
By: Senators Derr, Ferguson, Hafer, Haines, and Munson

Introduced and read first time: February 2, 1996

Assigned to: Judicial Proceedings

A BILL ENTITLED

1 AN ACT concerning

2 Lead Poisoning Prevention Program - Risk Reduction in Housing - Exemption

3 FOR the purpose of exempting certain affected property from certain provisions of law
4 requiring the reduction of lead risk in housing, subject to certain regulations of the
5 Department of the Environment; eliminating certain requirements that certain
6 owners perform reductions of lead risk in housing in a certain percentage of their
7 properties by a certain date; prohibiting owners from discriminating against certain
8 persons; authorizing certain persons that suffer discrimination to file a certain
9 complaint; making technical changes; altering a certain definition; and generally
10 relating to the reduction of lead risk in housing.

11 BY repealing and reenacting, without amendments,
12 Article - Environment
13 Section 6-801(d) and 6-819(a)
14 Annotated Code of Maryland
15 (1993 Replacement Volume and 1995 Supplement)

16 BY repealing and reenacting, with amendments,
17 Article - Environment
18 Section 6-801(p), 6-803, 6-815(a) through (c), 6-817, 6-819(d) and (k), 6-850, and
19 6-851
20 Annotated Code of Maryland
21 (1993 Replacement Volume and 1995 Supplement)

22 BY repealing
23 Article - Environment
24 Section 6-819(e)
25 Annotated Code of Maryland
26 (1993 Replacement Volume and 1995 Supplement)

27 BY adding to
28 Article - Environment
29 Section 6-853
30 Annotated Code of Maryland

2

1 (1993 Replacement Volume and 1995 Supplement)

2 BY renumbering

3 Article - Environment

4 Section 6-819(f) through (k), respectively

5 to be Section 6-819 (e) through (j), respectively

6 Annotated Code of Maryland

7 (1993 Replacement Volume and 1995 Supplement)

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

10 **Article - Environment**

11 6-801.

12 (d) "Child" means an individual under the age of 6 years.

13 (p) "Person at risk" means a child [or a pregnant woman] who resides or
14 regularly spends at least 24 hours per week in an affected property.

15 6-803.

16 (a) This subtitle applies to:

17 (1) Affected property; [and]

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

20 (3) AFFECTED PROPERTY PREVIOUSLY EXCLUDED UNDER SUBSECTION
21 (B)(4) OF THIS SECTION, AT THE TIME WHEN A PERSON AT RISK FIRST INHABITS IT.

22 (b) This subtitle does not apply to:

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

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

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

30 (4) AS AUTHORIZED BY THE DEPARTMENT BY REGULATION, AFFECTED
31 PROPERTY NOT YET CERTIFIED AS MEETING A RISK REDUCTION STANDARD UNDER
32 § 6-815 OR § 6-819 OF THIS SUBTITLE, IN WHICH A PERSON AT RISK DOES NOT RESIDE.

33 6-815.

34 (a) [No] EXCEPT FOR AN AFFECTED PROPERTY EXCLUDED UNDER § 6-803
35 OF THIS SUBTITLE, NO later than the first change in occupancy in an affected property
36 that occurs on or after October 1, 1994, before the next tenant occupies the property, an

3

1 owner of an affected property shall initially satisfy the risk reduction standard established
2 under this subtitle by:

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

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

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

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

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

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

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

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

21 (vii) Rehangng all doors necessary in order to prevent the rubbing
22 together of a lead-painted surface with another surface;

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

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

26 (x) HEPA-vacuuming and washing of the interior of the affected
27 property with high phosphate detergent or its equivalent, as determined by the
28 Department.

29 (b) [At] EXCEPT FOR AN AFFECTED PROPERTY EXCLUDED UNDER § 6-803 OF
30 THIS SUBTITLE, AT each change in occupancy thereafter, before the next tenant occupies
31 the property, the owner of an affected property shall satisfy the risk reduction standard
32 established under this subtitle by:

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

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

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

1 (c) Except for affected properties that pass a test for lead-contaminated dust
 2 under § 6-816 OF THIS SUBTITLE AND AFFECTED PROPERTY EXCLUDED UNDER §
 3 6-803 of this subtitle, at each change in occupancy, an owner of an affected property shall
 4 have the property inspected to verify that the risk reduction standard specified in this
 5 section has been satisfied.

6 6-817.

7 (a) [(1) On and after October 1, 1999, an owner of affected properties shall
 8 ensure that at least 50% of the owner's affected properties have satisfied the risk
 9 reduction standard specified in § 6-815(a) of this subtitle, without regard to the number
 10 of affected properties in which there has been a change in occupancy.

11 (2) (i) Notwithstanding any other remedy that may be available, an owner
 12 who fails to meet the requirements of subsections (a)(1) and (c) of this section shall lose
 13 the liability protection under § 6-836 of this subtitle for any alleged injury or loss caused
 14 by the ingestion of lead by a person at risk that is first documented by a test for EBL of
 15 20 ug/dl or more on or after October 1, 1999, in any of the owner's units that have not
 16 satisfied the risk reduction standard specified in § 6-815(a) of this subtitle and the
 17 inspection requirement of subsection (c) of this section.

18 (ii) The liability protection under § 6-836 of this subtitle shall be
 19 reinstated for any alleged injury or loss caused by the ingestion of lead by a person at risk
 20 that is first documented by a test for EBL of 20 ug/dl or more on or after the date that the
 21 owner meets the requirements of subsections (a)(1) and (c) of this section.

22 (b)] (1) On and after October 1, 2004, an owner of affected properties shall
 23 ensure that 100% of the owner's affected properties in which a person at risk resides, and
 24 of whom the owner has been notified in writing, have satisfied the risk reduction standard
 25 specified in § 6-815(a) of this subtitle.

26 (2) (i) Notwithstanding any other remedy that may be available, an owner
 27 who fails to meet the requirements of subsections [(b)(1)] (A)(1) and [(c)] (B) of this
 28 section[, or of § 6-819(e) of this subtitle] shall lose the liability protection under § 6-836
 29 of this subtitle for any alleged injury or loss caused by the ingestion of lead by a person at
 30 risk that is first documented by a test for EBL of 20 ug/dl or more on or after October 1,
 31 2004 in any of the owner's units that have not satisfied the risk reduction standard
 32 specified in § 6-815(a) of this subtitle, the inspection requirement of subsection [(c)] (B)
 33 of this section, or the modified risk reduction standard specified in § 6-819(a) of this
 34 subtitle, as applicable.

35 (ii) The liability protection under § 6-836 of this subtitle shall be
 36 reinstated for any alleged injury or loss caused by the ingestion of lead that is first
 37 documented by a test for EBL of 20 ug/dl or more after the date that the owner meets the
 38 requirements of subsections [(b)(1)] (A)(1) and [(c)] (B) of this section [and the
 39 requirements of § 6-819(e) of this subtitle].

40 (iii) The provisions of this paragraph do not apply if the owner proves
 41 that the noncompliance results from:

42 1. A tenant's lack of cooperation with the owner's compliance
 43 efforts; or

1 (d) After December 31, 1995, an owner of an affected property IN WHICH A
 2 PERSON AT RISK RESIDES shall satisfy the modified risk reduction standard within 30
 3 days after receipt of written notice from the tenant, or from any othersource, of a defect.

4 [(e) Except as provided in § 6-817(b) of this subtitle, on and afterOctober 1, 2004,
 5 an owner of affected properties shall ensure that 100% of the owner's affected properties
 6 in which a person at risk does not reside have satisfied the modified risk reduction
 7 standard.]

8 (k) (1) The statement verified by the owner and the tenant of work performed
 9 on the affected property in accordance with subsection [(f)(1)] (E)(1) of this section or
 10 the final report of the inspector verifying that work was performed on the affected
 11 property in accordance with subsection [(f)(2)] (E)(1) of this section shall create a
 12 rebuttable presumption, that may be overcome by clear and convincing evidence, that the
 13 owner is in compliance with the modified risk reduction standard for the affected
 14 property unless there is:

15 (i) Proof of actual fraud as to that affected property; or

16 (ii) Proof that the work performed on the affected property was not
 17 performed by or under the supervision of personnel accredited under § 6-1002 of this
 18 title.

19 (2) The statement verified by the owner and the tenant of work performed
 20 on the affected property in accordance with subsection [(f)(1)] (E)(1) of this section shall
 21 contain a statement:

22 (i) Describing the modified risk reduction standard required under
 23 this subtitle;

24 (ii) That execution of this statement by the tenant can affect the
 25 tenant's legal rights; and

26 (iii) That if the tenant is not satisfied that the modified risk reduction
 27 standard has been met, the tenant should not execute the statement and should inform
 28 the owner and that the owner will have the affected property inspected by a certified
 29 inspector at the owner's expense.

30 6-850.

31 (a) Except as provided in § 6-849 of this subtitle, in addition to any other
 32 remedies provided in this subtitle, the provisions and procedures of §§7-256 through
 33 7-264 and 7-266(b) of this article shall be used and shall apply to enforce violations of
 34 this subtitle, provided that the penalty imposed under § 7-266(b)(2)(i)of this article may
 35 not exceed \$250 per day for any violation of this subtitle which is notcured within 20 days
 36 after receipt of notice of the violation by the owner.

37 (b) If an accredited supervisor falsely verifies that work was performed on an
 38 affected property pursuant to [§ 6-819(f)] § 6-819(E) of this subtitle,the owner of the
 39 affected property who employs the supervisor and who has actual knowledge of the false
 40 verification shall be subject to a civil penalty not to exceed \$15,000.

7

1 6-851.

2 (a) The Department may audit, through a spot check or other investigation, the
3 verification of work performed pursuant to [§ 6-819(f)] § 6-819(E) of this subtitle.

4 (b) If the Department, through audits conducted within 30 days of receipt of
5 verification of work performed pursuant to [§ 6-819(f)] § 6-819(E) of this subtitle, finds
6 that the condition of the affected property does not comport with the work that was
7 verified by the same contractor or supervisor, an owner of a property for which work was
8 verified by that contractor or supervisor within the previous year shall be required to have
9 that property inspected and treated as necessary to satisfy the modified risk reduction
10 standard under § 6-819 of this subtitle.

11 6-853.

12 (A) AN OWNER OF AN AFFECTED PROPERTY MAY NOT ENGAGE IN
13 DISCRIMINATION BASED ON FAMILIAL STATUS, AS DEFINED UNDER ARTICLE 49B, §
14 22 OF THE CODE, BY REFUSING TO RENT OR LEASE A RENTAL DWELLING UNIT TO A
15 FAMILY THAT INCLUDES A PERSON AT RISK BECAUSE:

16 (1) THE RENTAL DWELLING UNIT MAY CONTAIN PAINT, PLASTER, OR
17 ACCESSIBLE STRUCTURAL MATERIALS CONTAINING DANGEROUS LEVELS OF LEAD;
18 OR

19 (2) RENTAL OR LEASE OF THE RENTAL DWELLING UNIT WOULD
20 REQUIRE THE OWNER TO MEET THE RISK REDUCTION STANDARD UNDER THIS
21 SUBTITLE.

22 (B) REFUSAL TO RENT OR LEASE AN AFFECTED PROPERTY TO A FAMILY
23 THAT INCLUDES A PERSON AT RISK DOES NOT CONSTITUTE COMPLIANCE WITH THE
24 REQUIREMENTS OF THIS SUBTITLE.

25 (C) AN INDIVIDUAL CLAIMING TO HAVE SUFFERED DISCRIMINATION BASED
26 ON FAMILIAL STATUS UNDER SUBSECTION (A) OF THIS SECTION IS AN AGGRIEVED
27 PERSON FOR THE PURPOSES OF ARTICLE 49B, § 20(B) OF THE CODE AND MAY FILE A
28 COMPLAINT WITH THE HUMAN RELATIONS COMMISSION UNDER ARTICLE 49B, §§ 19
29 THROUGH 39 OF THE CODE.

30 SECTION 2. AND BE IT FURTHER ENACTED, That Section(s) 6-819(f)
31 through (k), respectively, of Article - Environment of the Annotated Code of Maryland
32 be renumbered to be Section(s) 6-819(e) through (j), respectively.

33 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
34 October 1, 1996.