
By: Delegates Rosenberg and Hubbard

Introduced and read first time: February 2, 1996

Assigned to: Environmental Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Lead Poisoning Prevention - Lead Hazard Control Plan**

3 FOR the purpose of authorizing the owner of an affected property under the Lead
4 Poisoning Prevention Program to elect to comply with a Lead Hazard Control Plan
5 which includes a lead-based paint risk assessment, routine visual inspections,
6 reevaluations, and essential maintenance practices under certain circumstances in
7 lieu of the full and modified risk reduction standards; altering certain registration
8 requirements for an owner who elects to comply with the Lead Hazard Control
9 Plan; requiring an owner to provide certain notices under the Lead Hazard Control
10 Plan; requiring the Department of the Environment to prepare certain notices
11 under the Lead Hazard Control Plan; requiring persons performing risk
12 assessments, visual inspections, reevaluations, and essential maintenance practices
13 to have a certain accreditation; granting certain certifications certain legal force
14 under certain circumstances; authorizing an owner who complies with the Lead
15 Hazard Control Plan to make a qualified offer; making an owner in compliance with
16 the Lead Hazard Control Plan immune from liability under certain circumstances;
17 requiring the Department to adopt certain regulations; defining certain terms;
18 making a stylistic change; providing for the effective date of this Act; and generally
19 relating to creation of a new the Lead Hazard Control Plan under the Lead
20 Poisoning Prevention Program.

21 BY repealing and reenacting, without amendments,
22 Article - Environment
23 Section 6-811(a) and 6-819(d)
24 Annotated Code of Maryland
25 (1993 Replacement Volume and 1995 Supplement)

26 BY repealing and reenacting, with amendments,
27 Article - Environment
28 Section 6-801(u), 6-811(b), 6-815(a), (b), and (c), 6-821(c), 6-828, 6-830, and
29 6-836
30 Annotated Code of Maryland
31 (1993 Replacement Volume and 1995 Supplement)

32 BY adding to

2

1 Article - Environment
2 Section 6-819(l), 6-820(e), 6-823(f), and 6-825
3 Annotated Code of Maryland
4 (1993 Replacement Volume and 1995 Supplement)

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

7 **Article - Environment**

8 6-801.

9 (u) (1) "Risk reduction standard" means a risk reduction standard established
10 under § 6-815 or § 6-819 of this subtitle.

11 (2) "RISK REDUCTION STANDARD" INCLUDES THE LEAD HAZARD
12 CONTROL PLAN UNDER § 6-825 OF THIS SUBTITLE.

13 6-811.

14 (a) (1) On or before December 31, 1994, the owner of an affected property shall
15 register the affected property with the Department.

16 (2) Notwithstanding paragraph (1) of this subsection, an owner of affected
17 property for which an election is made under § 6-803(a)(2) of this subtitle shall register
18 at the time of the election.

19 (b) The owner shall register each affected property using forms prepared by the
20 Department, including the following information:

21 (1) The name and address of the owner;

22 (2) The address of the affected property;

23 (3) If applicable, the name and address of each property manager employed
24 by the owner to manage the affected property;

25 (4) The name and address of each insurance company providing property
26 insurance or lead hazard coverage for the affected property, together with the policy
27 numbers of that insurance or coverage;

28 (5) The name and address of a resident agent, other agent of the owner, or
29 contact person in the State with respect to the affected property;

30 (6) Whether the affected property was built before 1950 or after 1949;

31 (7) [The] EXCEPT FOR AN OWNER WHO ELECTS TO COMPLY WITH §
32 6-825 OF THIS SUBTITLE, THE date of the latest change in occupancy of the affected
33 property;

34 (8) The dates and nature of treatments performed to attain or maintain:

35 (I) [a] A risk reduction standard under § 6-815 or § 6-819of this
36 subtitle; OR

3

1 (II) THE LEAD HAZARD CONTROL PLAN UNDER § 6-825 OF THIS
2 SUBTITLE; and

3 (9) [The] EXCEPT FOR AN OWNER WHO ELECTS TO COMPLY WITH §
4 6-825 OF THIS SUBTITLE, THE latest date, if any, on which the affected property has been
5 certified to be in compliance with the provisions of § 6-815 of this subtitle.

6 6-815.

7 (a) No later than the first change in occupancy in an affected property that occurs
8 on or after October 1, 1994, before the next tenant occupies the property, an owner of an
9 affected property shall initially satisfy the risk reduction standard established under this
10 subtitle by:

11 (1) Passing the test for lead-contaminated dust under § 6-816 of this
12 subtitle; [or]

13 (2) Performing the following lead hazard reduction treatments:

14 (i) A visual review of all exterior and interior painted surfaces;

15 (ii) The removal and repainting of chipping, peeling, or flaking paint
16 on exterior and interior painted surfaces;

17 (iii) The repair of any structural defect that is causing the paint to chip,
18 peel, or flake that the owner of the affected property has knowledge of or, with the
19 exercise of reasonable care, should have knowledge of;

20 (iv) Stripping and repainting, replacing, or encapsulating all interior
21 windowsills with vinyl, metal, or any other material in a manner and under conditions
22 approved by the Department;

23 (v) Ensure that caps of vinyl, aluminum, or any other material in a
24 manner and under conditions approved by the Department, are installed in all window
25 wells in order to make the window wells smooth and cleanable;

26 (vi) Except for a treated or replacement window that is free of
27 lead-based paint on its friction surfaces, fixing the top sash of all windows in place in
28 order to eliminate the friction caused by movement of the top sash;

29 (vii) Rehang all doors necessary in order to prevent the rubbing
30 together of a lead-painted surface with another surface;

31 (viii) Making all bare floors smooth and cleanable;

32 (ix) Ensure that all kitchen and bathroom floors are overlaid with a
33 smooth, water-resistant covering; and

34 (x) HEPA-vacuuming and washing of the interior of the affected
35 property with high phosphate detergent or its equivalent, as determined by the
36 Department; OR

37 (3) ELECTING TO COMPLY WITH THE LEAD HAZARD CONTROL PLAN
38 UNDER § 6-825 OF THIS SUBTITLE .

4

1 (b) [At] EXCEPT FOR AN AFFECTED PROPERTY THE OWNER OF WHICH
2 ELECTS TO COMPLY WITH § 6-825 OF THIS SUBTITLE, AT each change in occupancy
3 thereafter, before the next tenant occupies the property, the owner of an affected
4 property shall satisfy the risk reduction standard established under this subtitle by:

5 (1) Passing the test for lead-contaminated dust under § 6-816 of this
6 subtitle; or

7 (2) (i) Repeating the lead hazard reduction treatments specified in
8 subsection (a)(2)(i), (ii), (iii), and (x) of this section; and

9 (ii) Ensuring that the lead hazard reduction treatments specified in
10 subsection (a)(2)(iv), (v), (vi), (vii), (viii), and (ix) of this section are still in effect.

11 (c) Except for affected properties that pass a test for lead-contaminated dust
12 under § 6-816 of this subtitle, at each change in occupancy, an owner of an affected
13 property THAT IS NOT IN COMPLIANCE WITH § 6-825 OF THIS SUBTITLE shall have the
14 property inspected to verify that the risk reduction standard specified in this section has
15 been satisfied.

16 6-819.

17 (d) After December 31, 1995, an owner of an affected property shall satisfy the
18 modified risk reduction standard within 30 days after receipt of written notice from the
19 tenant, or from any other source, of a defect.

20 (L) THE PROVISIONS OF THIS SECTION DO NOT APPLY TO AN AFFECTED
21 PROPERTY THE OWNER OF WHICH ELECTS TO COMPLY WITH THE PROVISIONS OF §
22 6-825 OF THIS SUBTITLE.

23 6-820.

24 (E) AN OWNER WHO ELECTS TO COMPLY WITH § 6-825 OF THIS SUBTITLE,
25 SHALL PROVIDE THE TENANT A NOTICE OF THE TENANT'S RIGHTS AS PROVIDED IN
26 § 6-825 OF THIS SUBTITLE.

27 6-821.

28 (c) All hazard reduction treatments AND ESSENTIAL MAINTENANCE
29 PRACTICES required to be performed under this subtitle shall be performed by or under
30 the supervision of personnel accredited under § 6-1002 of this title.

31 6-823.

32 (F) AN OWNER WHO HAS ELECTS TO COMPLY WITH § 6-825 OF THIS SUBTITLE,
33 SHALL PROVIDE THE LEAD POISONING INFORMATION PACKAGE AS PROVIDED IN §
34 6-825 OF THIS SUBTITLE.

35 6-825.

36 (A) IN THIS SECTION THE FOLLOWING TERMS HAVE THE MEANINGS
37 INDICATED.

5

1 (1) "COMPOSITE DUST TESTING" MEANS A METHOD OF ASSESSING A
2 RENTAL DWELLING UNIT OR A MULTIFAMILY RENTAL DWELLING FOR THE
3 PRESENCE OF LEAD-CONTAMINATED DUST.

4 (2) (I) "ESSENTIAL MAINTENANCE PRACTICES" MEANS THE PROMPT
5 SAFE REPAIR OF DETERIORATED PAINT AND THE CAUSES OF DETERIORATION
6 INCLUDING:

7 1. COVERING THE WORK AREA FLOOR WITH SIX MIL
8 POLYETHYLENE PLASTIC;

9 2. LIMITING ACCESS TO THE WORK AREA;

10 3. PROTECTING THE OCCUPANTS' BELONGINGS; AND

11 4. USING WET TREATMENT METHODS.

12 (II) "ESSENTIAL MAINTENANCE PRACTICES" INCLUDES PROVIDING
13 TENANTS WITH THE NOTICES REQUIRED UNDER §§ 6-820 AND 6-823 OF THIS
14 SUBTITLE WHICH INCLUDE INFORMATION ON THE NAME AND METHOD OF
15 CONTACTING THE OWNER TO REPORT DETERIORATING PAINT.

16 (III) "ESSENTIAL MAINTENANCE PRACTICES" INCLUDES ENSURING
17 THAT WORKERS PERFORMING ESSENTIAL MAINTENANCE PRACTICES AND
18 ASSOCIATED SUPERVISORS ARE TRAINED AND ACCREDITED AS REQUIRED BY THE
19 DEPARTMENT.

20 (3) "LEAD-BASED PAINT HAZARD" MEANS A CONDITION THAT COULD
21 RESULT IN ADVERSE HUMAN HEALTH EFFECTS FROM:

22 (I) LEAD-CONTAMINATED DUST;

23 (II) LEAD-CONTAMINATED SOIL;

24 (III) MORE THAN TWO SQUARE FEET OF LEAD-CONTAMINATED
25 PAINT THAT IS DETERIORATED IN A ROOM; OR

26 (IV) LEAD-CONTAMINATED PAINT ON ACCESSIBLE SURFACES,
27 FRICTION SURFACES, OR IMPACT SURFACES.

28 (4) "LEAD-BASED PAINT RISK ASSESSMENT" MEANS AN ON-SITE
29 INVESTIGATION PERFORMED BY AN ACCREDITED RISK ASSESSOR AND A REPORT
30 OF THE EXISTENCE, NATURE, SEVERITY, AND LOCATION OF LEAD-BASED PAINT
31 HAZARDS IN A RENTAL DWELLING UNIT OR MULTIFAMILY DWELLING INCLUDING:

32 (I) READILY AVAILABLE INFORMATION REGARDING THE AGE
33 AND HISTORY OF THE RENTAL DWELLING AND OCCUPANCY BY PERSONS AT RISK;

34 (II) VISUAL INSPECTION FOR PAINT FILM CONDITION;

35 (III) REPRESENTATIVE SAMPLING FOR LEAD-CONTAMINATED SOIL
36 USING THE COMPOSITE SAMPLING METHOD;

6

1 (IV) REPRESENTATIVE SAMPLING FOR LEAD-CONTAMINATED
2 DUST DETERMINATION USING COMPOSITE DUST TESTING;

3 (V) REPRESENTATIVE LEAD-BASED PAINT DETERMINATION BY
4 X-RAY FLUORESCENCE TESTING OR PAINT CHIP ANALYSIS BY LABORATORY
5 ANALYSIS; AND

6 (VI) A WRITTEN REPORT EXPLAINING THE RESULTS OF THE
7 INVESTIGATION.

8 (B) (1) FOR PURPOSES OF THIS SECTION A COMPOSITE DUST TEST
9 INCLUDES DUST WIPES FROM DEFINED AREAS OF THE RENTAL DWELLING UNIT OR
10 MULTIFAMILY RENTAL DWELLING, INCLUDING:

11 (I) AT LEAST TWO BEDROOMS, ONE OF WHICH IS THE BEDROOM
12 OF A CHILD;

13 (II) THE KITCHEN AND LIVING ROOM; AND

14 (III) IF APPLICABLE, A CHILD'S PLAYROOM.

15 (2) THE FOLLOWING SHALL BE WIPED FOR PURPOSES OF A COMPOSITE
16 DUST TEST:

17 (I) UNCARPETED FLOORS;

18 (II) WINDOW SILLS; AND

19 (III) IF FLOORS OTHER THAN THE KITCHEN FLOOR HAVE
20 WALL-TO-WALL CARPETING, THE CARPETED FLOORS.

21 (3) NOT MORE THAN FOUR SINGLE WIPES MAY BE PLACED IN A SINGLE
22 TUBE FOR SUBMISSION FOR LABORATORY ANALYSIS.

23 (C) THIS SECTION APPLIES ONLY TO PROPERTIES WHICH CONTAIN MORE
24 THAN FOUR RENTAL DWELLING UNITS.

25 (D) AN OWNER OF AN AFFECTED PROPERTY IN COMPLIANCE WITH THE LEAD
26 HAZARD CONTROL PLAN OF THIS SECTION IS:

27 (1) EXEMPT FROM THE PROVISIONS OF §§ 6-815(A)(1) AND (2) AND 6-819
28 OF THIS SUBTITLE; AND

29 (2) ELIGIBLE TO MAKE A QUALIFIED OFFER UNDER PART V OF THIS
30 SUBTITLE.

31 (E) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, AN
32 OWNER OF AN AFFECTED PROPERTY MUST ELECT TO COMPLY WITH THIS SECTION
33 NO LATER THAN OCTOBER 1, 1996.

34 (2) IN ORDER TO COMPLY WITH THIS SECTION, A PERSON WHO
35 PURCHASES AN AFFECTED PROPERTY AFTER OCTOBER 1, 1996, MUST ELECT TO
36 COMPLY WITH THIS SUBSECTION WITHIN 30 DAYS AFTER CONVEYANCE OF THE
37 PROPERTY.

7

1 (F) DEPENDING ON THE STATUS OF THE OWNER AS PROVIDED IN
2 SUBSECTION (E) OF THIS SECTION, THE OWNER SHALL:

3 (1) HAVE A LEAD-BASED PAINT RISK ASSESSMENT PERFORMED BY A
4 RISK ASSESSOR ACCREDITED BY THE DEPARTMENT; AND

5 (2) WITHIN 90 DAYS AFTER RECEIVING THE REPORT FROM THE RISK
6 ASSESSOR:

7 (I) INCORPORATE ALL PROVISIONS OF THE ESSENTIAL
8 MAINTENANCE PRACTICES; AND

9 (II) INCORPORATE ALL IDENTIFIED FEDERAL, STATE, AND LOCAL
10 REGULATORY REQUIREMENTS.

11 (G) (1) TO MAINTAIN COMPLIANCE WITH THE LEAD HAZARD CONTROL
12 PLAN, AN OWNER SHALL:

13 (I) PERFORM ROUTINE ON-SITE VISUAL INSPECTIONS AT
14 TURNOVER OR EVERY 12 MONTHS AND PERFORM ANY ESSENTIAL MAINTENANCE
15 PRACTICES INDICATED;

16 (II) RESPOND TO A COMPLAINT OF A DEFECT FROM A TENANT BY
17 PERFORMING ESSENTIAL MAINTENANCE PRACTICES WITHIN 30 DAYS OF RECEIPT
18 OF THE NOTICE FROM THE TENANT; AND

19 (III) 24 MONTHS AFTER THE INITIAL RISK ASSESSMENT UNDER
20 SUBSECTION (F)(1) OF THIS SECTION, PERFORM A REEVALUATION OF THE
21 PROPERTY WHICH INCLUDES:

22 1. A VISUAL INSPECTION; AND

23 2. REPRESENTATIVE SAMPLING FOR LEAD CONTAMINATED
24 DUST AND SOIL.

25 (2) IF THE REEVALUATION PERFORMED UNDER PARAGRAPH (1)(III) OF
26 THIS SECTION DEMONSTRATES THAT THE PROPERTY IS FREE OF LEAD-BASED
27 PAINT HAZARDS, THE OWNER IS NOT REQUIRED TO PERFORM ANYMORE
28 EVALUATIONS IN ORDER TO MAINTAIN COMPLIANCE WITH THIS SECTION.

29 (3) IF THE REEVALUATION PERFORMED UNDER PARAGRAPH (1)(III) OF
30 THIS SECTION DEMONSTRATES THAT THE PROPERTY CONTAINS LEAD-BASED PAINT
31 HAZARDS, THE OWNER SHALL:

32 (I) CONTROL OR ELIMINATE THOSE LEAD-BASED PAINT
33 HAZARDS;

34 (II) CONTINUE TO RESPOND TO NOTICES OF DEFECTS FROM
35 TENANTS BY PERFORMING ESSENTIAL MAINTENANCE PRACTICES WITHIN 30 DAYS
36 OF RECEIPT OF THE NOTICE FROM THE TENANT; AND

37 (III) PERFORM REEVALUATIONS EVERY 2 YEARS UNTIL TWO
38 CONSECUTIVE REEVALUATIONS DEMONSTRATE THAT THE PROPERTY IS FREE OF
39 LEAD-BASED PAINT HAZARDS AT WHICH POINT THE OWNER IS NOT REQUIRED TO

8

1 PERFORM ANY MORE EVALUATIONS IN ORDER TO MAINTAIN COMPLIANCE WITH
2 THIS SECTION.

3 (H) (1) A PERSON PERFORMING ANY ASPECT OF THE LEAD HAZARD
4 CONTROL PLAN:

5 (I) SHALL BE ACCREDITED BY THE DEPARTMENT;

6 (II) EXCEPT IN THE CASE OF A PERSON PERFORMING ESSENTIAL
7 MAINTENANCE PRACTICES, MAY NOT BE A RELATED PARTY TO THE OWNER; AND

8 (III) SHALL, WITHIN 10 DAYS AFTER COMPLETION, SUBMIT A
9 WRITTEN REPORT TO THE DEPARTMENT THAT:

10 1. INDICATES THE COMPLIANCE STATUS OF THE AFFECTED
11 PROPERTY WITH THE PROVISIONS OF THIS SECTION; AND

12 2. STATES WHETHER THE AFFECTED PROPERTY IS FREE OF
13 LEAD-BASED PAINT HAZARDS.

14 (2) A REPORT SUBMITTED TO THE DEPARTMENT UNDER PARAGRAPH
15 (1)(III) OF THIS SUBSECTION THAT CERTIFIES THAT AN AFFECTED PROPERTY IS
16 FREE OF LEAD-BASED PAINT HAZARDS, IS CONCLUSIVE PROOF THAT THE OWNER IS
17 IN COMPLIANCE WITH THIS SECTION FOR THE AFFECTED PROPERTY DURING THE
18 PERIOD FOR WHICH THE CERTIFICATION IS EFFECTIVE, UNLESS THERE IS:

19 (I) PROOF OF ACTUAL FRAUD AS TO THAT AFFECTED PROPERTY;

20 (II) PROOF THAT THE WORK PERFORMED IN THE AFFECTED
21 PROPERTY WAS NOT PERFORMED BY OR UNDER THE SUPERVISION OF PERSONNEL
22 ACCREDITED UNDER § 6-1002 OF THIS TITLE; OR

23 (III) PROOF THAT THE OWNER FAILED TO RESPOND TO A
24 COMPLAINT REGARDING THE AFFECTED PROPERTY.

25 (I) (1) THE DEPARTMENT MAY, ON A CASE BY CASE BASIS, APPROVE
26 PROCEDURES AND PROTOCOLS SUBMITTED BY A RISK ASSESSOR.

27 (2) PROCEDURES AND PROTOCOLS SUBMITTED AND APPROVED UNDER
28 THIS SUBSECTION SHALL, AT A MINIMUM, ADDRESS RISK ASSESSMENTS AND
29 REEVALUATIONS.

30 6-828.

31 (a) This section applies to an owner of an affected property who has, with respect
32 to the affected property[, complied with the applicable requirements of §§ 6-811, 6-812,
33 6-815, 6-817, and 6-819 of this subtitle, and has] sent to the tenant the notices required
34 by §§ 6-820 and 6-823 of this subtitle AND COMPLIED WITH THE APPLICABLE
35 REQUIREMENTS OF:

36 (1) §§ 6-811, 6-812, 6-815(A)(1) OR (2), 6-817, AND 6-819 OF THIS SUBTITLE;
37 OR

38 (2) § 6-825 OF THIS SUBTITLE.

9

1 (b) A person may not bring an action against an owner of an affected property for
2 damages arising from alleged injury or loss to a person at risk caused by the ingestion of
3 lead by a person at risk that is first documented by a test for EBL of 25 ug/dl or more
4 performed on or after October 1, 1994, or 20 ug/dl or more performed on or after October
5 1, 1999, unless the owner has been given:

6 (1) Written notice from any person that the elevated blood level of a person
7 at risk is:

8 (i) Greater than or equal to 25 ug/dl as first documented by a test for
9 EBL performed on or after October 1, 1994; or

10 (ii) On or after October 1, 1999, an EBL greater than or equal to 20
11 ug/dl as first documented by a test for EBL performed on or after October 1, 1999; and

12 (2) An opportunity to make a qualified offer under § 6-831 of this subtitle.

13 6-830.

14 If the concentration of lead in a whole venous blood sample of a person at risk
15 tested within 30 days after the person at risk begins residence or to regularly spend at
16 least 24 hours per week in an affected property that is certified as being in compliance
17 with the provisions of § 6-815(A)(1) OR (2) of this subtitle is greater than or equal to 25
18 ug/dl, or, on and after October 1, 1999, greater than or equal to 20 ug/dl, it shall be
19 presumed that the ingestion of lead occurred before a person at risk began residing or
20 regularly spending at least 24 hours per week in the affected property.

21 6-836.

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

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

31 (2) Was in compliance with:

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

33 (ii) The [applicable risk reduction standard and response standard
34 under § 6-815 or § 6-819 of this subtitle, and the] risk reduction schedule under § 6-817
35 of this subtitle AND:

36 1. THE APPLICABLE RISK REDUCTION AND RESPONSE
37 STANDARD UNDER § 6-815(A)(1) OR (2), OR § 6-819 OF THIS SUBTITLE; OR

38 2. THE PROVISIONS OF § 6-825 OF THIS SUBTITLE.

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1 SECTION 2. AND BE IT FURTHER ENACTED, That when developing
2 regulations regarding risk assessments, visual inspections, essential maintenance
3 practices, and composite dust testing as required by § 6-825 of the Environment Article,
4 the Department of the Environment shall adopt the regulations and requirements of the
5 U.S. Department of Housing and Urban Development and the U.S. Environmental
6 Protection Agency. If the U.S. agencies have not completed adoption of the applicable
7 regulations by the effective date of this Act, the Department shall adopt its own
8 regulations which shall remain in effect until the adoption of the U.S.regulations at
9 which time the Department shall adopt the U.S. regulations.

10 SECTION 3. AND BE IT FURTHER ENACTED, That the Department of the
11 Environment shall prepare a notice of tenant's rights for the purposes of § 6-820 of the
12 Environment Article which explains tenant's rights under § 6-825 of theEnvironment
13 Article.

14 SECTION 4. AND BE IT FURTHER ENACTED, That this Act shall take effect
15 June 1, 1996.