
By: **Delegate Workman**

Introduced and read first time: March 9, 1998

Assigned to: Rules and Executive Nominations

A BILL ENTITLED

1 AN ACT concerning

2 **Lead Paint - Limitations and Exemptions**

3 FOR the purpose of exempting certain owners of certain affected property from
4 certain requirements for accreditation, training, and fees relating to lead hazard
5 reduction; requiring the Department of the Environment to exempt certain lead
6 hazard reduction activities conducted by certain persons in certain properties
7 from certain practice standards; and generally relating to lead hazard reduction
8 activities.

9 BY repealing and reenacting, with amendments,
10 Article - Environment
11 Section 6-818, 6-819(k), 6-821, 6-843, and 6-1002
12 Annotated Code of Maryland
13 (1996 Replacement Volume and 1997 Supplement)

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

16 **Article - Environment**

17 6-818.

18 (a) Any person performing lead-contaminated dust testing or conducting
19 inspections required by this subtitle:

- 20 (1) Shall be accredited by the Department;
- 21 (2) May not be a related party to the owner; and
- 22 (3) Shall submit a verified report of the result of the lead-contaminated
23 dust testing or visual inspection to the Department, the owner, and the tenant, if any,
24 of the affected property.

25 (b) A report submitted to the Department under subsection (a) of this section
26 that certifies compliance for an affected property with the risk reduction standard
27 shall be conclusive proof that the owner is in compliance with the risk reduction

1 standard for the affected property during the period for which the certification is
2 effective, unless there is:

3 (1) Proof of actual fraud as to that affected property;

4 (2) [Proof] EXCEPT FOR PROPERTY SUBJECT TO § 6-821(D) OF THIS
5 SUBTITLE, PROOF that the work performed in the affected property was not
6 performed by or under the supervision of personnel accredited under § 6-1002 of this
7 title; or

8 (3) Proof that the owner failed to respond to a complaint regarding the
9 affected property as required by § 6-819 of this subtitle.

10 6-819.

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

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

19 (ii) [Proof] EXCEPT FOR PROPERTY SUBJECT TO § 6-821(D) OF THIS
20 SUBTITLE, PROOF that the work performed on the affected property was not
21 performed by or under the supervision of personnel accredited under § 6-1002 of this
22 title.

23 (2) The statement verified by the owner and the tenant of work
24 performed on the affected property in accordance with subsection (f)(1) of this section
25 shall contain a statement:

26 (i) Describing the modified risk reduction standard required under
27 this subtitle;

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

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

34 6-821.

35 (a) (1) Whenever an owner of an affected property intends to make repairs
36 or perform maintenance work that will disturb the paint on interior surfaces of an
37 affected property, the owner shall make reasonable efforts to ensure that all persons

1 who are not persons at risk are not present in the area where work is performed and
2 that all persons at risk are removed from the affected property when the work is
3 performed.

4 (2) A tenant shall allow access to an affected property, at reasonable
5 times, to the owner to perform any work required under this subtitle.

6 (3) If a tenant must vacate an affected property for a period of 24 hours
7 or more in order to allow an owner to perform work that will disturb the paint on
8 interior surfaces, the owner shall pay the reasonable expenses that the tenant incurs
9 directly related to the required relocation.

10 (b) (1) If an owner has made all reasonable efforts to cause the tenant to
11 temporarily vacate an affected property in order to perform work that will disturb the
12 paint on interior surfaces, and the tenant refuses to vacate the affected property, the
13 owner may not be liable for any damages arising from the tenant's refusal to vacate.

14 (2) If an owner has made all reasonable efforts to gain access to an
15 affected property in order to perform any work required under this subtitle, and the
16 tenant refuses to allow access, even after receiving reasonable advance notice of the
17 need for access, the owner may not be liable for any damages arising from the tenant's
18 refusal to allow access.

19 (c) All hazard reduction treatments required to be performed under this
20 subtitle shall be performed by or under the supervision of personnel accredited under
21 § 6-1002 of this title.

22 (D) (1) THIS SUBSECTION APPLIES TO AFFECTED PROPERTY THAT IS
23 OWNED AND OPERATED BY A SOLE PROPRIETOR OR TENANTS BY THE ENTIRETIES
24 WHO OWN TWO OR FEWER RENTAL DWELLING UNITS IN THE STATE.

25 (2) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, WORK
26 PRACTICE REQUIREMENTS, AND ACCREDITATION REQUIREMENTS ADOPTED UNDER
27 SUBTITLE 10 OF THIS TITLE MAY NOT BE REQUIRED FOR REPAIR, MAINTENANCE, OR
28 RENOVATION WORK OR RISK REDUCTION TREATMENTS IN AFFECTED PROPERTY
29 THAT RESULT IN DISTURBANCE OF A LEAD-CONTAINING SUBSTANCE ON SURFACES
30 INVOLVING 10 SQUARE FEET OR LESS OF SURFACE AREA IN A ROOM.

31 (3) THE PERSON PERFORMING REPAIR, MAINTENANCE, OR RENOVATION
32 WORK OR RISK REDUCTION TREATMENTS UNDER THIS SUBSECTION SHALL REMOVE
33 ALL VISIBLE DEBRIS FROM THE AFFECTED PROPERTY BEFORE THE PERSON LEAVES
34 THE AFFECTED PROPERTY.

35 6-843.

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

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

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

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

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

14 (b) The fees imposed under this section do not apply to any rental dwelling
15 unit:

16 (1) Built after 1978; [or]

17 (2) Owned and operated by a unit of federal, State, or local government,
18 or any public, quasi-public, or municipal corporation; OR

19 (3) OWNED AND OPERATED BY AN INDIVIDUAL OR TENANTS BY THE
20 ENTIRETIES WHO OWN TWO OR FEWER RENTAL DWELLING UNITS IN THE STATE.

21 (c) The fee imposed under this section shall be paid on or before December 31,
22 1995, or the date of registration of the affected property under Part III of this subtitle
23 and on or before December 31 of each year thereafter.

24 (d) An owner who fails to pay the fee imposed under this section is liable for a
25 civil penalty of up to triple the amount of each registration fee unpaid that, together
26 with all costs of collection, including reasonable attorney's fees, shall be collected in a
27 civil action in any court of competent jurisdiction.

28 6-1002.

29 (a) Except as provided in subsection (c) of this section, unless the person is
30 accredited by the Department under this subtitle, a person may not:

31 (1) Act as a contractor or supervisor for the purpose of providing lead
32 paint abatement services;

33 (2) Provide training to others who provide lead paint abatement services;
34 or

35 (3) Engage in the inspection of lead-based paint hazards.

1 (b) The Department shall, by regulation, create exceptions to the accreditation
2 requirement for instances where the disturbance of lead-containing substance is
3 incidental.

4 (c) (1) An individual who acts only as a worker or project designer need not
5 be accredited, but must be trained.

6 (2) AN INDIVIDUAL WHO OWNS AND OPERATES TWO OR FEWER
7 DWELLING UNITS AND PERFORMS LEAD HAZARD REDUCTION ACTIVITIES ON THE
8 INDIVIDUAL'S OWN RENTAL DWELLING UNITS MAY NOT BE REQUIRED TO BE
9 ACCREDITED OR TRAINED TO THE ACTIVITIES IN THOSE UNITS UNDER SUBTITLE 8
10 OF THIS TITLE.

11 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
12 October 1, 1998.