

Department of Legislative Services
Maryland General Assembly
2001 Session

FISCAL NOTE

Senate Bill 738 (Senator McFadden, *et al.*)
Judicial Proceedings

Lead Paint Poisoning - Testing and 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, providing MDE flexibility in the assessment of penalties, and modifying current provisions relating to the dedication of funds to specified programs. The bill also requires medical laboratories to report specified information to MDE and modifies the membership of the Lead Poisoning Prevention Commission.

Fiscal Summary

State Effect: The bill would not materially affect State operations or finances.

Local Effect: None. Any increased reporting requirements for local health departments could be handled with existing resources. 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 all chipping, peeling, and flaking paint on exterior and interior painted surfaces be removed and 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 that the penalty must be assessed with consideration given to specified items. The bill also amends MDE's existing authority to waive such penalties by providing that until 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 on or before March 31, 2002; (2) MDE has not initiated an enforcement action for violation of the registration requirements prior to that date upon which the property is registered or the registration is renewed or updated; and (3) all of the owner's affected properties are in compliance or the owner executes a consent order with MDE agreeing to bring all the owner's affected properties into compliance under the terms and conditions prescribed by MDE.

The bill codifies anticipated levels of funding for community outreach and education programs by providing that of the fees collected and paid into the Lead Paint Poisoning Prevention Fund pursuant to current law, at least \$250,000 per fiscal year beginning in fiscal 2004 must be dedicated to those programs.

The bill also requires a medical laboratory to report to MDE specified information related to blood tests for lead poisoning. 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 provide for the collection of an annual fee for every rental dwelling unit in the State. The annual fee for an affected property is \$10. Through December 31, 2000, the annual fee for a rental dwelling unit built after 1949 that is not an affected property is \$5. After December 31, 2000, there is no annual fee for a rental dwelling unit built after 1949 that is not an affected property. MDE must develop and establish community outreach programs to high lead risk areas, which may be implemented by MDE, local governments, or community groups. Of the fees generated and paid into the Lead Poisoning Prevention Fund, at least \$750,000 per fiscal year must be dedicated to the community outreach and education programs.

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 Fiscal Effect: Current law requires that of the fees paid into the Lead Paint Poisoning Prevention Fund, at least \$750,000 annually must be dedicated to community outreach and education programs implemented by MDE, local governments, or community groups. MDE advises however, that pursuant to current law, some of the fees that have historically been paid into the fund are no longer collected. Accordingly,

revenues to the fund will decrease from approximately \$1.2 million in fiscal 2001 to an estimated \$700,000 in fiscal 2002 and an estimated \$600,000 in fiscal 2003. Expenditures from the fund, however, will continue at approximately \$2 million annually through fiscal 2003. Accordingly, by fiscal 2004, the fund balance will essentially be depleted, and expenditures from the fund will total only the revenues collected in that year. MDE advises that depending on the amount of penalties that are collected beginning in fiscal 2004, expenditures to community outreach and education programs may vary but are estimated at approximately \$250,000 annually. Accordingly, the bill codifies the expected level of funding that will be available for those programs.

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

Local Revenues: Local health departments receive funding for community outreach and education programs from MDE's Lead Paint Poisoning Prevention Fund. According to MDE, local governments, including Baltimore City, currently receive approximately \$650,000 annually from the fund. Although the bill reduces the required amount of funding for these programs from at least \$750,000 annually to at least \$250,000 annually beginning in fiscal 2004, because the bill simply codifies the expected level of funding that will be available under current law as discussed above, the bill has no effect on local revenues.

Small Business Effect: The bill expands current requirements of affected landlords under MDE's lead program by requiring that all chipping, peeling, and flaking paint on exterior and interior painted surfaces be removed and 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.

Additional Information

Prior Introductions: None.

Cross File: None.

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

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