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Introduced and read first time: February 8, 2002
Assigned to: Environmental Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Lead Poisoning Protection Act**

3 FOR the purpose of requiring certain lead reduction treatments be included in certain
4 risk reduction standards; requiring a certain report to include
5 lead-contaminated dust testing and visual inspection; requiring the
6 Department of the Environment to establish certain procedures and standards
7 based on federal guidelines; requiring a certain person who desires to use
8 certain funds to purchase a house to complete certain counseling under certain
9 circumstances; providing that a certain qualified offer relating to the reduction
10 of lead risk in housing may provide a housing subsidy and other expenses for the
11 permanent relocation of the household; providing for a certain limit for the
12 housing subsidy; adding a certain requirement to a certain violation notice;
13 altering certain definitions; and generally relating to lead poisoning protection.

14 BY repealing and reenacting, with amendments,
15 Article - Environment
16 Section 6-801(m), (r), and (s), 6-815(a) and (b), 6-816, 6-818(a), 6-839(a),
17 6-840(a), and 6-849(a)
18 Annotated Code of Maryland
19 (1996 Replacement Volume and 2001 Supplement)

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

22 **Article - Environment**

23 6-801.

24 (m) "Lead-safe housing" means a rental OR OWNER-OCCUPIED dwelling unit
25 that:

26 (1) Is certified to be lead-free in accordance with § 6-804 of this subtitle;

1 (2) Was constructed after 1978;

2 (3) Is deemed to be lead-safe by the Department in accordance with
3 criteria established by the Department by regulation; or

4 (4) Is certified to be in compliance with § 6-815(a) of this subtitle and:

5 (i) In which all windows are either lead-free or have been treated
6 so that all friction surfaces are lead-free;

7 (ii) In which lead particulate levels are determined to be within
8 abatement clearance levels established by the Department by regulation, within 15
9 days prior to [the relocation of a person at risk to] OCCUPANCY OF the rental
10 dwelling unit [in accordance with a qualified offer made under Part V of this
11 subtitle]; and

12 (iii) Which is subject to ongoing maintenance and testing as
13 specified by the Department by regulation.

14 (r) "Relocation expenses" means all expenses necessitated by the relocation of
15 a tenant's household to lead-safe housing, including moving and hauling expenses,
16 the HEPA-vacuuming of all upholstered furniture, payment of a security deposit for
17 the lead-safe housing, DOWN PAYMENTS, EARNEST MONEY, CLOSING COSTS, and
18 installation and connection of utilities and appliances.

19 (s) "[Rent] HOUSING subsidy" means the difference between the rent paid by
20 a tenant for housing at the time a qualified offer is made under Part V of this subtitle
21 and the rent due for the lead-safe housing to which the tenant is relocated.

22 6-815.

23 (a) No later than the first change in occupancy in an affected property that
24 occurs on or after February 24, 1996, before the next tenant occupies the property, an
25 owner of an affected property shall initially satisfy the risk reduction standard
26 established under this subtitle by:

27 (1) Passing the test for lead-contaminated dust under § 6-816 of this
28 subtitle provided that any chipping, peeling, or flaking paint has been removed or
29 repainted on:

30 (i) The exterior painted surfaces of the residential building in
31 which the rental dwelling unit is located; and

32 (ii) The interior painted surfaces of the rental dwelling unit; [or]
33 AND

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

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

- 1 (ii) The removal and repainting of chipping, peeling, or flaking
2 paint on exterior and interior painted surfaces;
- 3 (iii) The repair of any structural defect that is causing the paint to
4 chip, peel, or flake that the owner of the affected property has knowledge of or, with
5 the exercise of reasonable care, should have knowledge of;
- 6 (iv) Stripping and repainting, replacing, or encapsulating all
7 interior windowsills with vinyl, metal, or any other material in a manner and under
8 conditions approved by the Department;
- 9 (v) Ensure that caps of vinyl, aluminum, or any other material in a
10 manner and under conditions approved by the Department, are installed in all
11 window wells in order to make the window wells smooth and cleanable;
- 12 (vi) Except for a treated or replacement window that is free of
13 lead-based paint on its friction surfaces, fixing the top sash of all windows in place in
14 order to eliminate the friction caused by movement of the top sash;
- 15 (vii) Rehanging all doors necessary in order to prevent the rubbing
16 together of a lead-painted surface with another surface;
- 17 (viii) Making all bare floors smooth and cleanable;
- 18 (ix) Ensure that all kitchen and bathroom floors are overlaid with a
19 smooth, water-resistant covering; and
- 20 (x) HEPA-vacuumping and washing of the interior of the affected
21 property with high phosphate detergent or its equivalent, as determined by the
22 Department.
- 23 (b) At each change in occupancy thereafter, before the next tenant occupies
24 the property, the owner of an affected property shall satisfy the risk reduction
25 standard established under this subtitle by:
- 26 (1) Passing the test for lead-contaminated dust under § 6-816 of this
27 subtitle; [or] AND
- 28 (2) (i) Repeating the lead hazard reduction treatments specified in
29 subsection (a)(2)(i), (ii), (iii), and (x) of this section; and
- 30 (ii) Ensuring that the lead hazard reduction treatments specified in
31 subsection (a)(2)(iv), (v), (vi), (vii), (viii), and (ix) of this section are still in effect.
- 32 6-816.
- 33 The Department shall establish procedures and standards BASED ON FEDERAL
34 GUIDELINES for the [optional] lead-contaminated dust testing by regulation.

1 6-818.

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

4 (1) Shall be accredited by the Department;

5 (2) May not be a related party to the owner; and

6 (3) Shall submit a verified report of the result of the lead-contaminated
7 dust testing [or] AND visual inspection to the Department, the owner, and the tenant,
8 if any, of the affected property.

9 6-839.

10 (a) Whenever a qualified offer is made under this part, the qualified offer
11 shall include payment for reasonable expenses and costs up to the amount specified in
12 § 6-840 of this subtitle for:

13 (1) The relocation of the household of the person at risk to lead-safe
14 housing of comparable size and quality that may provide:

15 (i) The permanent relocation of the household of the affected
16 person at risk to lead-safe housing, including relocation expenses, a [rent] HOUSING
17 subsidy, and incidental expenses; or

18 (ii) The temporary relocation of the household of the affected person
19 at risk to lead-safe housing while necessary lead hazard reduction treatments are
20 being performed in the affected property to make that affected property lead-safe;
21 and

22 (2) Medically necessary treatment for the affected person at risk as
23 determined by the treating physician or other health care provider or case manager of
24 the person at risk that is necessary to mitigate the effects of lead poisoning, as
25 defined by the Department by regulation, and, in the case of a child, until the child
26 reaches the age of 18 years.

27 (b) An offeror is required to pay reasonable expenses for the medically
28 necessary treatments under subsection (a)(2) of this section if coverage for these
29 treatments is not otherwise provided by the Maryland Medical Assistance Program
30 under Title 15, Subtitle 1 of the Health - General Article or by a third-party health
31 insurance plan under which the person at risk has coverage or in which the person at
32 risk is enrolled.

33 (c) A qualified offer shall include a certification by the owner of the affected
34 property, under the penalties of perjury, that the owner has complied with the
35 applicable provisions of Parts III and IV of this subtitle in a manner that qualifies the
36 owner to make a qualified offer under this part.

1 (d) A PERSON WHO DESIRES TO USE FUNDS FROM A QUALIFIED OFFER FOR
2 PURCHASING A HOUSE MUST FIRST COMPLETE COUNSELING ON BUDGETING,
3 CREDIT ISSUES, AND HOUSING AFFORDABILITY WITH A NONPROFIT ENTITY THAT:

4 (1) HAS BEEN CERTIFIED TO PERFORM HOUSING COUNSELING BY THE
5 UNITED STATES DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT; AND

6 (2) HAS BEEN DETERMINED BY THE INTERNAL REVENUE SERVICE TO
7 BE EXEMPT FROM TAXATION UNDER § 501(C)(3), § 510(C)(4), OR § 501(C)(6) OF THE
8 INTERNAL REVENUE CODE.

9 (E) The Department may adopt regulations that are necessary to carry out the
10 provisions of this section.

11 6-840.

12 (a) The amounts payable under a qualified offer made under this part are
13 subject to the following aggregate maximum caps:

14 (1) \$7,500 for all medically necessary treatments as provided and limited
15 in § 6-839(a) and (b) of this subtitle; and

16 (2) \$9,500 for relocation benefits which shall include:

17 (i) Relocation expenses;

18 (ii) A [rent] HOUSING subsidy, up to 150% of the existing rent each
19 month, for the period until the person at risk reaches the age of 6 years, or in the case
20 of a pregnant woman, until the child born as a result of that pregnancy reaches the
21 age of 6 years; and

22 (iii) Incidental expenses which may be incurred by the household,
23 such as transportation and child care expenses.

24 6-849.

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

32 (2) The penalty shall be assessed with consideration given to:

33 (i) The willfulness of the violation, the extent to which the
34 existence of the violation was known to the violator but uncorrected by the violator,
35 and the extent to which the violator exercised reasonable care;

1 (ii) The extent to which the violation resulted in actual harm to the
2 environment or to human health or safety;

3 (iii) The nature and degree of injury to or interference with general
4 welfare, health, and property;

5 (iv) The extent to which the current violation is part of a recurrent
6 pattern of the same or similar type of violation committed by the violator; and

7 (v) The extent to which the violation creates the potential for harm
8 to the environment or to human health or safety.

9 (3) IF AN OWNER RECEIVES A LEAD-HAZARD VIOLATION NOTICE, THE
10 DEPARTMENT OR A LOCAL HEALTH DEPARTMENT SHALL REQUIRE LEAD REDUCTION
11 INCLUDING LEAD-FREE WINDOW INSTALLATION IN DWELLINGS WHERE CHILDREN
12 WITH LEAD POISONING RESIDE, OR RECENTLY RESIDED.

13 (4) On or before March 31, 2002, the Department may waive an
14 administrative penalty under this subsection upon a showing of hardship or provided
15 that:

16 (i) The affected property is registered, the registration is renewed,
17 or the registration is updated;

18 (ii) The Department has not initiated an enforcement action for
19 violation of this subtitle before the date upon which the property is registered or the
20 registration is renewed or updated; and

21 (iii) All of the owner's affected properties have been brought into
22 compliance with this subtitle and 65% of the owner's affected properties have been
23 certified in compliance with the full risk reduction standards in accordance with §§
24 6-815 and 6-817(b) of this subtitle.

25 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
26 October 1, 2002.