

SB1031 Testimony.pdf

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Position: FAV



THE SENATE OF MARYLAND
Annapolis, Maryland 21401

Testimony of Senator Jill P. Carter

**In Favor of SB1031 – Civil Actions - Lead Poisoning - Liability and
Statute of Limitations (Maryland Lead Poisoning Compensation Act)**

Judicial Proceedings Committee

On March 7th 2024

Mr. Chairman, Vice Chair, and Members of the Committee:

Senate Bill 1031 will allow for action to be brought against owners or managers of property with lead based paint hazards that result in lead poisoning of another person. This bill will establish strict liability for the owner or manager of the property and establish that limitations on certain damages awarded to a prevailing plaintiff do not apply to a claim under the Act.

Current Maryland law on lead, limits the rights of children and their representatives to traditional tort damages for lead poisoning, provided that the property owner has satisfied the certain housing unit registration requirements, and the unit has either passed lead dust tests or undergone a set of risk reduction measures which must be verified by an independent, certified third party who performs a visual inspection. When the unit meets this standard, the owner is entitled to a limited tort immunity. However, if a child living in the unit develops an elevated blood lead level which exceeds 20 micrograms

of lead per deciliter of blood, the owner has the option of making a “qualified offer” to the child and his or her legal representative.

Despite having these legal parameters in place, lead poisoning still remains to be a high risk particularly for children living in older rental properties in large cities. For example, In Baltimore City many homes are poorly maintained and still have traces of old lead based paint and dust. In 2022, a report done by the Abell Foundation found that over 85,000 occupied housing units in Baltimore City have dangerous lead hazards. In that same year, thousands of children were found to have blood lead levels at or above 5 micrograms which is considered to be very high. Young children in the city are easily susceptible to chemical damage during development from lead levels in paint chips and dust. Lead paint chips and dust particles can easily make their way on children's toys and drinking water which are common ways that children can be exposed.

Furthermore, exposure to lead poisoning especially on young children and pregnant women have been found to have long term and life threatening effects. Some symptoms include brain injuries, nervous system injuries, learning disabilities, convulsions, hearing loss, and much more. For pregnant women, it can lead to higher risk of a miscarriage, stillbirth, or low birth weight.

It is time that we hold owners and property managers accountable and ensure fair compensation for all the young children and adults affected by lead poisoning. Our most vulnerable communities have been affected by this for far too long and establishing liability standards is the first step in the right direction to tackle this issue.

As such I urge this committee to issue a favorable report on SB1031. Thank you for your time.

Sincerely,

Senator Jill P. Carter

sb1031- lead, civil actions JPR 3-7-2024.pdf

Uploaded by: Lee Hudson

Position: FAV



Delaware-Maryland Synod
Evangelical Lutheran Church in America
God's work. Our hands.

Testimony Prepared for the
Judicial Proceedings Committee
on
Senate Bill 1031
March 7, 2024
Position: **Favorable**

Mr. Chairman and members of the Committee, thank you for the opportunity to support the protection of Maryland children and foster their health and growth. I am Lee Hudson, assistant to the bishop for public policy in the Delaware-Maryland Synod, Evangelical Lutheran Church in America, a faith community with three synods in every part of our State.

We believe that health and safety are matters of public interest, especially when considering those who are vulnerable and without agency. Policies about lead in housing affect children first and most.

Senate Bill 1031 revises the statute of limitations for civil actions concerning lead poisoning and provides a disincentive for keeping leaded housing in the inventory. We observe that as a practical matter this seems necessary. The effects of lead poisoning in children take time to emerge and are typically observed as developmental issues. A short limitation window encourages keeping lead hazard in the market, which will result in more poisoning. Not the public health outcome the State should support.

Lead poisoning is essentially a lifetime condition. Discouraging it would seem to be required public health and safety policy in the State. So, we ask you favorable report on this bill.

Lee Hudson

CASA_FAV_SB1031.docx.pdf

Uploaded by: Ninfa Amador

Position: FAV



Testimony in SUPPORT of SB 1031

Civil Actions - Lead Poisoning - Liability and Statute of Limitations (Maryland Lead Poisoning Compensation Act)

Judicial Proceedings Committee

March 7, 2024

Dear Honorable Chair Smith and Members of the Committee,

CASA is **pleased to offer favorable testimony in support of SB 1031**- Civil Actions - Lead Poisoning - Liability and Statute of Limitations (Maryland Lead Poisoning Compensation Act). CASA is a national powerhouse organization building power and improving the quality of life in working-class: Black, Latino/a/e, Afro-descendent, Indigenous, and Immigrant communities.

For nearly forty years, CASA has employed grassroots community organizing to bring our communities closer together and fight for justice, while simultaneously providing much-needed services to these communities, helping to ensure that low-income immigrants are able to live rich and full lives. CASA member-led tenant associations are increasing in number and in their power. Our Housing Legal team has also worked closely with members facing uninhabitable living conditions who have brought cases against their unresponsive landlords.

SB 1031 addresses the serious health consequences of lead poisoning and ensures fair compensation for victims of lead poisoning by removing the statute of limitations regarding lead poisoning claims. The overwhelming majority of CASA's more than 155,00 members are renters, and in Maryland, they encounter significant obstacles in their struggle for fair and healthy housing. Lead poisoning has severe health consequences, ranging from developmental delays and learning disabilities to neurological damage and even death, particularly impacting the most vulnerable populations, such as children and pregnant women. The majority of renting families in Maryland are families of color, along with facing rising rents, and threats of evictions many of these families are also facing health and safety concerns due to property managers' neglect. Removing the statute of limitations on lead poisoning claims will allow many families, who might not know how to navigate the court system in time or who might not have received health diagnoses in time to hold negligent property managers accountable.

CASA respectfully urges a **FAVORABLE report on SB 1031**.

2024 Position Paper - SB 1031.pdf

Uploaded by: Peter Holland

Position: FAV



2024 POSITION PAPER SB 1031

CIVIL ACTIONS - LEAD POISONING - LIABILITY AND STATUTE OF LIMITATIONS FAVORABLE

The Maryland Association for Justice (MAJ) is an association of lawyers who represent individuals and families harmed by negligent or wrongful conduct. MAJ's Mission seeks to defend and improve the civil justice system in Maryland, so that individuals may hold negligent actors and wrongdoers accountable.

Senate Bill 1031 would permit an action for compensatory and noneconomic damages for injuries due to lead poisoning caused by lead-based hazards on property to be filed at any time, without reference to any time limitations under a statute of limitations or any other law.

Lead poisoning due to exposure to lead-based hazards causes the death of brain cells, which in turn can result in permanent brain injury, cognitive deficits, learning differences, loss of earning capacity, and other injuries. Tragically, the victims of lead poisoning frequently were exposed to lead-based hazards as babies or small children. Victims of lead poisoning are less likely to graduate high school, and more likely to become involved in the juvenile and criminal justice systems. Importantly, injuries due to lead poisoning often remain undiscovered until well into adulthood, even in cases when it is known that exposure to lead occurred in early childhood.

The statute of limitations in Maryland applicable to lead poisoning claims, with few exceptions, requires the victim of lead poisoning to assert their claims in court within three (3) years after the date when their claim accrued. For a person injured as a minor child, the three (3) year time period would start on the person's 18th birthday. If a person injured by lead poisoning waits too long, their claims may be dismissed under the statute of limitations, no matter how meritorious the claims may have been.

Senate Bill 1031 would allow individuals injured by lead poisoning to bring legal claims in court even beyond the three-year limitations period. SB 1031 would allow those persons who were poisoned and injured by lead-based hazards to seek justice and compensation for their irreversible injuries, including injuries suffered as children.

Innocent children poisoned and injured by lead-based hazards should be allowed access to justice.

The Maryland Association for Justice requests a FAVORABLE report on SB 1031.

About Maryland Association for Justice

The Maryland Association for Justice (MAJ) represents over 1,250 trial attorneys throughout the state of Maryland. MAJ advocates for the preservation of the civil justice system, the protection of the rights of consumers and the education and professional development of its members.

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SB 1031 Lead SOL APCIA UNF FINAL 030724 JPR .pdf

Uploaded by: Nancy Egan

Position: FWA

Testimony of
American Property Casualty Insurance Association (APCIA)
Senate Judicial Proceedings Committee
SB 1031 Civil Actions – Lead Poisoning – Liability and Statute of Limitations
March 7, 2024

Letter of Opposition

The American Property Casualty Insurance Association (APCIA) is a national trade organization representing nearly 60 percent of the U.S. property casualty insurance market. Our members write approximately 67.1 percent of all property and casualty insurance sold in Maryland. APCIA appreciates the opportunity to provide written comments in opposition to Senate Bill 1031.

This bill would eliminate the statute of limitations for actions against the owner or manager of certain property to recover certain damages arising from injuries suffered as a result of lead poisoning may be filed at any time, establishes strict liability and removes the current non-economic caps for this type of action and subjects state governments, local governments and school boards to full damages, exempting such actions from the state tort claims action damage limits.

We oppose the limitless civil litigation proposed in this legislation because civil defendants and those we insure may not receive a reasonable opportunity to defend themselves with the passage of time. This provision *may* apply to claims against any defendant (e.g. property owner, property manager, or a manufacturer/seller/distributor). In addition, this legislation would subject local governments and public schools to the same limitless civil litigation.

This legislation would eliminate the statute of limitation for lead liability actions. The Maryland Supreme Court has repeatedly recognized that statutes of limitations strike a balance and “primarily to assure fairness to defendants on the theory that claims, asserted after evidence is gone, memories have faded, and witnesses disappeared, are so stale as to be unjust.” *Shailendra Kumar, P.A. v. Dhanda*, 426 Md. 185, 205, 43 A.3d 1029 (2012) (quoting *Bertonazzi v. Hillman*, 241 Md. 361, 367, 216 A.2d 723 (1966)). Without statutes of limitation, civil defendants and those we insure may not receive a reasonable opportunity to defend themselves before the passage of time eliminates documents, memories or witnesses.

With its adoption of strict liability for owners or managers of property SB 1031 would eliminate or reduce customary defenses for civil litigants. This strips away well founded elements of tort that seek to have people or businesses pay what they owe based on their own negligence. See e.g., *Medical Mutual Liability Society of Maryland v. B, Dixon Evander and Associates*, 339 Md. 41, 54-55, 660 A.2d 433 (1995) (citations omitted) (emphasis added) Repealing the non-economic damages caps for personal injury cases, which currently exceeds \$935,000 and increases by \$15,000 every year, will also significantly complicate the ability to settle lawsuits, since plaintiffs’ lawyers will demand significantly higher amounts for immeasurable harm. The current law strikes a reasonable balance between unlimited subjective awards and the consistency and predictability that contribute to a stable civil justice system in Maryland. The escalating non-economic personal injury damage caps should be retained. The practical effect of this repeal is to provide yet another avenue for lawyers to seek uncapped and subjective non-economic damage awards, placing businesses, consumers and insurers at greater risk for nuclear verdicts, since non-economic damages have been shown to be the key drivers of nuclear verdicts.¹

¹ *US Chamber of Commerce Nuclear Verdicts Report, September 2022*

For all these reasons, the APCIA urges the Committee to provide an unfavorable report on Senate Bill 1031.

Nancy J. Egan, State Government Relations Counsel, DC, DE, MD, VA, WV

Nancy.egan@APCIA.org Cell: 443-841-4174

Non-economic damages may far exceed the amount of economic damage awards because of intangible factors such as subjective values, beliefs, emotional sensitivities and differing perspectives, and courts and juries often struggle to calculate fair and rational non-economic damage award.

MMHA - 2024 - SB 1031 Maryland Lead Poisoning Comp

Uploaded by: Aaron Greenfield

Position: UNF



Bill Title: Senate Bill 1031, Civil Actions - Lead Poisoning - Liability and Statute of Limitations (Maryland Lead Poisoning Compensation Act)

Committee: Judicial Proceedings Committee

Date: March 7, 2024

Position: Unfavorable

This testimony is offered on behalf of the Maryland Multi-Housing Association (MMHA). MMHA is a professional trade association established in 1996, whose members consist of owners and managers of more than 210,000 rental housing homes in over 958 apartment communities. Our members house over 538,000 residents of the State of Maryland. MMHA also represents over 250 associate member companies who supply goods and services to the multi-housing industry.

Senate Bill 1031 allows an action for compensatory and noneconomic damages for injuries sustained due to lead poisoning allegedly caused by lead-based paint hazards on a property may be filed at any time. The owner or manager of a property is strictly liable for compensatory and noneconomic damages caused by lead poisoning arising from lead-based paint hazards on the property at the time of ownership of the property. Limitations on noneconomic damages do not apply. The bill does permit an affirmative defense to a claim that an owner or manager of a property was compliant with requirements for lead-affected properties at the time of the plaintiff's alleged exposure to lead-based paint hazards on the property.

Lead poisoning claims follow the same time limits as many other types of personal injury claims under Maryland law. Generally, individuals have three years from the date of the incident that led to their injuries in which to file their lead poisoning claims. Children who suffer injuries from lead poisoning as minors, however, are subject to different rules. Once children turn 18, they have three years to file their claims. Unfortunately, most insurance policies contain lead exclusions. Responsibility for paying any judgments would rest with the individual property owners.

MMHA has the following objections to Senate Bill 1031:

1. Fairness and Due Process: Statutes of limitations exist to ensure that legal actions are brought within a reasonable time frame, allowing defendants to mount a proper defense while evidence and witnesses are still available. Removing these limitations could unfairly burden defendants with defending against old and possibly unreliable claims.
2. Preservation of Evidence: Over time, evidence can degrade or become lost, making it difficult to ascertain the accuracy of claims. Preserving evidence is crucial for both parties to ensure a fair trial. Without a statute of limitations, evidence preservation becomes more challenging.



3. Encouraging Prompt Action: Statutes of limitations incentivize plaintiffs to pursue their claims in a timely manner, prompting swift resolution and preventing unnecessary delays in the legal process. Eliminating these limitations could lead to a backlog of cases and increased litigation costs.
4. Legal Certainty: Having a clear time frame within which legal actions must be initiated provides certainty for both plaintiffs and defendants. Eliminating the statute of limitations could create uncertainty and instability in the legal system, leading to prolonged legal battles and increased costs for all parties involved.
5. Potential for Abuse: Without a statute of limitations, plaintiffs could bring claims based on events that occurred many years or even decades in the past, making it difficult for defendants to gather evidence or mount a defense. This opens the door to potential abuse of the legal system.
6. Public Policy Considerations: Statutes of limitations are often based on public policy considerations, such as promoting finality and closure in legal disputes. Eliminating these limitations could undermine these policy goals and have broader implications for the legal system as a whole.

Overall, while it is important to ensure that victims of lead paint exposure have access to justice, completely eliminating the statute of limitations in lead paint cases could raise significant practical and legal concerns. Finding a balance that allows victims to pursue legitimate claims while also protecting the rights of defendants and promoting fairness in the legal system is essential. This is what the current system allows. MMHA urges that this is not disturbed.

For these reasons, we respectfully request an unfavorable report on Senate Bill 1031.

Aaron J. Greenfield, MMHA Director of Government Affairs, 410.446.1992

MML-SB 1031 - OPP.pdf

Uploaded by: Angelica Bailey Thupari

Position: UNF



Maryland Municipal League
The Association of Maryland's Cities and Towns

TESTIMONY

March 7, 2024

Committee: Senate Judicial Proceedings

Bill: SB 1031 – Civil Actions - Lead Poisoning - Liability and Statute of Limitations
(Maryland Lead Poisoning Compensation Act)

Position: Unfavorable

Reason for Position:

The Maryland Municipal League opposes Senate Bill 1031, which removes the statute of limitations for compensatory and noneconomic damages for lead poisoning caused by lead-based paint. It also establishes strict liability for compensatory and noneconomic damages for property owners, and removes limitations on noneconomic damages for these claims.

While we appreciate the intent to ensure fair compensation for victims of lead poisoning, this proposal would result in increased costs for local governments. Municipalities rarely own or manage residential properties, but all members own and maintain many other types of affected buildings (recreation centers, City Halls, etc.).

Removing the statute of limitations and noneconomic damages caps would result in increased claims and increased insurance premiums for local governments. Any increase in insurance premiums and/or litigation costs could decrease services provided for residents.

For these reasons, the League respectfully requests an unfavorable report on Senate Bill 1031.

FOR MORE INFORMATION CONTACT:

Theresa Kuhns

Angelica Bailey Thupari, Esq.

Bill Jorch

Justin Fiore

Chief Executive Officer

Director, Advocacy & Public Affairs

Director, Public Policy & Research

Deputy Director, Advocacy & Public Affairs

SB 1031_MAMIC_UNF.pdf

Uploaded by: Bryson Popham

Position: UNF

Bryson F. Popham, P.A.

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March 6, 2024

The Honorable William C. Smith, Jr.
Chairman, Senate Judicial Proceedings Committee
2 East, Miller Senate Office Building
Annapolis, Maryland 21401

RE: Senate Bill 1031 -Civil Actions - Lead Poisoning - Liability and Statute of Limitations (Maryland Lead Poisoning Compensation Act) UNFAVORABLE

Dear Chairman Smith and Members of the Committee,

On behalf of my client, the Maryland Association of Mutual Insurance Companies (MAMIC), we respectfully request an unfavorable report on Senate Bill 1031.

MAMIC is comprised of 12 mutual insurance companies that are headquartered in Maryland and neighboring states. Approximately one-half of our members are domiciled in Maryland, and are key contributors and employers in our local communities.

Lead poisoning, and formerly lead paint poisoning, have a long history of legislative initiatives in our State. We were an early jurisdiction to create a formal commission to address this serious public health problem, and our civil justice system has been deeply involved in the issue for decades.

While MAMIC respects the importance of this issue and the sponsor's interest in bringing this initiative before the General Assembly, we strongly object to two provisions of the bill: 1) language eliminating of the statute of limitations on page 2, lines 22 through 27 of the bill, and 2) language eliminating the longstanding cap on noneconomic damages found on page 2, lines 32 through line 1 on page 3.

Should the bill be amended to remove these two provisions, MAMIC would have no position on this initiative.

Very truly yours,



Bryson F. Popham

cc: Jeane Peters, President, MAMIC

Opposition to SB 1031.pdf

Uploaded by: Carville Collins

Position: UNF



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MARYLAND EMPLOYERS FOR CIVIL JUSTICE REFORM COALITION

OPPOSITION TO SB 1031

Civil Actions – Lead Poisoning – Liability and Statute of Limitations
(Maryland Lead Poisoning Compensation Act)

Maryland Employers for Civil Justice Reform Coalition, comprised of many of the largest employers, businesses, and health care providers in Maryland, opposes SB 1031. Among other measures in the bill that enhance damages for lead poisoning, SB 1031 would create an exception to Maryland's caps on noneconomic damages, an inappropriate and unfounded public policy.

Caps on noneconomic damages have been an important public policy in Maryland for more than 37 years. Back in 1986, the General Assembly concluded there was a severe liability insurance affordability and availability crisis in the State. The Executive and Legislative branches had previously commissioned studies of the problem, producing a 1985 report from the Governor's Task Force to Study Liability Insurance that concluded, among other recommendations, that the State could no longer afford unlimited awards for noneconomic damages (*i.e.*, damages for pain and suffering). The solution recommended by the Task Force was a cap on these damages:

A cap on allowable pain and suffering awards will help reduce the incidence of unrealistically high liability awards, yet at the same time protect the right of the injured party to recover the full amount of economic loss, including all lost wages and medical expenses.¹

On the strength of these study findings, the General Assembly crafted the 1986 legislative solution, noting in a Committee Report that the legislative purpose was "assuring the availability of sufficient liability insurance, at a reasonable cost, in order to cover claims for personal injury."

In light of this well studied foundation for the current caps on noneconomic damages, why ever would the General Assembly want to risk inviting back the insurance crisis of 1986 by creating an exception to these caps? An exception to the caps for one type of tort action will encourage other plaintiffs to argue, on equal protection grounds, that the exception should be extended to their actions, leading to the eventual repeal of the caps entirely.

A further reason favoring the preservation of caps on noneconomic damages is that these damages, for pain and suffering and other nonpecuniary injuries, are difficult to quantify. Quite simply, these damages involve no direct economic loss and have no precise monetary value. Given the emotional sensitivities and differing perspectives surrounding these injuries, courts and juries often struggle to calculate fair and rational awards. Caps are the correct and best public policy to balance the

¹ *Franklin v. Mazda Motor Corp.*, 704 F. Supp. 1325, 1328 (D. Md. 1989) (quoting the Report of the Governor's Task Force to Study Liability Insurance, issued Dec. 20, 1985). This issue was also studied in 1985 by the Joint Executive/Legislative Task Force on Medical Insurance, resulting in a similar recommendation for statutory limits or caps.



need for recovery for these injuries with the avoidance of unrealistically high and excessive awards. For this reason, more than half the states have caps currently in effect on noneconomic damages.

In addition, the current caps are reasonable. The caps were originally set at \$350,000 when first implemented in 1986 (the 1985 Task Force had recommended \$250,000), and then in 1994 they were raised to \$500,000 and tied to an annual escalator of \$15,000 to adjust for inflation. Today, these inflation-adjusted caps in personal injury actions have risen to \$935,000 for the injured party.

Moreover, in wrongful death cases, pain and suffering can be recovered on behalf of the person who died as a result of the negligent conduct. In addition, two or more beneficiaries, such as immediate family members, can also recover noneconomic damages in wrongful death cases under current law. Accordingly, in actions where a person is alleged to have died as a result of negligence, the total availability of noneconomic damages is up to \$2.337 million (\$935,000 for the decedent, plus \$1,402,500 for the immediate family). Thus, the adequacy of Maryland's caps to address damages for pain and suffering alone cannot reasonably be questioned, and as the 1985 Governor's Task Force aptly noted, noneconomic damages are not a sole remedy, as damages for the full and unlimited amount of *economic* losses are *also* available to plaintiffs in any tort action.

Finally, the Coalition notes that the validity of the current caps has been reviewed on three separate occasions by the Court of Appeals (now Supreme Court) of Maryland. In every instance, the noneconomic damage caps have been upheld by the high court.² Allegations that caps on noneconomic damages are unconstitutional are unfounded and inconsistent with established case law.

For all these reasons, the Coalition respectfully urges an unfavorable report on SB 1031.

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Counsel for Maryland Employers for
Civil Justice Reform Coalition

March 7, 2024

² *DRD Pool Service v. Freed*, 416 Md. 46, 62 (2010); *Oaks v. Connors*, 339 Md. 24, 37 (1995); *Murphy v. Edmonds*, 325 Md. 342, 366 (1992). *See also, Martinez v. Hopkins*, 212 Md. App. 634, 656 (2013) (constitutionality of the caps was challenged but not struck down, finding that the constitutionality of the caps was moot).

ATRA Opposition Letter Maryland SB 1031 2024 Lead

Uploaded by: Cary Silverman

Position: UNF



American Tort Reform Association

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March 6, 2024

Senator William C. Smith, Jr.
Chair, Judicial Proceedings Committee
2 East
Miller Senate Office Building
Annapolis, Maryland 21401

Re: Opposition to S.B. 1031, “Maryland Lead Poisoning Compensation Act”
March 7, 2024 Hearing Before Senate Judicial Proceedings Committee

Dear Chairman Smith and Members of the Committee:

On behalf of the American Tort Reform Association (ATRA), a national association of large and small businesses, nonprofits, and trade and professional associations with the mission promoting a predictable and fair civil justice system, we would like to express our opposition to S.B. 1031.

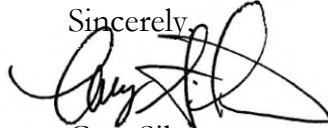
In past sessions, ATRA has opposed legislation proposing that Maryland adopt novel theories of tort law to address concerns regarding the potential hazards of deteriorated lead paint in older homes, such as bills that abandon the need to show that a manufacturer’s product caused a person’s injury and simply require paying damages based on widely-rejected “market share” liability (such as S.B. 488 in 2019). As you will recall, ATRA has also opposed legislation that eliminates civil statutes of limitations and revives time-barred claims, cautioning that a finite period for filing a lawsuit is essential if courts are to accurately evaluate liability when records and witnesses are available. We have also alerted the Committee to the likelihood that Maryland courts will find that legislation reviving time-barred claims is contrary to due process and will be found unconstitutional (an interpretation of Maryland law that is consistent with that of past state attorneys general). Most recently, ATRA urged this Committee not to advance legislation that would repeal the state’s statutory limit on noneconomic damages, opening the door to the type of excessive awards we have seen elsewhere (S.B. 538, hearing Feb. 16, 2024).

Unfortunately, S.B. 1031 attempts to address what is an important issue for Maryland residents through combining all three of these problematic, extreme approaches. First, the bill subjects the owner or manager of a property to strict liability for medical conditions allegedly caused by exposure to lead-based paint on their property. As such, it eliminates the requirement, present in all negligence-based premise liability claims, that a defendant knew or should have known of the hazard. Second, the bill creates an exemption from the reasonable statutory limit on noneconomic damage that applies in other personal injury cases. This bill also excludes these lawsuits from liability limits applicable to public entities, which will place a fiscal strain on state and local governments, and be felt by Maryland taxpayers. Finally, the bill permits a claim alleging injuries from lead paint exposure to be filed at any time and revives

any action previously barred by the applicable statute of limitations. It was only one year ago, in hearings before your Committee, where proponents of S.B. 686 indicated that such an unprecedented approach was limited to the special circumstances faced by childhood sexual abuse victims addressed by that bill. Yet, as we predicted, that approach is now proposed in a far different context.

ATRA fully appreciates the desire to create a revenue source for solving the problem of lead poisoning, but this should not occur at the expense of having a fair civil justice system. There should be no special strict liability law, unlimited damages, infinite statute of limitations, and revival of time-barred claims for lawsuits involving lead paint. ATRA respectfully asks the Committee to return an unfavorable report.

Sincerely,

A handwritten signature in black ink, appearing to read 'Cary Silverman', with a large, stylized flourish extending to the right.

Cary Silverman

Counsel to the American Tort Reform Association

Cc: Members of the Senate Judicial Proceedings Committee

MD 2024 NAMIC letter SB 1031 Lead Poisoning - Dama

Uploaded by: Matt Overturf

Position: UNF

Senate Judicial Proceedings Committee

SB 1031: Civil Actions – Lead Poisoning – Liability and Statute of Limitations

UNFAVORABLE | March 7, 2024

Chair Smith and Members of the Senate Judicial Proceedings Committee:

On behalf of the National Association of Mutual Insurance Companies¹ (NAMIC) thank you for the opportunity to submit this statement to express our opposition to Senate Bill 1031 and request an unfavorable report.

NAMIC consists of nearly 1,500 member companies, including seven of the top 10 property/casualty insurers in the United States. The association supports local and regional mutual insurance companies on main streets across America as well as many of the country's largest national insurers.

Senate Bill 1031 is very problematic for several reasons:

1. The bill eliminates the statute of limitations for an action alleging injuries from lead poisoning caused by lead-based paint hazards which creates no finality and causes insurers to hold reserves longer which hinders their ability to write new business.
2. Subjects an owner or manager of a property to strict liability for damages and removes the limitations on non-economic damages from applying to claims under this bill. Damages caps provide for a more stable insurance marketplace where damages and insurance costs can be modeled and predictable. Removal of the damage caps will create inconsistent and unfair judgements that become outlier verdicts and create one of the highest cost drivers for the Maryland insurance market because of the difficulty to model for losses without limits.
3. Provides an affirmative defense to a property owner/manager that complied with the statutory requirements at the time of the alleged exposure.
4. Applies the provisions of the law retroactively to revive time-bared claims creating unlimited exposure and adequate premium to cover these losses which can lead to solvency concerns.

For these reasons, NAMIC opposes Senate Bill 1031 and respectfully requests an unfavorable report.

Sincerely,



Matt Overturf, NAMIC Regional Vice President
Ohio Valley/Mid-Atlantic Region

¹ NAMIC member companies write \$357 billion in annual premiums and represent 69 percent of homeowners, 56 percent of automobile, and 31 percent of the business insurance markets. Through its advocacy programs NAMIC promotes public policy solutions that benefit member companies and the policyholders they serve and fosters greater understanding and recognition of the unique alignment of interests between management and policyholders of mutual companies.

SB 1031-AOBA--UNF.pdf

Uploaded by: Ryan Washington

Position: UNF



Bill No: SB 1031— Civil Actions - Lead Poisoning - Liability and Statute of Limitations (Maryland Lead Poisoning Compensation Act)

Committee: Judicial Proceedings

Date: 3/7/2024

Position: Unfavorable

The Apartment and Office Building Association of Metropolitan Washington (AOBA) represents members that own or manage more than 23 million square feet of commercial office space and 133,000 apartment rental units in Montgomery and Prince George's Counties.

Senate Bill 1031 establishes that an action against the owner or manager of a property to recover damages from an ailment caused by lead poisoning may be filed at any time, essentially removing the State's three-year statute of limitation under personal injury clause.

AOBA acknowledges that lead-contaminated dust from chipped or peeling lead-based paint in homes built before 1978 presents one of the most common causes of elevated blood lead levels in children and members are committed to providing healthy homes for residents of their apartment communities. However, AOBA has significant concerns about this legislation as it seeks to authorize a resident to take action against a housing provider for lead without a statute of limitation.

In a 2006 study evaluating HUD-funded properties in their sixth year in post-intervention treatment for lead, researchers found that friction impact surface and lead paint on the surface of doors and windows are unrelated to lead dust on the floor. The study extrapolated that lead dust is blown in or tracked into residences by exterior sources such as lead soil, air, exterior lead dust, and the streets. These factors contributed to high sources of lead dust on the floors and windowsills of the properties

studied. Another source of lead comes from water.¹ [As the Natural Resources Defense Council reported](#), 18 million people nationwide have been exposed to unsafe levels of lead through the community water systems in violation of federal regulations. These incidents can be attributed to factors where governments poorly tested water for contamination or treated water to reduce corrosion. Lead is a naturally occurring element found in all parts of our environment and requires extensive regulation from all levels of government to maintain levels that are not poisonous to vulnerable groups. The onus should not all fall to the housing provider as there are other factors that influence the proliferation of lead.

Rescinding the statute of limitations opens the proverbial Pandora's Box, so to speak, as it will create more lawsuits for housing providers operating apartment communities due to lead poisoning that occurred outside of their purview. Existing federal and state legislation addresses these concerns with lead poisoning in older apartment communities and is heavily regulated to ensure vulnerable populations are protected and that residents have a defense to address any concerns if the housing provider is found to be negligent.

For these reasons, AOBA requests an unfavorable report on SB 1031. For further information, contact Ryan Washington, AOBA's Government Affairs Manager, at 202-770-7713 or email rwashington@aoba-metro.org.

¹ i Wilson J, Pivetz T, Ashley P, Jacobs D, Strauss W, Menkedick J, et al. Evaluation of HUD-funded lead hazard control treatments at 6 years postintervention. Environ Res. 2006;102:237–248.

SB1031 - MSBA Opposition Letter (2024.03.06).pdf

Uploaded by: Shaoli Katana

Position: UNF



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To: Members of the Senate Judicial Proceedings Committee
From: Maryland State Bar Association (MSBA)
Subject: SB 1031 – Civil Actions – Lead Poisoning – Liability and Statute of Limitations
(Maryland Lead Poisoning Compensation Act)
Date: March 5, 2024
Position: **Opposed**

The Maryland State Bar Association (MSBA) files this opposition regarding **Senate Bill 1031 – Civil Actions – Lead Poisoning – Liability and Statute of Limitations**. SB 1031 establishes that an action against the owner or manager of certain property to recover certain damages arising from injuries suffered as a result of lead poisoning may be filed at any time.

MSBA represents more attorneys than any other organization across the state in all practice areas. Through its advocacy committees and various practice-specific sections, MSBA monitors and takes positions on legislation that protects the legal profession, preserves the integrity of the judicial system, and ensures access to justice for Marylanders.

MSBA appreciates the goals of this legislation to support victims of lead poisoning in recovering fair compensation and taking into consideration related health challenges that may not be seen until years after exposure. However, the complete removal of a statute of limitations and the bill's retroactive application raise constitutional and due process concerns. MSBA respectfully asks the Committee to consider alternative approaches that would provide appropriate relief to lead poisoning victims.

Contact: Shaoli Katana, Advocacy Director (shaoli@msba.org, 410-387-5606)

sb1031.pdf

Uploaded by: Linda Miller

Position: INFO

HON. STACY A. MAYER
CIRCUIT COURT
JUDGE
BALTIMORE COUNTY
CHAIR

HON. RICHARD SANDY
CIRCUIT COURT
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MARYLAND JUDICIAL COUNCIL LEGISLATIVE COMMITTEE

MEMORANDUM

TO: Senate Judicial Proceedings Committee
FROM: Legislative Committee
Suzanne D. Pelz, Esq.
410-260-1523
RE: Senate Bill 1031
Civil Actions – Lead Poisoning – Liability and Statute of
Limitations (Maryland Lead Poisoning Compensation Act)
DATE: February 28, 2024
(3/7)

COMMENT PAPER

The Judiciary respects the separation of powers doctrine and acknowledges that the legislature is the policy-making branch. As such, the Judiciary has no position on the policy aims of this legislation and defers to the legislative branch on such matters.

The Judiciary only writes to note that it is difficult to assess the operational impact and fiscal impact of the bill given the potential expansion of cases filed with the courts. Significant additional resources would be needed by the Judiciary and some jurisdictions may need to create a Lead Paint Case Management program or Lead Paint Docket, akin to the Asbestos Docket in Baltimore City.

cc. Hon. Jill Carter
Judicial Council
Legislative Committee
Kelley O'Connor