

Department of Legislative Services
Maryland General Assembly
2008 Session

FISCAL AND POLICY NOTE
Revised

House Bill 589

(Delegate Oaks, *et al.*)

Environmental Matters

Judicial Proceedings

Lead Poisoning Prevention Act of 2008

This bill requires an application form for a license issued by the Maryland Home Improvement Commission to require specified lead paint accreditation information under specified conditions. The bill also modifies the definition of “lead-safe housing” under the Reduction of Lead Risk in Housing Law. Finally, the bill establishes requirements for owners who do not comply with the risk reduction standards.

Fiscal Summary

State Effect: The bill’s changes could be handled with existing budgeted resources. State revenues would not be materially affected.

Local Effect: The bill would not materially affect local operations or finances.

Small Business Effect: Minimal, assuming contractors and owners of affected property are in compliance with current law.

Analysis

Bill Summary:

Contractor Requirements

The bill requires an application form for a license issued by MHIC to require the Maryland Department of the Environment lead paint abatement accreditation number and expiration date if the applicant provides lead paint abatement services. This information must also be submitted to MHIC by a licensee before the license may be renewed. A

licensee who violates the lead paint abatement accreditation requirement or any associated regulations is subject to an existing penalty of up to \$5,000 per violation.

Lead-safe Housing

The bill modifies the definition of “lead-safe housing” under the Reduction of Lead Risk in Housing Law to include dwelling units in which lead contaminated dust levels are determined to be within certain abatement clearance levels within a timeframe established by MDE by regulation.

Failure to Meet Risk Reduction Standards

If an owner of an affected property fails to comply with the applicable risk reduction standard, on written request of the tenant, the owner must:

- immediately release the tenant from the terms of the lease or rental agreement; and
- pay to the tenant all reasonable relocation expenses, up to \$2,500, directly related to the permanent relocation of the tenant to a lead-free dwelling unit or another dwelling unit that has satisfied the risk reduction standard.

A tenant’s written request must include any risk reduction certification information provided by MDE. Within three business days of receipt of a tenant’s request, an owner may provide to the tenant specified information relating to compliance with the lead law. If an owner fails to provide that information or to comply with the tenant’s written request, the tenant may bring an action in District Court for the lease termination, reimbursement of reasonable relocation expenses, and reasonable attorney’s fees. A tenant does not have a cause of action if the owner provides the required information. The right of a tenant to request release does not preclude the tenant from pursuing any other right or remedy available to the tenant at law or equity and is in addition to them. Any action or inaction of the owner or tenant or any finding in a proceeding under the bill may not be construed to have any effect on any civil action or any administrative proceeding brought under certain provisions of law.

Current Law: Chapter 114 of 1994 established the Lead Poisoning Prevention Program in MDE. The program provides limited liability relief for owners of rental property built before 1950 and others in exchange for the reduction of lead hazards in these older rental properties. The program also provides for limited compensation to children who are poisoned by lead.

Registration/Risk Reduction

By December 31, 1995, the owner of an affected property must have registered that property with MDE. An owner who first acquires affected property after that date must register the property within 30 days of acquisition. At each change in occupancy, before the next tenant occupies the property, an owner must satisfy the risk reduction standard by passing the test for lead contaminated dust or performing specified lead hazard reduction treatments. An affected property is exempt from the risk reduction standards under specified conditions.

If a landlord fails to comply with the applicable risk reduction standard, the tenant may pay the rent into an escrow account with the District Court. Money deposited in an escrow account may be released to (1) the landlord on compliance with the applicable risk reduction standard; or (2) the tenant or other person who has complied with the applicable standard, on presentation of a bill for the reasonable costs of compliance. A tenant may not be evicted, the tenancy may not be terminated, and the rent may not be raised for a tenant who elects to seek the rent escrow remedy. The right of a tenant to deposit rent in an escrow account does not preclude the tenant from pursuing any other right or remedy available to the tenant at law or equity and is in addition to them. Current statutory law does not address the termination of a lease for failure to comply with lead risk reduction standards.

Lead Paint Accreditation and Abatement

Unless a person is accredited by MDE, a person may not act as a contractor or supervisor for the purpose of providing lead paint abatement services; provide training to others who provide lead paint abatement services; or engage in the inspection of lead-based paint hazards. An individual who acts only as a worker or project designer need not be accredited but must be trained. Refresher courses are required every two years.

MHIC Requirements

In general, contractors and subcontractors must be licensed by MHIC, which is housed within the Department of Labor, Licensing, and Regulation. Applicants for a license must, among other things, submit an application on the form provided by MHIC, which must include specified information. Applicants providing lead paint abatement services are not currently required to submit the MDE accreditation number and expiration date.

Background: Lead poisoning impacts the cognitive and physical development of young children. Exposure to lead can cause long-term neurological damage that may be associated with learning and behavioral problems and with decreased intelligence. Children are exposed to lead through breathing lead paint dust, eating lead paint chips, or

absorbing lead while in-utero. Most exposures can be eliminated by removing lead paint from the homes of children and pregnant women. Although there has been a steady decline in childhood lead exposure over the past decade, lead poisoning remains a significant health issue.

MDE's Lead Poisoning Prevention Program serves as the coordinating agency of statewide efforts to eliminate childhood lead poisoning. Under the 1994 "Reduction of Lead Risk in Housing Law," MDE assures compliance with mandatory requirements for lead risk reduction in rental units built before 1950; maintains a statewide listing of registered and inspected units; and provides blood lead surveillance through a registry of test results of all children tested in Maryland. The program also oversees case management follow-up by local health departments for children with elevated blood lead levels; certifies and enforces performance standards for inspectors and contractors working in lead hazard reduction; and performs environmental investigations for lead poisoned children. In addition, the program provides oversight for community education to parents, tenants, rental property owners, homeowners, and health care providers to enhance their role in lead poisoning prevention.

Additional Information

Prior Introductions: As passed by the House, HB 1020 of 2007 was virtually identical. The bill received an unfavorable report from the Senate Judicial Proceedings Committee.

Cross File: SB 557 (Senator Gladden) – Judicial Proceedings.

Information Source(s): Judiciary (Administrative Office of the Courts); Maryland Department of the Environment; Department of Health and Mental Hygiene; Department of Labor, Licensing, and Regulation; Department of Legislative Services

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