71r1825

By: **Delegates Weir, Aumann, Boteler, McConkey, and Stull**

Introduced and read first time: February 5, 2007

Assigned to: Environmental Matters

Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 30, 2007

CHAPTER _____

1 AN ACT concerning

2 **Lead Risk Reduction – Acquisition of Property – Compliance Requirements**

3 FOR the purpose of authorizing a person who intends to acquire a property that is
4 considered to be affected under certain lead risk reduction provisions to submit
5 a compliance plan to the Department of the Environment; ~~authorizing~~ requiring
6 a person who has acquired, or will acquire, an affected property to give certain
7 notice and information at a certain time; establishing a process and a fee for
8 submitting an application for a compliance plan; requiring the Department to
9 approve or deny the plan, or request additional information, within a certain
10 number of days after the plan is submitted; authorizing the Department to deny
11 certain applications under certain circumstances; requiring either certain proof
12 that a certain risk reduction standard has been ~~not~~ satisfied or a certain
13 inspection report to be filed with the Department under certain circumstances;
14 providing that a compliance plan is void under certain circumstances; providing
15 certain protections for an owner after a plan is approved; providing that if the
16 owner fails to comply with the compliance plan, the owner shall be considered
17 noncompliant as of a certain date; authorizing the Department to adopt certain
18 regulations; ~~providing for the application of this Act;~~ and generally relating to
19 acquiring property with lead risks.

20 BY repealing and reenacting, with amendments,

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 Article – Environment
 2 Section 6–820 and 6–823
 3 Annotated Code of Maryland
 4 (1996 Replacement Volume and 2006 Supplement)

5 BY repealing and reenacting, without amendments,
 6 Article – Environment
 7 Section 6–824 and 6–836
 8 Annotated Code of Maryland
 9 (1996 Replacement Volume and 2006 Supplement)

10 BY adding to
 11 Article – Environment
 12 Section 6–825
 13 Annotated Code of Maryland
 14 (1996 Replacement Volume and 2006 Supplement)

15 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
 16 MARYLAND, That the Laws of Maryland read as follows:

17 **Article – Environment**

18 6–820.

19 (a) Except as provided in subsection (b) of this section, an owner of an
 20 affected property shall give to the tenant of the affected property a notice, prepared by
 21 the Department, of the tenant’s rights under §§ 6–817 and 6–819 of this subtitle,
 22 according to the following schedule:

- 23 (1) At least 25% of the owner’s affected properties by May 25, 1996;
 24 (2) At least 50% of the owner’s affected properties by August 25, 1996;
 25 (3) At least 75% of the owner’s affected properties by November 25,
 26 1996; and
 27 (4) 100% of the owner’s affected properties by February 25, 1997.

28 (b) On or after February 24, 1996, an owner of an affected property shall give
 29 to the tenant of the affected property a notice, prepared by the Department, of the
 30 tenant’s rights under §§ 6–817 and 6–819 of this subtitle upon the execution of a lease
 31 or the inception of a tenancy.

1 (c) An owner of an affected property shall give to the tenant of the affected
2 property a notice, prepared by the Department, of the tenant's rights under §§ 6-817
3 and 6-819 of this subtitle at least every 2 years after last giving notice to the tenant.

4 (d) The owner shall include with the notice of the tenant's rights that is
5 provided to a tenant under this section upon the execution of a lease or the inception of
6 a tenancy, a copy of the current verified inspection certificate for the affected property
7 prepared under § 6-818 of this subtitle.

8 (e) (1) Notice given under this section shall be written, and shall be sent
9 by:

10 (i) Certified mail, return receipt requested; or

11 (ii) A verifiable method approved by the Department.

12 (2) When giving notice to a tenant under this section, the owner shall
13 provide documentation of the notice to the Department in a manner acceptable to the
14 Department.

15 (3) A notice required to be given to a tenant under this section shall be
16 sent to a party or parties identified as the lessee in a written lease in effect for an
17 affected property or, if there is no written lease, the party or parties to whom the
18 property was rented.

19 **(F) A PERSON WHO HAS ACQUIRED, OR WILL ACQUIRE, AN AFFECTED**
20 **PROPERTY ~~MAY~~ SHALL GIVE THE NOTICE REQUIRED UNDER THIS SECTION TO**
21 **THE TENANT OF THE AFFECTED PROPERTY:**

22 **(1) BEFORE TRANSFER OF LEGAL TITLE; OR**

23 **(2) WITHIN 15 DAYS FOLLOWING TRANSFER OF LEGAL TITLE.**

24 6-823.

25 (a) By May 23, 1996, an owner of an affected property shall give to the
26 tenant of each of the owner's affected properties a lead poisoning information packet
27 prepared or designated by the Department.

28 (b) On or after February 24, 1996, upon the execution of a lease or the
29 inception of a tenancy for an affected property the owner of the affected property shall

1 give to the tenant a lead poisoning information packet prepared or designated by the
2 Department.

3 (c) An owner of an affected property shall give to the tenant of the affected
4 property another copy of the lead poisoning information packet prepared or designated
5 by the Department at least every 2 years after last giving the information packet to
6 the tenant.

7 (d) A packet given to a tenant under this section shall be sent by:

8 (1) Certified mail, return receipt requested; or

9 (2) A verifiable method approved by the Department.

10 (e) The packet required to be given to a tenant under this section shall be
11 sent to a party or parties identified as the lessee in a written lease in effect for an
12 affected property or, if there is no written lease, the party or parties to whom the
13 property was rented.

14 **(F) A PERSON WHO HAS ACQUIRED, OR WILL ACQUIRE, AN AFFECTED**
15 **PROPERTY ~~MAY~~ SHALL GIVE THE PACKET REQUIRED UNDER THIS SECTION TO**
16 **THE TENANT OF THE AFFECTED PROPERTY:**

17 **(1) BEFORE TRANSFER OF LEGAL TITLE; OR**

18 **(2) WITHIN 15 DAYS FOLLOWING TRANSFER OF LEGAL TITLE.**

19 6-824.

20 An owner shall disclose an obligation to perform either the modified or full risk
21 reduction treatment to an affected property under this subtitle to any prospective
22 purchaser of an affected property at or prior to the time a contract of sale is executed,
23 if:

24 (1) An event has occurred that requires performance of either the
25 modified or full risk reduction treatment to the affected property under this subtitle;
26 and

27 (2) The owner will not perform the required treatment prior to the
28 transfer of ownership.

29 **6-825.**

1 (A) A PERSON WHO INTENDS TO ACQUIRE, THROUGH AN ARM'S LENGTH
2 TRANSACTION, INHERITANCE, TAX SALE, FORECLOSURE, OR JUDICIALLY
3 APPROVED TRANSFER, AN OCCUPIED AFFECTED PROPERTY THAT IS IN
4 VIOLATION OF § 6-815, § 6-817, OR § 6-819 OF THIS SUBTITLE MAY SUBMIT TO
5 THE DEPARTMENT AN APPLICATION FOR A COMPLIANCE PLAN.

6 (B) (1) THE APPLICATION FOR A COMPLIANCE PLAN SHALL:

7 (I) BE SUBMITTED AND RECEIVED BY THE DEPARTMENT
8 AT LEAST 30 DAYS BEFORE TRANSFER OF LEGAL TITLE TO THE OCCUPIED
9 AFFECTED PROPERTY; AND

10 (II) BE ON A FORM PROVIDED BY THE DEPARTMENT THAT
11 INCLUDES, FOR EACH OCCUPIED AFFECTED PROPERTY, THE FOLLOWING
12 INFORMATION:

13 1. THE TRANSFEREE'S NAME, ADDRESS, AND
14 TELEPHONE NUMBER;

15 2. THE TRANSFEROR'S NAME AND ADDRESS;

16 3. A STATEMENT CERTIFYING THAT NEITHER THE
17 TRANSFEREE NOR ANY OFFICER OR DIRECTOR OF THE TRANSFEREE HAS A
18 CURRENT INTEREST, EITHER INDIVIDUALLY OR JOINTLY, IN THE OCCUPIED
19 AFFECTED PROPERTY;

20 4. THE TYPE AND SCHEDULED DATE OF TRANSFER;

21 5. THE ADDRESS OF THE OCCUPIED AFFECTED
22 PROPERTY INCLUDING, FOR A MULTIFAMILY-OCCUPIED AFFECTED PROPERTY,
23 EACH UNIT IN THE PROPERTY; AND

24 6. WHETHER A PERSON AT RISK RESIDES IN THE
25 ~~AFFECTED~~ OCCUPIED AFFECTED PROPERTY.

26 (2) THE DEPARTMENT MAY REQUIRE ANY ADDITIONAL
27 INFORMATION THAT IT CONSIDERS APPROPRIATE.

1 (3) (I) AN APPLICATION FEE OF \$200 FOR EACH OCCUPIED
 2 AFFECTED PROPERTY AND EACH OCCUPIED UNIT IN A MULTIFAMILY AFFECTED
 3 PROPERTY, NOT TO EXCEED \$6,000, SHALL BE SUBMITTED TO THE
 4 DEPARTMENT WITH THE APPLICATION.

5 (C) (1) ~~THE~~ WITHIN 20 DAYS OF RECEIPT OF THE APPLICATION FOR
 6 A COMPLIANCE PLAN, THE DEPARTMENT SHALL APPROVE, DENY, OR REQUEST
 7 ADDITIONAL INFORMATION WITHIN 20 DAYS AFTER RECEIPT OF AN
 8 APPLICATION FOR A COMPLIANCE PLAN:

9 (I) APPROVE THE COMPLIANCE PLAN, IN WHOLE OR IN
 10 PART;

11 (II) DENY THE COMPLIANCE PLAN, IN WHOLE OR IN PART;
 12 OR

13 (III) REQUEST ADDITIONAL INFORMATION.

14 (2) THE DEPARTMENT MAY DENY AN APPLICATION FOR A
 15 COMPLIANCE PLAN FOR AN OCCUPIED ~~NONCOMPLIANT~~ AFFECTED PROPERTY
 16 BASED ON THE FOLLOWING FACTORS:

17 (I) FAILURE TO SUBMIT OR TIMELY SUBMIT A COMPLETE
 18 APPLICATION;

19 (II) FAILURE TO SUBMIT OR TIMELY SUBMIT INFORMATION
 20 REQUESTED BY THE DEPARTMENT;

21 ~~(I)~~ (III) THE EXISTENCE OF PRIOR VIOLATIONS BY THE
 22 TRANSFeree OF THE PROVISIONS OF THIS SUBTITLE OR APPLICABLE
 23 REGULATIONS;

24 ~~(II)~~ (IV) PRIOR EXTENSION OF THE COMPLIANCE DEADLINE
 25 UNDER SUBSECTION (D) OF THIS SECTION FOR AN AFFECTED PROPERTY;

26 ~~(III)~~ (V) POTENTIAL OR ACTUAL HARM TO THE ENVIRONMENT
 27 OR TO HUMAN HEALTH OR SAFETY; AND

28 ~~(IV)~~ (VI) ANY OTHER FACTOR THE DEPARTMENT CONSIDERS
 29 APPROPRIATE.

1 **(D) (1) THIS SUBSECTION APPLIES TO AN OCCUPIED AFFECTED PROPERTY**
2 **IN WHICH A PERSON AT RISK DOES NOT RESIDE.**

3 **(2) SUBJECT TO SUBSECTION (E) OF THIS SECTION, IF AN**
4 **APPLICATION FOR A COMPLIANCE PLAN IS APPROVED, THE TRANSFEREE SHALL**
5 **FILE WITH THE DEPARTMENT AN INSPECTION REPORT AS PROOF THAT THE**
6 **RISK REDUCTION STANDARD SPECIFIED IN § 6-815 OF THIS SUBTITLE HAS BEEN**
7 **~~MET~~ SATISFIED, OR AN INSPECTION REPORT IN ACCORDANCE WITH § 6-804 OF**
8 **THIS SUBTITLE, FOR EACH ~~NONCOMPLIANT~~ OCCUPIED AFFECTED PROPERTY**
9 **THAT HAS NOT SATISFIED THE REQUIREMENTS OF § 6-815, § 6-817, OR § 6-819**
10 **OF THIS SUBTITLE ~~IN WHICH A PERSON AT RISK DOES NOT RESIDE~~ WITHIN THE**
11 **FOLLOWING TIME FRAMES ~~SPECIFIED IN REGULATIONS ADOPTED BY THE~~**
12 **DEPARTMENT:**

13 **(1) WITHIN 30 DAYS AFTER TRANSFER OF LEGAL TITLE FOR A**
14 **TRANSFEREE ACQUIRING 1 OCCUPIED AFFECTED PROPERTY;**

15 **(2) WITHIN 90 DAYS AFTER THE TRANSFER OF LEGAL TITLE FOR**
16 **A TRANSFEREE ACQUIRING 2 TO 5 OCCUPIED AFFECTED PROPERTIES;**

17 **(3) WITHIN 135 DAYS AFTER THE TRANSFER OF LEGAL TITLE FOR**
18 **A TRANSFEREE ACQUIRING 6 TO 10 OCCUPIED AFFECTED PROPERTIES;**

19 **(4) WITHIN 180 DAYS AFTER THE TRANSFER OF LEGAL TITLE FOR**
20 **A TRANSFEREE ACQUIRING MORE THAN 10 OCCUPIED AFFECTED PROPERTIES.**

21 **(E) (1) THIS SUBSECTION APPLIES TO AN OCCUPIED AFFECTED PROPERTY**
22 **IN WHICH A PERSON AT RISK RESIDES.**

23 **(2) NOTWITHSTANDING THE STATUS OF AN APPLICATION FOR A**
24 **COMPLIANCE PLAN, THE TRANSFEREE SHALL FILE WITH THE DEPARTMENT AN**
25 **INSPECTION REPORT AS PROOF THAT THE RISK REDUCTION STANDARD**
26 **SPECIFIED IN § 6-815 OF THIS SUBTITLE HAS BEEN ~~MET~~ SATISFIED, OR AN**
27 **INSPECTION REPORT IN ACCORDANCE WITH § 6-804 OF THIS SUBTITLE, FOR**
28 **EACH ~~NONCOMPLIANT~~ OCCUPIED AFFECTED PROPERTY ~~IN WHICH A PERSON AT~~**
29 **~~RISK RESIDES~~ THAT HAS NOT SATISFIED THE REQUIREMENTS OF § 6-815,**
30 **§ 6-817, OR § 6-819 OF THIS SUBTITLE WITHIN 30 DAYS AFTER TRANSFER OF**
31 **LEGAL TITLE.**

1 (F) A COMPLIANCE PLAN FOR AN OCCUPIED AFFECTED PROPERTY
2 UNDER THIS SECTION IS VOID UNLESS WITHIN 15 DAYS FOLLOWING TRANSFER
3 OF ~~A NONCOMPLIANT~~ THE OCCUPIED AFFECTED PROPERTY SUBJECT TO THE
4 COMPLIANCE PLAN, THE TRANSFEREE FILES WITH THE DEPARTMENT:

5 (1) DOCUMENTATION SATISFACTORY TO THE DEPARTMENT OF
6 THE TRANSFER OF LEGAL TITLE; ~~AND~~

7 (2) A STATEMENT CERTIFYING THAT, ~~SUBSEQUENT TO~~ PRIOR TO
8 OR WITHIN 15 DAYS OF TRANSFER OF LEGAL TITLE, ~~ALL TENANTS HAVE BEEN~~
9 ~~PROVIDED~~ THE TRANSFEREE PROVIDED THE TENANTS OF THE OCCUPIED
10 PROPERTIES WITH THE NOTICE OF TENANT'S RIGHTS AND LEAD POISONING
11 INFORMATION PACKET REQUIRED BY §§ 6-820 AND 6-823 OF THIS SUBTITLE;
12 AND

13 (3) A STATEMENT CERTIFYING THAT WITHIN 15 DAYS OF
14 TRANSFER OF LEGAL TITLE, THE TRANSFEREE REGISTERED THE OCCUPIED
15 AFFECTED PROPERTIES WITH THE DEPARTMENT IN ACCORDANCE WITH §§
16 6-811 AND 6-812 OF THIS SUBTITLE.

17 (G) IF THE DEPARTMENT DETERMINES THAT ANY INFORMATION
18 PROVIDED IN AN APPLICATION FOR A COMPLIANCE PLAN OR REQUIRED IN
19 SUBSECTION (F) OF THIS SECTION WAS ERRONEOUS OR INCOMPLETE, THE
20 DEPARTMENT MAY DECLARE THE COMPLIANCE PLAN VOID IN WHOLE OR IN
21 PART.

22 (H) THIS SECTION DOES NOT AFFECT AN OWNER'S OBLIGATION TO
23 COMPLY WITH §§ 6-815 AND 6-819(C) AND (D) OF THIS SUBTITLE THAT ARISES
24 AFTER LEGAL TITLE TO THE AFFECTED PROPERTY IS TRANSFERRED.

25 (I) SUBJECT TO ~~SUBSECTION~~ SUBSECTIONS (H) AND (J) OF THIS
26 SECTION, ~~AFTER~~ IF THE DEPARTMENT APPROVES A COMPLIANCE PLAN, ~~THE~~
27 ~~PERSON WHO ACQUIRED THE~~ AN AFFECTED PROPERTY SUBJECT TO THE
28 COMPLIANCE PLAN SHALL; BE CONSIDERED IN COMPLIANCE WITH § 6-815, §
29 6-817, AND § 6-819 OF THIS SUBTITLE AS OF THE DAY OF THE DATE OF
30 TRANSFER.

31 (1) ~~BE CONSIDERED TO BE IN COMPLIANCE WITH THE~~
32 ~~REQUIREMENTS OF THIS SUBTITLE; AND~~

1 ~~(2) BE ELIGIBLE FOR THE PROTECTION AFFORDED AN OWNER OF~~
 2 ~~AN AFFECTED PROPERTY WHO HAS COMPLIED WITH THE REQUIREMENTS OF~~
 3 ~~THIS SUBTITLE.~~

4 (J) IF THE PERSON WHO ACQUIRED ~~THE~~ AN OCCUPIED AFFECTED
 5 PROPERTY THAT DOES NOT SATISFY THE REQUIREMENTS OF § 6-815, § 6-817,
 6 OR § 6-819 OF THIS SUBTITLE FAILS TO COMPLY WITH THE TERMS OF AN
 7 APPROVED COMPLIANCE PLAN, THE PERSON AFFECTED PROPERTY SHALL BE
 8 CONSIDERED TO BE NONCOMPLIANT WITH § 6-815 OF THIS TITLE FROM THE
 9 DATE LEGAL TITLE TO THE AFFECTED PROPERTY WAS TRANSFERRED TO THE
 10 PERSON.

11 (K) THE DEPARTMENT MAY ADOPT REGULATIONS TO CARRY OUT THIS
 12 SECTION.

13 6-836.

14 An owner of an affected property is not liable, for alleged injury or loss caused
 15 by ingestion of lead by a person at risk in the affected property, to a person at risk or a
 16 parent, legal guardian, or other person authorized under § 6-833 of this subtitle to
 17 respond on behalf of a person at risk who rejects a qualified offer made by the owner or
 18 the owner's insurer or agent if, during the period of the alleged ingestion of lead by the
 19 person at risk, and with respect to the affected property in which the exposure
 20 allegedly occurred, the owner:

21 (1) Has given to the tenant the notices required by §§ 6-820 and 6-823
 22 of this subtitle; and

23 (2) Was in compliance with:

24 (i) The registration provisions of Part III of this subtitle; and

25 (ii) The applicable risk reduction standard and response
 26 standard under § 6-815 or § 6-819 of this subtitle, and the risk reduction schedule
 27 under § 6-817 of this subtitle.

28 ~~SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be~~
 29 ~~construed to apply retroactively and shall be applied to and interpreted to affect any~~
 30 ~~purchase of affected property on or after March 1, 2007.~~

31 SECTION ~~2~~ 2. AND BE IT FURTHER ENACTED, That this Act shall take
 32 effect October 1, 2007.