

Department of Legislative Services  
 Maryland General Assembly  
 2001 Session

FISCAL NOTE  
 Revised

House Bill 1163 (Delegate Oaks, *et al.*)

Environmental Matters

Judicial Proceedings

Environment - Lead Poisoning Prevention

This bill amends provisions under the Lead Paint Poisoning Prevention Program in the Maryland Department of the Environment (MDE) by expanding the requirements of landlords, modifying current provisions regarding the assessment of penalties related to violations of registration requirements, and expanding reporting requirements relating to blood tests for lead poisoning. The bill also establishes administrative penalties for violation of the blood test reporting requirements and modifies the membership of the Lead Poisoning Prevention Commission.

Fiscal Summary

**State Effect:** General fund expenditure increase of \$6,300 in FY 2002 related to the expanded reporting requirements. Future year estimates are annualized and adjusted for inflation. Potential increase in special fund revenues related to the assessment of penalties.

| (in dollars)   | FY 2002   | FY 2003   | FY 2004   | FY 2005   | FY 2006   |
|----------------|-----------|-----------|-----------|-----------|-----------|
| SF Revenue     | -         | -         | -         | -         | -         |
| GF Expenditure | 6,300     | 8,500     | 8,600     | 8,700     | 8,800     |
| Net Effect     | (\$6,300) | (\$8,500) | (\$8,600) | (\$8,700) | (\$8,800) |

Note:() = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate effect

**Local Effect:** Any increase in workload for local health departments could be handled with existing resources. If a local health department violates the reporting requirements, it would be subject to administrative penalties. No direct effect on revenues.

**Small Business Effect:** Potential meaningful.

## Analysis

**Bill Summary:** The bill expands current requirements of affected landlords under MDE's lead program by requiring that any chipping, peeling, or flaking paint on specified exterior and interior painted surfaces be removed or repainted in order to pass the test for lead-contaminated dust.

The bill also amends current provisions relating to MDE's authority to assess administrative penalties on an owner who fails to register an affected property or fails to renew or update a registration. The bill provides that the penalty imposed shall be *up to* \$10 per day and must be assessed with consideration given to specified items. The bill also amends MDE's existing authority to waive such penalties by providing that on or before March 31, 2002, MDE may waive an administrative penalty upon a showing of hardship or provided that: (1) the affected property is registered, the registration is renewed, or the registration is updated; (2) MDE has not initiated an enforcement action for violation of the lead law before that date upon which the property is registered or the registration is renewed or updated; and (3) all the owner's affected properties have been brought into compliance with the lead law, and 65% of the owner's affected properties have been certified in compliance with the full risk reduction requirements.

The bill also requires a medical laboratory, office, or other facility that draws blood for lead level analysis to obtain specified information and to forward that information to the lab performing the blood lead level testing. The bill requires a medical laboratory to report that information to MDE. The bill establishes a process for obtaining the information and sending it to MDE. A person who violates the reporting requirements or regulations is subject to an administrative civil penalty of up to \$250 per violation, not exceeding \$10,000. The administrative penalty must be assessed with consideration given to specified items. Each day a violation continues constitutes a separate offense.

The bill also modifies the membership of the Lead Poisoning Prevention Commission within MDE.

**Current Law:** By December 31, 1995, the owner of an affected property must register that property with MDE. No later than the first change in occupancy in an affected property that occurs on or after February 24, 1996, before the next tenant occupies the property, an owner must initially satisfy the risk reduction standard by passing the test for lead contaminated dust or performing specified lead hazard reduction treatments. MDE must establish procedures and standards for the optional lead-contaminated dust testing by regulation. The modified risk reduction standard consists of performing specified lead hazard reduction treatments. In lieu of satisfying the modified risk reduction standard, the owner of an affected property may elect to pass the test for lead-contaminated dust.

MDE must impose an administrative penalty on an owner who fails to register an affected property or fails to renew or update a registration. The administrative penalty imposed shall be \$10 per day, calculated from the date compliance is required. MDE may waive an administrative penalty upon showing of hardship.

A medical laboratory must report to MDE the results of all blood tests for lead poisoning performed on any child 18 years and under. The Lead Poisoning Prevention Commission in MDE consists of 18 members.

**Background:** Lead paint poisoning impacts the cognitive and physical development of young children. Children are exposed to lead through breathing lead paint dust, eating lead paint chips, or absorbing lead while in-vitro. Most of the exposures to lead can be eliminated by removing lead paint from the homes of children and pregnant women. Despite the efforts of State and local agencies and their private partners, lead paint remains a severe health issue, as indicated by the 772 cases of lead poisoning in 1998.

Chapter 411 of 1994 established the Lead Paint Poisoning Prevention Program in MDE. The program provides limited liability relief for owners of rental property built before 1950 and others in exchange for the reduction of lead hazards in these older rental properties and limited compensation of children poisoned by lead. The program also provides increased public health intervention. Although the program was due to begin in October 1994, controversy over MDE's proposed regulations delayed full implementation of the program until February 1996.

MDE is the State's leading agency because it identifies and monitors properties contaminated with lead paint. MDE's lead rental registry program requires property owners of residential rental units built before 1950 to annually register each rental unit with MDE. Affected properties must meet a risk reduction standard at turnover. Through MDE's enforcement program, rental property owners that are not compliant with lead paint laws may be prosecuted. According to MDE's *Annual Enforcement and Compliance Report* for fiscal 2000, 144,108 properties had been registered. MDE inspected approximately 10,200 sites and found that 133 sites had significant violations. MDE rendered 104 compliance assistance actions and issued 103 show cause, remedial, and corrective actions in fiscal 2000. MDE took 43 penalty actions and collected \$35,632 in penalties in fiscal 2000.

**State Expenditures:** General fund expenditures could increase by an estimated \$6,300 in fiscal 2002, which accounts for the bill's October 1, 2001 effective date. The estimate reflects the expanded reporting requirements for DHMH related to blood lead tests. DHMH advises that it receives approximately 30,000 lead specimens annually. As a result of the bill, DHMH estimates that it would be required to follow up with medical laboratories, offices, and facilities by registered mail for approximately 2,250 specimens

annually in order to obtain the required information. The estimate is based on a cost of \$3.74 per registered letter. Future year estimates are annualized and adjusted for inflation.

If DHMH fails to meet the bill's reporting requirements, it would be subject to the administrative penalties established by the bill.

**State Revenues:** The bill establishes administrative penalties for violation of the reporting requirements. Specifically, a person who violates the requirements is subject to a penalty of up to \$250 per violation, not exceeding \$10,000. It is assumed that such penalties would be paid into the Lead Poisoning Prevention Fund. Accordingly, special fund revenues would increase to the extent that any such penalties are assessed.

The bill's provision relating to the assessment and waiver of penalties related to violations of the current registration requirements is not expected to significantly affect special fund revenues.

**Small Business Effect:** The bill expands current requirements of affected landlords under MDE's lead program by requiring that any chipping, peeling, or flaking paint on specified exterior and interior painted surfaces be removed or repainted in order to pass the test for lead-contaminated dust. Depending on the number and/or size of affected units, the impact on some landlords could be minimal. However, the bill could have a meaningful impact on other landlords choosing to satisfy the risk reduction standard by passing the test for lead contaminated dust. To the extent that the expanded requirements result in an increase in the demand for small businesses involved with lead paint removal, the bill could result in an increase in revenues for those entities.

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### **Additional Information**

**Prior Introductions:** None.

**Cross File:** None.

**Information Source(s):** Maryland Department of the Environment, Department of Health and Mental Hygiene, Baltimore City, Department of Legislative Services

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