
By: **Delegates Carter, Anderson, Benson, C. Davis, Gutierrez, Hixson,
Howard, Kaiser, King, Murray, Oaks, Paige, Patterson, Ross, Taylor,
V. Turner, Vaughn, and Zirkin**

Introduced and read first time: February 12, 2004

Assigned to: Environmental Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Environment - Lead Poisoning Prevention**

3 FOR the purpose of requiring that the Lead Poisoning Prevention Fund in the
4 Department of the Environment consist of a certain percentage of the fees
5 collected and penalties imposed under the lead poisoning prevention laws;
6 establishing an Emergency Relocation Assistance Fund in the Department;
7 requiring that the Emergency Relocation Assistance Fund consist of certain
8 moneys; requiring the Department to use the Emergency Relocation Assistance
9 Fund to provide grants to certain tenants for the emergency relocation of the
10 tenants; providing for the administration of the Emergency Relocation
11 Assistance Fund; requiring the Department to adopt certain regulations
12 relating to the Emergency Relocation Assistance Fund; increasing certain
13 administrative penalties for violations of certain lead poisoning prevention laws;
14 reducing the number of days within which an owner must renew or update a
15 certain registration; reducing the number of days within which certain
16 violations of the lead poisoning prevention laws must be cured; imposing certain
17 criminal penalties on certain violations of certain lead poisoning prevention
18 laws; and generally relating to lead poisoning prevention.

19 BY repealing and reenacting, with amendments,
20 Article - Environment
21 Section 6-844(b), 6-849, and 6-850
22 Annotated Code of Maryland
23 (1996 Replacement Volume and 2003 Supplement)

24 BY repealing and reenacting, without amendments,
25 Article - Environment
26 Section 6-844(a)
27 Annotated Code of Maryland
28 (1996 Replacement Volume and 2003 Supplement)

29 BY adding to

1 Article - Environment
2 Section 6-844.1
3 Annotated Code of Maryland
4 (1996 Replacement Volume and 2003 Supplement)

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

7 **Article - Environment**

8 6-844.

9 (a) There is a Lead Poisoning Prevention Fund in the Department.

10 (b) The Fund consists of:

11 (1) [All] 50% OF THE fees collected and penalties imposed under this
12 subtitle; and

13 (2) Moneys received by grant, donation, appropriation, or from any other
14 source.

15 6-844.1.

16 (A) THERE IS AN EMERGENCY RELOCATION ASSISTANCE FUND IN THE
17 DEPARTMENT.

18 (B) THE FUND CONSISTS OF:

19 (1) 50% OF THE FEES COLLECTED AND PENALTIES IMPOSED UNDER
20 THIS SUBTITLE; AND

21 (2) MONEYS RECEIVED BY GRANT, DONATION, APPROPRIATION, OR
22 FROM ANY OTHER SOURCE.

23 (C) THE DEPARTMENT SHALL USE THE FUND TO PROVIDE GRANTS TO
24 TENANTS LIVING IN NONCOMPLIANT AFFECTED RENTAL PROPERTY FOR THE
25 EMERGENCY RELOCATION OF THE TENANTS.

26 (D) (1) THE FUND IS A CONTINUING, NONLAPSING SPECIAL FUND, AND IS
27 NOT SUBJECT TO § 7-302 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.

28 (2) THE TREASURER SHALL HOLD AND THE COMPTROLLER SHALL
29 ACCOUNT FOR THE FUND.

30 (3) THE FUND SHALL BE INVESTED AND REINVESTED AND ANY
31 INVESTMENT EARNINGS SHALL BE PAID INTO THE FUND.

1 (E) THE DEPARTMENT SHALL ADOPT REGULATIONS CONCERNING THE
2 EMERGENCY RELOCATION ASSISTANCE GRANTS, INCLUDING THE REQUIREMENTS
3 FOR APPLYING AND QUALIFYING FOR THE GRANTS.

4 6-849.

5 (a) (1) The Department shall impose an administrative penalty on an owner
6 who fails to register an affected property by December 31, 1995 or within the time
7 period specified in § 6-811(a)(2) or § 6-812(b) of this subtitle or fails to renew or
8 update a registration as provided under § 6-812(a) of this subtitle. The
9 administrative penalty imposed shall be up to [10] \$100 per day, calculated from the
10 date compliance is required, for each affected property which is not registered or for
11 which registration is not renewed or updated.

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

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

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

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

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

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

24 (3) On or before March 31, 2002, the Department may waive an
25 administrative penalty under this subsection upon a showing of hardship or provided
26 that:

27 (i) The affected property is registered, the registration is renewed,
28 or the registration is updated;

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

32 (iii) All of the owner's affected properties have been brought into
33 compliance with this subtitle and 65% of the owner's affected properties have been
34 certified in compliance with the full risk reduction standards in accordance with §§
35 6-815 and 6-817(b) of this subtitle.

36 (b) An owner who fails to renew or update a registration as required under §
37 6-812 of this subtitle within [90] 30 days after the date specified shall be deemed to

1 be out of compliance with the provisions of this subtitle, with respect to each affected
2 property to which that renewal or update relates, for purposes of § 6-836 of this
3 subtitle on the [91st] 31ST day after the date the renewal or update was required.

4 6-850.

5 (a) Except as provided in § 6-849 of this subtitle, in addition to any other
6 remedies provided in this subtitle, the provisions and procedures of §§ 7-256 through
7 7-264 and 7-266(b) of this article shall be used and shall apply to enforce violations of
8 this subtitle, provided that the penalty imposed under § 7-266(b)(2)(i) of this article
9 may not exceed [250] \$1,000 per day for any violation of this subtitle which is not
10 cured within [20] 10 days after receipt of notice of the violation by the owner.

11 (b) AN OWNER OF AN AFFECTED PROPERTY WHO VIOLATES ANY PROVISION
12 OF OR FAILS TO PERFORM ANY DUTY IMPOSED BY § 6-815, § 6-817, OR § 6-819 OF THIS
13 SUBTITLE OR ANY REGULATION ADOPTED UNDER ANY OF THOSE SECTIONS IS
14 GUILTY OF:

15 (1) FOR A FIRST OR SECOND VIOLATION, A MISDEMEANOR AND ON
16 CONVICTION IS SUBJECT TO A FINE NOT EXCEEDING \$25,000 OR IMPRISONMENT NOT
17 EXCEEDING 1 YEAR OR BOTH;

18 (2) FOR A THIRD OR FOURTH VIOLATION, A MISDEMEANOR AND ON
19 CONVICTION IS SUBJECT TO A FINE NOT EXCEEDING \$50,000 OR IMPRISONMENT NOT
20 EXCEEDING 3 YEARS OR BOTH; AND

21 (3) FOR A FIFTH OR SUBSEQUENT VIOLATION, A FELONY AND ON
22 CONVICTION IS SUBJECT TO A FINE NOT EXCEEDING \$100,000 OR IMPRISONMENT
23 NOT EXCEEDING 5 YEARS OR BOTH.

24 (C) If an accredited supervisor falsely verifies that work was performed on an
25 affected property pursuant to § 6-819(f) of this subtitle, the owner of the affected
26 property who employs the supervisor and who has actual knowledge of the false
27 verification shall be subject to a civil penalty not to exceed \$15,000.

28 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
29 October 1, 2004.