

BY: Environmental Matters Committee

AMENDMENTS TO HOUSE BILL NO. 1245

(First Reading File Bill)

AMENDMENT NO. 1

On page 1, in the sponsor line, strike “and Quinter” and substitute “Quinter, and Holmes”; in line 2, strike “- Repossession by Landlord”; in line 4, after “of” insert “requiring a court to allow discovery limited solely to a certain issue, determine if there are any disputes of certain material fact, hold a certain evidentiary hearing, and determine as a matter of law whether an owner is entitled to certain immunity from liability in an action in which the owner’s immunity from liability under certain lead poisoning prevention provisions is challenged under certain circumstances; requiring the owner of residential property that is rented or leased to make certain statements under certain circumstances to the local government that regulates the residential property regarding the residential property and certain requirements regarding lead risk reduction; applying certain provisions of this Act to the regulation in any manner by a local government of residential property that is rented or leased; authorizing a local government to forward to the Department of the Environment any information obtained under certain provisions of this Act regarding residential property;”; in line 5, strike “satisfied” and substitute “registered the property as required under”; in line 6, strike “paint” and substitute “risk reduction”; in line 7, after “inspection” insert “certificate”; in the same line, after “number;” insert “providing that certain information required in a landlord’s written complaint in an action to repossess is not an issue of fact in a trial under certain circumstances; defining certain terms; providing for the application of certain provisions of this Act; providing for the effective dates of this Act;”; strike beginning with “a” in line 7 down through “property” in line 8 and substitute “compliance with lead poisoning prevention requirements”; after line 8, insert:

“BY adding to

Article - Environment

Section 6-836.1

Annotated Code of Maryland

(1996 Replacement Volume and 2003 Supplement)

(Over)

BY adding to

Article 24 - Political Subdivisions - Miscellaneous Provisions

Section 18-101 through 18-104, inclusive, to be under the new title “Title 18. Regulation of Residential Property for Rent or Lease”

Annotated Code of Maryland

(2001 Replacement Volume and 2003 Supplement)

BY repealing and reenacting, without amendments,

Article - Environment

Section 6-801(b) and (t), 6-803, 6-804, and 6-848.2

Annotated Code of Maryland

(1996 Replacement Volume and 2003 Supplement)”;

and in line 11, after “(b)” insert “and (c)”.

AMENDMENT NO. 2

On page 1, after line 15, insert:

“Article - Environment

6-836.1.

IN AN ACTION IN WHICH THE OWNER’S IMMUNITY FROM LIABILITY UNDER § 6-835 OR § 6-836 OF THIS SUBTITLE IS CHALLENGED, UPON MOTION BY ANY PARTY AND PRIOR TO AUTHORIZING FURTHER PROCEEDINGS IN THE ACTION, THE COURT SHALL:

(1) ALLOW DISCOVERY LIMITED SOLELY TO THE ISSUE OF THE OWNER’S IMMUNITY UNDER § 6-835 OR § 6-836 OF THIS SUBTITLE;

(2) DETERMINE IF THERE ARE ANY DISPUTES OF MATERIAL FACT AS TO WHETHER THE OWNER IS ENTITLED TO IMMUNITY UNDER § 6-835 OR § 6-836 OF THIS SUBTITLE;

(3) HOLD AN EVIDENTIARY HEARING ON ISSUES OF MATERIAL FACT AS TO THE IMMUNITY, IF ANY, WHICH SHALL, UPON REQUEST OF ANY PARTY, BE BEFORE A JURY; AND

(4) DETERMINE AS A MATTER OF LAW WHETHER THE OWNER IS ENTITLED TO IMMUNITY FROM LIABILITY UNDER § 6-835 OR § 6-836 OF THIS SUBTITLE.

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

Article 24 - Political Subdivisions - Miscellaneous Provisions

TITLE 18. REGULATION OF RESIDENTIAL PROPERTY FOR RENT OR LEASE.

18-101.

(A) IN THIS TITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(B) “AFFECTED PROPERTY” HAS THE MEANING STATED IN § 6-801(B) OF THE ENVIRONMENT ARTICLE.

(C) “LOCAL GOVERNMENT” MEANS:

(1) A COUNTY; OR

(2) A MUNICIPAL CORPORATION.

(D) (1) “RESIDENTIAL PROPERTY” MEANS A BUILDING OR A PORTION OF A BUILDING THAT PROVIDES COMPLETE LIVING FACILITIES, INCLUDING, AT A MINIMUM, FACILITIES FOR COOKING, SANITATION, AND SLEEPING.

(2) “RESIDENTIAL PROPERTY” INCLUDES:

(I) A SINGLE-FAMILY UNIT IN A MULTIFAMILY DWELLING ;

AND

(Over)

(II) A "RENTAL DWELLING UNIT" AS DEFINED UNDER § 6-801(T)
OF THE ENVIRONMENT ARTICLE.

18-102.

THIS TITLE APPLIES TO THE REGULATION IN ANY MANNER BY A LOCAL
GOVERNMENT OF RESIDENTIAL PROPERTY THAT IS RENTED OR LEASED, INCLUDING
REGULATION BY THE ISSUANCE OR RENEWAL OF:

(1) A LICENSE OR REGISTRATION TO AUTHORIZE THE OWNER OF
RESIDENTIAL PROPERTY TO ENGAGE IN THE BUSINESS OF RENTING OR LEASING
THE RESIDENTIAL PROPERTY;

(2) A LICENSE OR REGISTRATION TO AUTHORIZE RESIDENTIAL
PROPERTY TO BE RENTED OR LEASED; OR

(3) A CERTIFICATION THAT RESIDENTIAL PROPERTY THAT IS
RENTED OR LEASED IS IN COMPLIANCE WITH A LOCAL HOUSING, LIVABILITY, OR
PROPERTY MAINTENANCE CODE.

18-103.

BEFORE A LOCAL GOVERNMENT AUTHORIZES OR CERTIFIES RESIDENTIAL
PROPERTY TO BE RENTED OR LEASED, THE OWNER OF THE RESIDENTIAL PROPERTY
SHALL STATE IN WRITING TO THE LOCAL GOVERNMENT UNDER PENALTY OF
PERJURY:

(1) THAT THE RESIDENTIAL PROPERTY IS NOT AN AFFECTED
PROPERTY; OR

(2) (I) THAT THE RESIDENTIAL PROPERTY IS AN AFFECTED
PROPERTY THAT THE LANDLORD HAS REGISTERED AS REQUIRED UNDER § 6-811 OF
THE ENVIRONMENT ARTICLE AND FOR WHICH THE LANDLORD HAS RENEWED THE
REGISTRATION AS REQUIRED UNDER § 6-812 OF THE ENVIRONMENT ARTICLE; AND

(II) 1. IF THE CURRENT TENANT MOVED INTO THE PROPERTY ON OR AFTER FEBRUARY 24, 1996, THE INSPECTION CERTIFICATE NUMBER FOR THE INSPECTION CONDUCTED FOR THE CURRENT TENANCY AS REQUIRED UNDER § 6-815(C) OF THE ENVIRONMENT ARTICLE; OR

2. ON OR AFTER FEBRUARY 24, 2006, THE INSPECTION CERTIFICATE NUMBER FOR THE INSPECTION CONDUCTED FOR THE CURRENT TENANCY AS REQUIRED UNDER § 6-815(C), § 6-817(B), OR § 6-819(E) OF THE ENVIRONMENT ARTICLE.

8-104.

IN ADDITION TO REPORTING AS REQUIRED UNDER § 6-848.2 OF THE ENVIRONMENT ARTICLE ANY KNOWN NONCOMPLIANCE OF AN AFFECTED PROPERTY WITH THE PROVISIONS OF TITLE 6, SUBTITLE 8 OF THE ENVIRONMENT ARTICLE, A LOCAL GOVERNMENT MAY FORWARD TO THE DEPARTMENT OF THE ENVIRONMENT ANY INFORMATION OBTAINED UNDER THIS TITLE REGARDING RESIDENTIAL PROPERTY.

Article - Environment

6-801.

(b) (1) “Affected property” means:

(i) A property constructed before 1950 that contains at least one rental dwelling unit; or

(ii) Any residential rental property for which the owner makes an election under § 6-803(a)(2) of this subtitle.

(2) “Affected property” includes an individual rental dwelling unit within a multifamily rental dwelling.

(Over)

(3) “Affected property” does not include property exempted under § 6-803(b) of this subtitle.

(t) (1) “Rental dwelling unit” means a room or group of rooms that form a single independent habitable rental unit for permanent occupation by one or more individuals that has living facilities with permanent provisions for living, sleeping, eating, cooking, and sanitation.

(2) “Rental dwelling unit” does not include:

(i) An area not used for living, sleeping, eating, cooking, or sanitation, such as an unfinished basement;

(ii) A unit within a hotel, motel, or similar seasonal or transient facility;

(iii) An area which is secured and inaccessible to occupants; or

(iv) A unit which is not offered for rent.

6-803.

(a) This subtitle applies to:

(1) Affected property; and

(2) Notwithstanding subsection (b) of this section, any residential rental property, the owner of which elects to comply with this subtitle.

(b) This subtitle does not apply to:

(1) Property not expressly covered in subsection (a) of this section;

(2) Affected property owned or operated by a unit of federal, State, or local government, or any public, quasi-public, or municipal corporation, if the affected property is subject to lead standards that are equal to, or more stringent than, the risk reduction standard established

under § 6-815 of this subtitle; or

(3) Affected property which is certified to be lead-free pursuant to § 6-804 of this subtitle.

6-804.

(a) Affected property is exempt from the provisions of Part IV of this subtitle if the owner submits to the Department an inspection report that:

(1) Indicates that the affected property has been tested for the presence of lead-based paint in accordance with standards and procedures established by the Department by regulation;

(2) States that:

(i) All interior surfaces of the affected property are lead-free;

(ii) All exterior painted surfaces of the affected property that were chipping, peeling, or flaking have been restored with nonlead-based paint; and

(iii) No exterior painted surfaces of the affected property are chipping, peeling, or flaking; and

(3) Is verified by the Department accredited inspector who performed the test.

(b) In order to maintain exemption from the provisions of Part IV of this subtitle, the owner shall submit to the Department every 2 years a certification, by a Department accredited inspector, stating that no exterior painted surface of the affected property is chipping, peeling, or flaking.

6-848.2.

(Over)

A local government agency shall report to the Department any known noncompliance of an affected property with this subtitle.”.

AMENDMENT NO. 3

On page 2, strike beginning with “SATISFIED” in line 7 down through “6-819” in line 8 and substitute “REGISTERED THE AFFECTED PROPERTY AS REQUIRED UNDER § 6-811 OF THE ENVIRONMENT ARTICLE AND RENEWED THE REGISTRATION AS REQUIRED UNDER § 6-812”; in line 10, after “2.” insert “A.”; in the same line, after “PROPERTY” insert “ON OR”; in line 11, after the first “INSPECTION” insert “CERTIFICATE”; in line 12, strike “PRIOR TO” and substitute “FOR”; in line 13, after “ARTICLE” insert “; OR”

B. ON OR AFTER FEBRUARY 24, 2006, THE INSPECTION CERTIFICATE NUMBER FOR THE INSPECTION CONDUCTED FOR THE CURRENT TENANCY AS REQUIRED UNDER § 6-815(C), § 6-817(B), OR § 6-819(E) OF THE ENVIRONMENT ARTICLE”.

On page 3, after line 6, insert:

“(c) (1) If, at the trial on the fifth day indicated in subsection (b) of this section, the court is satisfied that the interests of justice will be better served by an adjournment to enable either party to procure their necessary witnesses, the court may adjourn the trial for a period not exceeding 1 day, except with the consent of all parties, the trial may be adjourned for a longer period of time.

(2) (i) THE INFORMATION REQUIRED UNDER SUBSECTION (B)(1)(V) OF THIS SECTION MAY NOT BE AN ISSUE OF FACT IN A TRIAL UNDER THIS SECTION.

(II) If, when the trial occurs, it appears to the satisfaction of the court, that the rent, or any part of the rent and late fees are actually due and unpaid, the court shall determine the amount of rent and late fees due as of the date the complaint was filed, if the trial occurs within the time specified by subsection (b)(3) of this section.

[(ii)] (III) 1. If the trial does not occur within the time specified in subsection (b)(3)(i) of this section and the tenant has not become current since the filing of the complaint, the court, if the complaint so requests, shall enter a judgment in favor of the landlord for

possession of the premises and determine the rent and late fees due as of the trial date.

2. The determination of rent and late fees shall include the following:

A. Rent claimed in the complaint;

B. Rent accruing after the date of the filing of the complaint;

C. Late fees accruing in or prior to the month in which the complaint was filed; and

D. Credit for payments of rent and late fees made by the tenant after the complaint was filed.

[(iii)] (IV) The court may also give judgment in favor of the landlord for the amount of rent and late fees determined to be due together with costs of the suit if the court finds that the residential tenant was personally served with a summons, or, in the case of a nonresidential tenancy, there was such service of process or submission to the jurisdiction of the court as would support a judgment in contract or tort.

[(iv)] (V) A nonresidential tenant who was not personally served with a summons shall not be subject to personal jurisdiction of the court if that tenant asserts that the appearance is for the purpose of defending an in rem action prior to the time that evidence is taken by the court.

(3) The court, when entering the judgment, shall also order that possession of the premises be given to the landlord, or the landlord's agent or attorney, within 4 days after the trial.

(4) The court may, upon presentation of a certificate signed by a physician certifying that surrender of the premises within this 4-day period would endanger the health or life of the tenant or any other occupant of the premises, extend the time for surrender of the premises as justice may require but not more than 15 days after the trial.

(Over)

(5) However, if the tenant, or someone for the tenant, at the trial, or adjournment of the trial, tenders to the landlord the rent and late fees determined by the court to be due and unpaid, together with the costs of the suit, the complaint against the tenant shall be entered as being satisfied.”.

AMENDMENT NO. 4

On page 3, before line 7, insert:

“SECTION 3. AND BE IT FURTHER ENACTED, That Section 1 of this Act shall be applied to all cases pending before a court of competent jurisdiction in which a trial has not commenced on or before June 1, 2004.

SECTION 4. AND BE IT FURTHER ENACTED, That Section 2 of this Act shall take effect October 1, 2004.”;

in line 7, strike “2.” and substitute “5.”; in the same line, after “That” insert “, except as provided in Section 4 of this Act,”; and in line 8, strike “October” and substitute “June”.