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McIntosh, Murray, and Quinter Quinter, and Holmes

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Assigned to: Environmental Matters

Committee Report: Favorable with amendments House action: Adopted with floor amendments

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CHAPTER

1 AN ACT concerning

2 Real Property - Repossession by Landlord - Compliance with Lead Poisoning Prevention Requirements

4 FOR the purpose of requiring a court to allow discovery limited solely to a certain

- 5 issue, determine if there are any disputes of certain material fact, hold a certain
- 6 evidentiary hearing, and determine as a matter of law whether an owner is
- 7 entitled to certain immunity from liability in an action in which the owner's
- 8 <u>immunity from liability under certain lead poisoning prevention provisions is</u>
- 9 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
- 12 <u>regarding the residential property and certain requirements regarding lead risk</u>
- 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
- 16 Environment any information obtained under certain provisions of this Act
- 17 <u>regarding residential property;</u> requiring a landlord's written complaint in an
- action to repossess certain property to state that the landlord has satisfied
- 19 <u>registered the property as required under certain requirements relating to lead</u>
- 20 paint risk reduction and to include, under certain circumstances, a certain
- 21 inspection <u>certificate</u> number <u>or a certain statement related to an owner</u>
- 22 performing certain work; providing that certain information required in a
- landlord's written complaint in an action to repossess is not an issue of fact in a
- 24 trial under certain circumstances; defining certain terms; providing for the
- application of certain provisions of this Act; providing for the effective dates of
- 26 this Act; and generally relating to a landlord's written complaint in an action to

1	repossess property compliance with lead poisoning prevention requirements.
2 3 4 5 6	BY adding to Article - Environment Section 6-836.1 Annotated Code of Maryland (1996 Replacement Volume and 2003 Supplement)
7 8 9 10 11 12	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)
13 14 15 16 17	Section 6-801(b) and (t), 6-803, 6-804, and 6-848.2 Annotated Code of Maryland
18 19 20 21 22	Annotated Code of Maryland
23 24	SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:
25	Article - Environment
26	<u>6-836.1.</u>
29	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:
31 32	(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;

	TO THE IM A JURY; Al		HOLD AN EVIDENTIARY HEARING ON ISSUES OF MATERIAL FACT AS , IF ANY, WHICH SHALL, UPON REQUEST OF ANY PARTY, BE BEFORE		
	4 (4) <u>DETERMINE AS A MATTER OF LAW WHETHER THE OWNER IS</u> 5 <u>ENTITLED TO IMMUNITY FROM LIABILITY UNDER § 6-835 OR § 6-836 OF THIS</u> 6 <u>SUBTITLE.</u>				
7 8	7 SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland 8 read as follows:				
9			Article 24 - Political Subdivisions - Miscellaneous Provisions		
10	1		TITLE 18. REGULATION OF RESIDENTIAL PROPERTY FOR RENT OR LEASE.		
11	<u>18-101.</u>				
12	<u>(A)</u>	IN THIS	TITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.		
13 14	13 <u>(B)</u> <u>"AFFECTED PROPERTY" HAS THE MEANING STATED IN § 6-801(B) OF THE</u> 14 <u>ENVIRONMENT ARTICLE.</u>				
15	<u>(C)</u>	"LOCA	_ GOVERNMENT" MEANS:		
16	į	<u>(1)</u>	A COUNTY; OR		
17		<u>(2)</u>	A MUNICIPAL CORPORATION.		
	BUILDING		"RESIDENTIAL PROPERTY" MEANS A BUILDING OR A PORTION OF A ROVIDES COMPLETE LIVING FACILITIES, INCLUDING, AT A PIES FOR COOKING, SANITATION, AND SLEEPING.		
21		<u>(2)</u>	"RESIDENTIAL PROPERTY" INCLUDES:		
22			(I) A SINGLE-FAMILY UNIT IN A MULTIFAMILY DWELLING; AND		
23 24		RONME	(II) A "RENTAL DWELLING UNIT" AS DEFINED UNDER § 6-801(T) OF NT ARTICLE.		
25	<u>18-102.</u>				
	GOVERNM	MENT OF	PLIES TO THE REGULATION IN ANY MANNER BY A LOCAL RESIDENTIAL PROPERTY THAT IS RENTED OR LEASED, INCLUDING THE ISSUANCE OR RENEWAL OF:		
	RESIDENT		A LICENSE OR REGISTRATION TO AUTHORIZE THE OWNER OF PERTY TO ENGAGE IN THE BUSINESS OF RENTING OR LEASING PROPERTY;		
32 33		(<u>2)</u> Y TO BE	A LICENSE OR REGISTRATION TO AUTHORIZE RESIDENTIAL 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.
4	<u>18-103.</u>
7	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:
9 10	OR (1) THAT THE RESIDENTIAL PROPERTY IS NOT AN AFFECTED PROPERTY;
13 14 15	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
17	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
21 22	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.
24 25 26 27 28	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.
30	Article - Environment
31	<u>6-801.</u>
32	(b) (1) "Affected property" means:
33 34	(i) A property constructed before 1950 that contains at least one rental dwelling unit; or
35 36	(ii) Any residential rental property for which the owner makes an election under § 6-803(a)(2) of this subtitle.

1 2	<u>a multifamil</u>	(2) y rental d	"Affected property" includes an individual rental dwelling unit within dwelling.			
3	6-803(b) of t	(3) his subtit	"Affected property" does not include property exempted under § itle.			
7		nat has li	"Rental dwelling unit" means a room or group of rooms that form a abitable rental unit for permanent occupation by one or more iving facilities with permanent provisions for living, sleeping, sanitation.			
9		<u>(2)</u>	"Rental dwelling unit" does not include:			
10 11	sanitation, s	uch as an	(i) unfinish	An area not used for living, sleeping, eating, cooking, or ed basement;		
12 13	facility;		<u>(ii)</u>	A unit within a hotel, motel, or similar seasonal or transient		
14			<u>(iii)</u>	An area which is secured and inaccessible to occupants; or		
15	5 (iv) A unit which is not offered for rent.			A unit which is not offered for rent.		
16	6 <u>6-803.</u>					
17	<u>(a)</u>	This sub	btitle applies to:			
18		<u>(1)</u>	Affected	l property; and		
19 20	property, the	(<u>2)</u> e owner o	Notwithstanding subsection (b) of this section, any residential rental of which elects to comply with this subtitle.			
21	<u>(b)</u>	This sub	btitle does not apply to:			
22		<u>(1)</u>	Property not expressly covered in subsection (a) of this section:			
25	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					
27 28	6-804 of this	(3) s subtitle.		I property which is certified to be lead-free pursuant to §		
29	<u>6-804.</u>					
30 31	(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;				
4	(2) States that:				
5		<u>(i)</u>	All interior surfaces of the affected property are lead-free;		
6 7	chipping, peeling, or	<u>(ii)</u> flaking ha	All exterior painted surfaces of the affected property that were ave been restored with nonlead-based paint; and		
8 9	chipping, peeling, or	<u>(iii)</u> flaking; a	No exterior painted surfaces of the affected property are nd		
10 11	Is verified by the Department accredited inspector who performed the test.				
14	2 (b) In order to maintain exemption from the provisions of Part IV of this 3 subtitle, the owner shall submit to the Department every 2 years a certification, by a 4 Department accredited inspector, stating that no exterior painted surface of the 5 affected property is chipping, peeling, or flaking.				
16	<u>6-848.2.</u>				
17 18	A local government agency shall report to the Department any known noncompliance of an affected property with this subtitle.				
	Article - Real Property				
19			Article - Real Property		
	8-401.		Article - Real Property		
20 21 22 23 24	(b) (1) which the landlord is landlord or the landlo	entitled u ord's duly der oath o	er any landlord shall desire to repossess any premises to under the provisions of subsection (a) of this section, the qualified agent or attorney shall file the landlord's or affirmation, in the District Court of the county		
20 21 22 23 24 25 26	(b) (1) which the landlord is landlord or the landlowritten complaint un	entitled u ord's duly der oath o	er any landlord shall desire to repossess any premises to under the provisions of subsection (a) of this section, the qualified agent or attorney shall file the landlord's or affirmation, in the District Court of the county		
20 21 22 23 24 25 26 27 28	(b) (1) which the landlord is landlord or the landlo written complaint unwherein the property	entitled uprd's duly der oath cis situate (i)	er any landlord shall desire to repossess any premises to under the provisions of subsection (a) of this section, the qualified agent or attorney shall file the landlord's or affirmation, in the District Court of the county d: Describing in general terms the property sought to be Setting forth the name of each tenant to whom the property is		
20 21 22 23 24 25 26 27 28 29	(b) (1) which the landlord is landlord or the landlo written complaint unwherein the property repossessed;	entitled uprd's duly der oath cis situate (i)	er any landlord shall desire to repossess any premises to under the provisions of subsection (a) of this section, the qualified agent or attorney shall file the landlord's or affirmation, in the District Court of the county d: Describing in general terms the property sought to be Setting forth the name of each tenant to whom the property is		

1 2	(V) IF THE PROPERTY TO BE REPOSSESSED IS AN AFFECTED PROPERTY AS DEFINED IN \S 6-801 OF THE ENVIRONMENT ARTICLE, STATING:
5 6	1. THAT THE LANDLORD HAS SATISFIED THE REQUIREMENTS OF §§ 6 811, 6 812, 6 815, AND 6 819 REGISTERED THE AFFECTED PROPERTY AS REQUIRED UNDER § 6-811 OF THE ENVIRONMENT ARTICLE AND RENEWED THE REGISTRATION AS REQUIRED UNDER § 6-812 OF THE ENVIRONMENT ARTICLE; AND ARTICLE AND:
10 11	2. <u>1. A.</u> IF THE CURRENT TENANT MOVED INTO THE PROPERTY <u>ON OR</u> AFTER FEBRUARY 24, 1996, <u>STATING</u> THE INSPECTION <u>CERTIFICATE</u> NUMBER FOR THE INSPECTION CONDUCTED <u>PRIOR TO FOR</u> THE CURRENT TENANCY AS REQUIRED UNDER § 6-815(C) OF THE ENVIRONMENT ARTICLE; <u>OR</u>
15	B. ON OR AFTER FEBRUARY 24, 2006, STATING 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; OR
17 18	2. STATING THAT THE OWNER IS UNABLE TO PROVIDE AN INSPECTION CERTIFICATE NUMBER BECAUSE:
	A. THE OWNER HAS REQUESTED THAT THE TENANT ALLOW THE OWNER ACCESS TO THE PROPERTY TO PERFORM THE WORK REQUIRED UNDER TITLE 6, SUBTITLE 8 OF THE ENVIRONMENT ARTICLE;
24 25	B. THE OWNER HAS OFFERED TO RELOCATE THE TENANT IN ORDER TO ALLOW THE OWNER TO PERFORM WORK IF THE WORK WILL DISTURB THE PAINT ON THE INTERIOR SURFACES OF THE PROPERTY AND TO PAY THE REASONABLE EXPENSES THE TENANT WOULD INCUR DIRECTLY RELATED TO THE RELOCATION; AND
	C. THE TENANT HAS REFUSED TO ALLOW ACCESS TO THE OWNER OR REFUSED TO VACATE THE PROPERTY IN ORDER FOR THE OWNER TO PERFORM THE REQUIRED WORK.
32	(2) For the purpose of the court's determination under subsection (c) of this section the landlord shall also specify the amount of rent due for each rental period under the lease, the day that the rent is due for each rental period, and any late fees for overdue rent payments.
	(3) The District Court shall issue its summons, directed to any constable or sheriff of the county entitled to serve process, and ordering the constable or sheriff to notify the tenant, assignee, or subtenant by first-class mail:
37 38	(i) To appear before the District Court at the trial to be held on the fifth day after the filing of the complaint; and

1 2	(ii) To answer the landlord's complaint to show cause why the demand of the landlord should not be granted.
	(4) (i) The constable or sheriff shall proceed to serve the summons upon the tenant, assignee, or subtenant or their known or authorized agent as follows:
	1. If personal service is requested and any of the persons whom the sheriff shall serve is found on the property, the sheriff shall serve any such persons; or
11	2. If personal service is requested and none of the persons whom the sheriff is directed to serve shall be found on the property and, in all cases where personal service is not requested, the constable or sheriff shall affix an attested copy of the summons conspicuously upon the property.
15 16 17	(ii) The affixing of the summons upon the property after due notification to the tenant, assignee, or subtenant by first-class mail shall conclusively be presumed to be a sufficient service to all persons to support the entry of a default judgment for possession of the premises, together with court costs, in favor of the landlord, but it shall not be sufficient service to support a default judgment in favor of the landlord for the amount of rent due.
21	(5) Notwithstanding the provisions of paragraphs (1) through (4) of this subsection, in Wicomico County, in an action to repossess any premises under this section, service of process on a tenant may be directed to any person authorized under the Maryland Rules to serve process.
25 26	(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.
28 29	(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.
32 33	(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.
37 38	[(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.

1 2	following:	<u>2.</u>	The determination of rent and late fees shall include the		
3		<u>A.</u>	Rent claimed in the complaint;		
4		<u>B.</u>	Rent accruing after the date of the filing of the complaint;		
5 6	complaint was filed; and	<u>C.</u>	Late fees accruing in or prior to the month in which the		
7 8	tenant after the complaint was	<u>D.</u> filed.	Credit for payments of rent and late fees made by the		
11 12 13	suit if the court finds that the summons, or, in the case of a	residentia nonreside	The court may also give judgment in favor of the landlord ermined to be due together with costs of the all tenant was personally served with a ential tenancy, there was such service of process court as would support a judgment in contract		
17	6 with a summons shall not be subject to personal jurisdiction of the court if that tenant				
		given to	entering the judgment, shall also order that the landlord, or the landlord's agent or		
24 25	2 (4) The court may, upon presentation of a certificate signed by a 3 physician certifying that surrender of the premises within this 4-day period would 4 endanger the health or life of the tenant or any other occupant of the premises, extend 5 the time for surrender of the premises as justice may require but not more than 15 6 days after the trial.				
29	adjournment of the trial, tende	ers to the l, togethe	enant, or someone for the tenant, at the trial, or landlord the rent and late fees determined by r with the costs of the suit, the complaint eing satisfied.		
		g before a	ER ENACTED, That Section 1 of this Act shall a court of competent jurisdiction in which a trial 1, 2004.		
34 35	SECTION 4. AND BE IT take effect October 1, 2004.	FURTH	ER ENACTED, That Section 2 of this Act shall		
36 37	SECTION 2-5. AND BE Section 4 of this Act, this Act		ΓΗΕR ENACTED, That <u>, except as provided in</u> e effect October <u>June</u> 1, 2004.		