

Department of Legislative Services
Maryland General Assembly
2004 Session

FISCAL AND POLICY NOTE

House Bill 1012 (Delegate Carter, *et al.*)
Environmental Matters

Environment - Lead Poisoning Prevention

This bill establishes an Emergency Relocation Assistance Fund (ERAF) as a continuing, nonlapsing, special fund within the Maryland Department of the Environment (MDE). The fund consists of 50% of the fees collected and penalties imposed under MDE's Lead Poisoning Prevention Program, which are currently paid into the Lead Poisoning Prevention Fund. MDE must use the new fund to provide grants for the emergency relocation of tenants living in noncompliant affected rental property. MDE must adopt regulations regarding the grant process. The bill also increases existing administrative penalties and establishes new criminal penalties for violations of specified provisions of the Lead Poisoning Prevention Program.

Fiscal Summary

State Effect: Total special fund revenues could increase or decrease depending on the deterrent effect of the bill's enhanced penalty provisions; special fund expenditures would increase or decrease correspondingly. Based on FY 2003 revenues, an estimated \$329,816 in FY 2005 and \$439,754 annually thereafter would be diverted from the existing fund to the new fund. Instead of being used for outreach/education grants to locals, the funds would be used to provide grants to tenants (estimated at \$225,000 in FY 2005 and about \$300,000 annually thereafter) and to administer the new grant program.

Local Effect: Local grant revenues for outreach and education activities would decrease by an estimated \$329,816 in FY 2005 and \$439,754 annually thereafter.

Small Business Effect: None, assuming rental property owners are in compliance.

Analysis

Bill Summary: The bill increases the maximum administrative penalties that may be imposed and accelerates the enforcement of violations. MDE may impose an administrative penalty of up to \$100 per day on an owner of an affected property who fails to register that property with MDE. An owner is considered out of compliance 30 days after the date by which the owner was required to register. MDE may impose an administrative penalty of up to \$1,000 per day for other violations of Title 6, Subtitle 8 of the Environment Article (Reduction of Lead Risk in Housing) 10 days after receipt of notice of a violation.

The bill establishes criminal penalties for violations of specified provisions relating to risk reduction standards. An owner of an affected property who violates such provisions is guilty of: (1) for a first or second violation, a misdemeanor, and on conviction is subject to a fine of up to \$25,000 or imprisonment for up to one year, or both; (2) for a third or fourth violation, a misdemeanor and on conviction is subject to a fine of up to \$50,000 or imprisonment for up to three years, or both; and (3) for a fifth or subsequent violation, a felony and on conviction is subject to a fine of up to \$100,000 or imprisonment for up to five years, or both.

Current Law: Chapter 114 of 1994 established the Lead Poisoning Prevention Program in MDE. The program provides limited liability relief for owners of affected property (generally, rental property built before 1950) and others in exchange for the reduction of lead hazards in these older rental properties and limited compensation for children poisoned by lead. A qualified offer by a landowner to a person at risk, or a parent or legal guardian of a minor at risk, covers up to \$7,500 for all medically necessary treatments and up to \$9,500 for relocation benefits.

MDE is the State's leading agency because it identifies and monitors properties contaminated with lead paint. The annual registration fee for an affected property is \$10 per unit. An owner of a rental unit who submits a report to MDE that the rental unit is lead-free is subject to a one-time \$5 processing fee. Fees are paid into the Lead Poisoning Prevention Fund in MDE, along with penalties and any money received by grant, donation, appropriation, or from any other source. MDE must use the fund to cover the costs of fulfilling its duties and responsibilities and those of the Lead Poisoning Prevention Commission under Title 6, Subtitle 8 of the Environment Article (Reduction of Lead Risk in Housing) and for program development.

The owner of an affected property had to register that property with MDE by December 31, 1995. Owners must renew registrations annually by December 31. New owners must register affected properties within 30 days of acquisition. At each change in occupancy, before the next tenant occupies the property, an owner must satisfy the risk-reduction

standard by passing the test for lead-contaminated dust or performing specified lead-hazard-reduction treatments. An affected property is exempt from the risk-reduction standards under specified conditions.

An owner who fails to renew or update a registration within 90 days after the date specified is deemed to be out of compliance. MDE must impose an administrative penalty on an owner who fails to register an affected property within the specified time frame. The penalty is up to \$10 per day for each affected property not registered or for which the registration is not renewed or updated. For violations of other provisions of Subtitle 8, in addition to other specified remedies, MDE is authorized to impose an administrative penalty of up to \$250 per day for any violation not cured within 20 days after receipt of notice of the violation by the owner.

MDE is required to develop and establish community outreach programs to high lead-risk areas; these may be implemented by MDE, local governments, or community groups. MDE must dedicate at least \$750,000 of fee revenue from the Lead Poisoning Prevention Fund to such programs.

Background: Lead 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-utero. Most of the exposures to lead can be eliminated by removing lead paint from the homes of children and pregnant women. Although the number of cases of childhood lead poisoning in Maryland has decreased significantly over the past few years (from 1,830 cases in 1996 to 260 cases in 2002), lead paint remains a significant health issue.

State Fiscal Effect: Because the bill diverts existing revenues from one special fund within MDE to another, total special fund finances would only be affected to the extent the bill's enhanced penalty provisions affect total penalties collected or increase compliance with the program. While penalty revenues could increase or decrease depending on the deterrent effect of the enhanced penalty provisions, an increase in compliance could result in an increase in total fees collected by MDE. The net effect cannot be reliably estimated at this time. Accordingly, total special fund revenues could increase or decrease, and special fund expenditures would increase or decrease correspondingly.

According to MDE, in fiscal 2003, \$669,073 in fee revenue and \$210,435 in penalty revenue was deposited into the Lead Poisoning Prevention Fund. Based on MDE's fiscal 2003 revenues, the amount that would be diverted from the Lead Poisoning Prevention Fund to the new fund would total an estimated \$329,816 in fiscal 2005 (which reflects the bill's October 1, 2004 effective date) and \$439,754 annually thereafter. As a result, MDE advises that it would likely decrease local grants for outreach and education programs by

those amounts. In fiscal 2004, approximately \$525,000 in grants will be provided to local governments for such activities.

Revenues to ERAF (estimated at \$329,816 in fiscal 2005 and \$439,754 annually thereafter, as described above) would be used to administer the new grant program and to provide grants to tenants living in noncompliant affected rental property for emergency relocation purposes. Expenditures from the new fund would total an estimated \$329,816 in fiscal 2005. This estimate reflects grants to tenants totaling \$225,000. It also reflects administrative costs of approximately \$104,816, which includes the cost of hiring two administrative specialists to review grant applications and one secretary to handle the associated paperwork. It includes salaries, fringe benefits, one-time start-up costs, and ongoing operating expenses. The information and assumptions used in calculating the total estimated expenditures from the new fund are stated below:

- a significant number of tenants will apply for grants;
- MDE will provide about 112 grants in fiscal 2005; and
- the average grant will total an estimated \$2,000.

Grants to Tenants	\$225,000
Salaries and Fringe Benefits	93,385
Equipment/Operating Expenses	<u>11,431</u>
Total FY 2005 ERAF Expenditures	\$329,816

Future year expenditures from ERAF, which, based on the estimated revenue stream, would total \$439,754 annually, reflect: (1) full salaries with 4.6% annual increases and 3% employee turnover; (2) 1% annual increases in ongoing operating expenses; and (3) approximately 150 grants provided to tenants. Grants are anticipated to total approximately \$300,000 annually beginning in fiscal 2006. (Legislative Services notes that, based on the estimated revenue stream, the total amount of funding available for grants will likely decrease slightly over time to accommodate increases in administrative expenses.)

The criminal penalty provisions of this bill are not expected to significantly affect State expenditures.

Local Fiscal Effect: Local environmental health departments receive grants from MDE from the Lead Poisoning Prevention Fund for education and outreach activities. In fiscal 2004, approximately \$525,000 will be provided for such activities. Based on the

estimated decrease in revenues from the existing fund, grants to local jurisdictions for lead outreach and education activities will decrease by an estimated \$329,816 in fiscal 2005 and \$439,754 annually thereafter.

The criminal penalty provisions of this bill are not expected to significantly affect local expenditures.

Additional Comments: The Governor's proposed budget for fiscal 2005 includes \$4,258,631 for the Lead Poisoning Prevention Program (\$1,379,793 in general funds, \$1,513,720 in special funds, and \$1,365,118 in federal funds). The proposed Budget Financing Act of 2004 (SB 508/HB 869) increases fees associated with the Lead Poisoning Prevention Fund, and the proposed Budget Reconciliation Act of 2004 (SB 510/HB 871) removes the ongoing mandate for \$750,000 of fee revenue to be used for community outreach and education programs. The proposed fee increases are anticipated to generate an additional \$347,500 annually for the fund. The Governor's proposed fiscal 2005 budget includes restrictive language that reduces the general fund appropriation for the Lead Poisoning Prevention Program by \$350,000 contingent upon the enactment of legislation increasing fees for services within the program and removing restrictions on the use of funds.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Maryland Department of the Environment, Department of Legislative Services

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lc/ljm

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