

CF SB 669

By: Delegate Guns

Introduced and read first time: February 13, 1997

Assigned to: Environmental Matters

Committee Report: Favorable with amendments

House action: Adopted

Read second time: February 25, 1997

CHAPTER ____

1 AN ACT concerning

2 Lead Poisoning Prevention Program - Alteration of Deadlines and Other Dates

3 FOR the purpose of altering the dates by which certain rental dwelling units must be
 4 registered under the Lead Poisoning Prevention Program; altering the dates by
 5 which and until which certain fees must be paid for certain rental dwelling units;
 6 altering certain deadlines for meeting certain risk reduction standards; altering
 7 certain dates by which certain information must be given to certain persons under
 8 certain circumstances; altering certain dates regarding the lowering of certain
 9 documented elevated blood lead levels for triggering certain obligations and a
 10 certain presumption; altering certain dates relating to the ~~effect~~ effect of the
 11 Program on certain events taking place before certain dates; altering the application
 12 of certain provisions of law to certain insurance policies; altering the date on or
 13 after which a certain exclusion in certain insurance policies is required to be waived;
 14 making a stylistic change; providing for the effective dates of this Act; and generally
 15 relating to the alteration of deadlines and other dates under the Lead Poisoning
 16 Prevention Program.

17 BY repealing and reenacting, with amendments,

18 Article - Environment

19 Section 6-811(a)(1), 6-812(b), 6-815(a), 6-817(a)(1) and (2)(i) and (b)(1) and20 (2)(i), 6-819(c) through (e), 6-820(a) and (b), 6-823(a) and (b), 6-828(b),

21 6-830, 6-843(c), and 6-849(a)(1)

22 Annotated Code of Maryland

23 (1996 Replacement Volume and 1996 Supplement)

24 BY repealing and reenacting, without amendments,

25 Article - Environment

26 Section 6-843(a)

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1 Annotated Code of Maryland
2 (1996 Replacement Volume and 1996 Supplement)

3 BY repealing and reenacting, with amendments,
4 Chapter 114 of the Acts of the General Assembly of 1994
5 Section 7 and 8

6 BY repealing and reenacting, with amendments,
7 Article 48A - Insurance Code
8 Section 735(b)
9 Annotated Code of Maryland
10 (1994 Replacement Volume and 1996 Supplement)

11 BY repealing and reenacting, with amendments,
12 Article - Insurance
13 Section 19-704(d)
14 Annotated Code of Maryland
15 (1996 Volume)
16 (As enacted by Chapter 11 of the Acts of the General Assembly of 1996)

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

19 **Article - Environment**

20 6-811.

21 (a) (1) On or before December 31, [1994] 1995, the owner of an affected
22 property shall register the affected property with the Department.

23 6-812.

24 (b) An owner who first acquires affected property after December 1, [1994] 1995
25 shall register the affected property under § 6-811 of this subtitle within 30 days after the
26 acquisition.

27 6-815.

28 (a) No later than the first change in occupancy in an affected property that occurs
29 on or after [October 1, 1994] FEBRUARY 24, 1996, before the next tenant occupies the
30 property, an owner of an affected property shall initially satisfy the risk reduction
31 standard established under this subtitle by:

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

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

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

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

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

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

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

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

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

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

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

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

21 6-817.

22 (a) (1) On and after [October 1, 1999] FEBRUARY 24, 2001, an owner of
23 affected properties shall ensure that at least 50% of the owner's affected properties have
24 satisfied the risk reduction standard specified in § 6-815(a) of this subtitle, without
25 regard to the number of affected properties in which there has been a change in
26 occupancy.

27 (2) (i) Notwithstanding any other remedy that may be available, an owner
28 who fails to meet the requirements of subsections (a)(1) and (c) of this section shall lose
29 the liability protection under § 6-836 of this subtitle for any alleged injury or loss caused
30 by the ingestion of lead by a person at risk that is first documented by a test for EBL of
31 20 ug/dl or more on or after [October 1, 1999] FEBRUARY 24, 2001, in any of the owner's
32 units that have not satisfied the risk reduction standard specified in § 6-815(a) of this
33 subtitle and the inspection requirement of subsection (c) of this section.

34 (b) (1) On and after [October 1, 2004] FEBRUARY 24, 2006, an owner of
35 affected properties shall ensure that 100% of the owner's affected properties in which a
36 person at risk resides, and of whom the owner has been notified in writing, have satisfied
37 the risk reduction standard specified in § 6-815(a) of this subtitle.

38 (2) (i) Notwithstanding any other remedy that may be available, an owner
39 who fails to meet the requirements of subsections (b)(1) and (c) of this section, or of §
40 6-819(e) of this subtitle shall lose the liability protection under § 6-836 of this subtitle for
41 any alleged injury or loss caused by the ingestion of lead by a person at risk that is first

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1 documented by a test for EBL of 20 ug/dl or more on or after [October 1, 2004]
 2 FEBRUARY 24, 2006 in any of the owner's units that have not satisfied the risk reduction
 3 standard specified in § 6-815(a) of this subtitle, the inspection requirement of subsection
 4 (c) of this section, or the modified risk reduction standard specified in § 6-819(a) of this
 5 subtitle, as applicable.

6 6-819.

7 (c) (1) After [September 30, 1994] FEBRUARY 23, 1996, an owner of an
 8 affected property shall satisfy the modified risk reduction standard:

9 (i) Within 30 days after receipt of written notice that a person at risk
 10 who resides in the property has an elevated blood lead level greater than or equal to 15
 11 ug/dl; or

12 (ii) Except as provided in paragraph (2) of this subsection, within 30
 13 days after receipt of written notice from the tenant, or from any other source, of:

14 1. A defect; and

15 2. The existence of a person at risk in the affected property.

16 (2) After [September 30, 1994] FEBRUARY 23, 1996, and before
 17 [December 1, 1995] ~~APRIL~~ MAY 23, 1997, an owner of a number of affected properties
 18 shall satisfy the modified risk reduction standard within the specified period after receipt
 19 of written notice from the tenant, or from any other source, of a defect in accordance with
 20 the following schedule:

21 (i) For an owner of 300 or fewer affected properties, within 30 days;
 22 and

23 (ii) For an owner of more than 300 affected properties:

24 1. If the owner has received notice from the tenant, or from any
 25 other source, of the existence of a person at risk in the affected property, within 60 days;
 26 or

27 2. If the owner has not received notice from the tenant, or from
 28 any other source, of the existence of a person at risk in the affected property, within 90
 29 days.

30 (d) After [December 31, 1995] MAY 23, 1997, an owner of an affected property
 31 shall satisfy the modified risk reduction standard within 30 days after receipt of written
 32 notice from the tenant, or from any other source, of a defect.

33 (e) Except as provided in § 6-817(b) of this subtitle, on and after [October 1,
 34 2004] FEBRUARY 24, 2006, an owner of affected properties shall ensure that 100% of the
 35 owner's affected properties in which a person at risk does not reside have satisfied the
 36 modified risk reduction standard.

37 6-820.

38 (a) Except as provided in subsection (b) of this section, an owner of an affected
 39 property shall give to the tenant of the affected property a notice, prepared by the

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1 Department, of the tenant's rights under §§ 6-817 and 6-819 of this subtitle, according to
2 the following schedule:

3 (1) At least 25% of the owner's affected properties by [January 1, 1995]
4 MAY 25, 1996;

5 (2) At least 50% of the owner's affected properties by [April 1, 1995]
6 AUGUST 25, 1996;

7 (3) At least 75% of the owner's affected properties by [July 1, 1995]
8 NOVEMBER 25, 1996; and

9 (4) 100% of the owner's affected properties by [October 1, 1995]
10 FEBRUARY 25, 1997.

11 (b) [An] ON OR AFTER FEBRUARY 24, 1996, AN owner of an affected property
12 shall give to the tenant of the affected property a notice, prepared by the Department, of
13 the tenant's rights under §§ 6-817 and 6-819 of this subtitle upon the execution of a lease
14 or the inception of a tenancy.

15 6-823.

16 (a) By [December 1, 1994] MAY 23, 1996, an owner of an affected property shall
17 give to the tenant of each of the owner's affected properties a lead poisoning information
18 packet prepared or designated by the Department.

19 (b) On or after [October 1, 1994] FEBRUARY 24, 1996, upon the execution of a
20 lease or the inception of a tenancy for an affected property the owner of the affected
21 property shall give to the tenant a lead poisoning information packet prepared or
22 designated by the Department.

23 6-828.

24 (b) A person may not bring an action against an owner of an affected property for
25 damages arising from alleged injury or loss to a person at risk caused by the ingestion of
26 lead by a person at risk that is first documented by a test for EBL of 25 ug/dl or more
27 performed on or after [October 1, 1994] FEBRUARY 24, 1996, or 20 ug/dl or more
28 performed on or after [October 1, 1999] FEBRUARY 24, 2001, unless the owner has been
29 given:

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

32 (i) Greater than or equal to 25 ug/dl as first documented by a test for
33 EBL performed on or after [October 1, 1994] FEBRUARY 24, 1996; or

34 (ii) On or after [October 1, 1999] FEBRUARY 24, 2001, an EBL
35 greater than or equal to 20 ug/dl as first documented by a test for EBL performed on or
36 after [October 1, 1999] FEBRUARY 24, 2001; and

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

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1 6-830.

2 If, ON OR AFTER FEBRUARY 24, 1996, the concentration of lead in a whole venous
3 blood sample of a person at risk tested within 30 days after the person at risk begins
4 residence or to regularly spend at least 24 hours per week in an affected property that is
5 certified as being in compliance with the provisions of § 6-815 of this subtitle is greater
6 than or equal to 25 ug/dl, or, on and after [October 1, 1999] FEBRUARY 24, 2001, greater
7 than or equal to 20 ug/dl, it shall be presumed that the ingestion of lead occurred before
8 a person at risk began residing or regularly spending at least 24 hours per week in the
9 affected property.

10 6-843.

11 (a) (1) Except as provided in this subsection and subsection (b) of this section,
12 and in cooperation with the Department of Housing and Community Development, the
13 State Department of Assessments and Taxation, and other appropriate governmental
14 units, the Department shall provide for the collection of an annual fee for every rental
15 dwelling unit in the State.

16 (2) The annual fee for an affected property is \$10.

17 (3) (i) Subject to the provisions of subparagraphs (ii) and (iii) of this
18 paragraph, on or before December 31, 2000 the annual fee for a rental dwelling unit built
19 after 1949 that is not an affected property is \$5. After December 31, 2000 there is no
20 annual fee for a rental dwelling unit built after 1949 that is not an affected property.

21 (ii) The owner of a rental dwelling unit built after 1949 that is not an
22 affected property may not be required to pay the fee provided under this paragraph if the
23 owner certifies to the Department that the rental dwelling unit is lead free pursuant to §
24 6-804 of this subtitle.

25 (iii) An owner of a rental dwelling unit who submits a report to the
26 Department that the rental dwelling unit is lead free pursuant to § 6-804 of this subtitle
27 shall include a \$5 processing fee with the report.

28 (c) The fee imposed under this section shall be paid on or before December 31,
29 [1994] 1995, or the date of registration of the affected property under Part III of this
30 subtitle[, whichever is earlier,] and on or before December 31 of each year thereafter.

31 6-849.

32 (a) (1) The Department shall impose an administrative penalty on an owner
33 who fails to register an affected property by December 31, [1994] 1995 or within the time
34 period specified in § 6-811(a)(2) or § 6-812(b) of this subtitle or fails to renew or update
35 a registration as provided under § 6-812(a) of this subtitle. The administrative penalty
36 imposed shall be \$10 per day, calculated from the date compliance is required, for each
37 affected property which is not registered or for which registration is not renewed or
38 updated.

39 **Chapter 114 of the Acts of 1994**

40 SECTION 7. AND BE IT FURTHER ENACTED, That this Act shall be construed
41 only prospectively and may not be applied or interpreted to have any effect on or

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1 application to any event or conditions occurring before ~~the effective date of this Act~~
2 FEBRUARY 24, 1996, except for:

3 (1) The case of a person at risk with an elevated blood lead of 25 micrograms per
4 deciliter or more first documented by a test performed on or after [October 1, 1994]
5 FEBRUARY 24, 1996, or with an elevated blood lead of 20 micrograms per deciliter or
6 more first documented by a test performed on or after [October 1, 1999] FEBRUARY 24,
7 2001, if the elevated blood lead was caused by the ingestion of lead [prior to October,
8 1994] BEFORE FEBRUARY 24, 1996; [or]

9 (2) The acceptance of a qualified offer under § 6-835 of the Environment Article,
10 as enacted by this Act, if the alleged injury or loss caused by the ingestion of lead by the
11 person at risk in the affected property occurred before [October 1, 1994] FEBRUARY 24,
12 1996; OR

13 (3) THE OBLIGATION OF AN OWNER OF AN AFFECTED PROPERTY TO
14 REGISTER AND PAY AN ANNUAL FEE FOR THE AFFECTED PROPERTY BY DECEMBER
15 31, 1995 AND THE OBLIGATION OF AN OWNER OF A RENTAL DWELLING UNIT TO PAY
16 AN ANNUAL FEE AS REQUIRED UNDER § 6-843(A)(3) OF THE ENVIRONMENT ARTICLE
17 BY DECEMBER 31, 1995.

18 SECTION 8. AND BE IT FURTHER ENACTED, That, notwithstanding other
19 provisions of this Act, this Act shall apply [beginning on January 1, 1995] to insurance
20 policies issued or renewed [between October 1, 1994 and December 31, 1994.] ON OR
21 AFTER FEBRUARY 24, 1996.

22 SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland
23 read as follows:

24 **Article 48A - Insurance Code**

25 735.

26 (b) A lead hazard exclusion contained in a contract of insurance issued or
27 renewed on or after [January 1, 1995] FEBRUARY 24, 1996 shall be waived with respect
28 to an affected property which is covered under the policy, to the extent of a qualified offer
29 made or to be made under Part V of Title 6, Subtitle 8 of the Environment Article, if:

30 (1) The affected property is in compliance with the provisions of Part III of
31 Title 6, Subtitle 8 of the Environment Article;

32 (2) Without regard to whether a change in occupancy has occurred, and at
33 the election of the insured, the affected property:

34 (i) Passes the test for lead-contaminated dust under § 6-816 of the
35 Environment Article; or

36 (ii) Has undergone the lead hazard reduction treatments and complies
37 with the risk reduction standards under § 6-815(a)(2) of the Environment Article; and

38 (3) The insured submits to the authorized insurer a current verified report
39 of an accredited inspector under § 6-818 of the Environment Article certifying that the

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1 affected property complies with the standards set forth in paragraph (2) of this
2 subsection.

3 SECTION 3. AND BE IT FURTHER ENACTED, That the Laws of Maryland
4 read as follows:

5 **Article - Insurance**

6 19-704.

7 (d) If a policy issued or renewed by an authorized insurer on or after [January 1,
8 1995] FEBRUARY 24, 1996, for an affected property contains a lead hazard coverage
9 exclusion, the authorized insurer shall waive the exclusion to the extent of a qualified
10 offer made or to be made under Title 6, Subtitle 8, Part V of the Environment Article:

11 (1) if the owner of the affected property complies with Title 6, Subtitle 8,
12 Part III of the Environment Article;

13 (2) if at the election of the insured, and whether or not a change in
14 occupancy has occurred, the affected property:

15 (i) passes the test for lead-contaminated dust under § 6-816 of the
16 Environment Article; or

17 (ii) has undergone the lead hazard reduction treatments and complies
18 with the risk reduction standard under § 6-815(a)(2) of the Environment Article; and

19 (3) if the insured submits to the authorized insurer a current verified report
20 completed by an accredited inspector under § 6-818 of the Environment Article certifying
21 that the affected property complies with the standards set forth in item (2) of this
22 subsection.

23 SECTION 2- 4. AND BE IT FURTHER ENACTED, That Section 1 of this Act
24 shall take effect June 1, 1997.

25 SECTION 5. AND BE IT FURTHER ENACTED, That Section 2 of this Act shall
26 take effect June 1, 1997, and shall remain in effect until October 1, 1997.

27 SECTION 6. AND BE IT FURTHER ENACTED, That Section 3 of this Act shall
28 take effect October 1, 1997.