

Department of Legislative Services
 Maryland General Assembly
 2004 Session

FISCAL AND POLICY NOTE
Revised

House Bill 1245 (Delegate Oaks, *et al.*)

Environmental Matters

Judicial Proceedings

Real Property – Compliance with Lead Poisoning Prevention Requirements

This bill makes various changes to the duties of an owner of residential real property that is an “affected property” under the Reduction of Lead Risk in Housing Program administered by the Maryland Department of the Environment (MDE).

Fiscal Summary

State Effect: Minimal increase (approximately \$12,500) in general fund expenditures in FY 2005 for the District Court to modify the Failure to Pay Rent/Landlord’s Complaint for Repossession of Rented Property form and for associated printing costs.

(in dollars)	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009
Revenues	\$0	\$0	\$0	\$0	\$0
GF Expenditure	12,500	0	0	0	0
Net Effect	(\$12,500)	\$0	\$0	\$0	\$0

Note:() = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate effect

Local Effect: The bill would not materially affect local operations or finances.

Small Business Effect: Minimal, assuming affected landlords are in compliance with the requirements of the Reduction of Lead Risk in Housing Program.

Analysis

Bill Summary: When a property owner’s immunity is challenged in an action under the reduction of lead risk reduction provisions, the bill requires the court to hold an evidentiary hearing on the immunity, which must, on request, be before the jury. These

provisions apply to all cases pending before a court of competent jurisdiction in which a trial has not commenced by June 1, 2004. These provisions take effect June 1, 2004. The remainder of the bill takes effect October 1, 2004.

The bill requires the owner of residential real property, before a local government authorizes or certifies the property to be rented or leased, to state in writing under penalty of perjury: (1) that the property is not an affected property under the lead risk reduction provisions; or (2) if an affected property, that the property is registered and the inspection certificate number for the property.

The bill authorizes a local government to forward to MDE any information obtained under the bill regarding residential property.

The bill requires a landlord wishing to repossess an affected property for a tenant's failure to pay to include in the written complaint required under current law a statement that the landlord has registered the affected property as required and renewed the registration and: (1) if the current tenant moved into the property after February 24, 1996, the inspection number for the inspection conducted prior to the current tenancy; or (2) on or after February 24, 2006, the inspection certificate number for the inspection conducted for the current tenancy.

Alternatively, the landlord must include a statement that the landlord is unable to provide an inspection certificate number because: (1) the landlord has requested that the tenant allow access to the property to perform remedial work; (2) the landlord has offered to relocate the tenant if the work would disturb the interior surface paint and pay the tenant's reasonable relocation expenses; and (3) the tenant has refused to allow access or refused to vacate the property so that the required work can be done. This information may not be an issue of fact in a trial for repossession of the property.

Current Law: Chapter 114 of 1994 established the Lead Paint Poisoning Prevention Program in MDE. The program provides limited liability relief for owners of rental property built before 1950 and others in exchange for the reduction of lead hazards in these older rental properties and limited compensation of children poisoned by lead. By December 31, 1995, the owner of an affected property must have registered that property with MDE. 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.

A "qualified offer" by a landowner in such instances covers up to \$7,500 for all medically necessary treatments and up to \$9,500 for relocation benefits. Relocation

benefits include relocation expenses, incidental expenses, and a rent subsidy of up to 150% of the existing rent each month for the period until the person at risk reaches the age of six years, or in the case of a pregnant woman, until the child born reaches the age of six years. "Relocation expenses" includes all expenses necessitated by the relocation of a tenant's household to "lead-safe housing," including moving and hauling expenses, specified vacuuming of all upholstered furniture, payment of a security deposit for the lead-safe housing, and installation and connection of utilities and appliances.

A person at risk of lead poisoning, or the parent or legal guardian of a minor who is a person at risk, may accept a qualified offer within 30 days after receiving it, unless the parties agree otherwise. Generally, if the offer has not been accepted within 30 days following its receipt, it is deemed to have been rejected. Acceptance of a qualified offer releases the offeror, the offeror's insured or principal, and any participating co-offeror from all potential liability for all alleged injury or loss caused by the ingestion of lead by a person at risk in the affected property. An owner of affected property is not liable for alleged injury or loss caused by ingestion of lead by a person at risk in the affected property if, during the period of the alleged ingestion of lead, the owner: (1) has given the required notices to the tenant; and (2) was in compliance with the registration provisions and applicable risk reduction and response standards.

Whenever a tenant or tenants fail to pay the rent when due and payable, the landlord may repossess the premises. Whenever any landlord desires to do so, the landlord or the landlord's agent or attorney must file the landlord's written complaint in the District Court of the county where the property is located. The written complaint must include a description of the property, the names of each tenant, the amount of rent and any late fees due and unpaid, a request to repossess the premises, and, if requested by the landlord, a judgment for the amount of rent due, costs, and any late fees.

Background: The regulations implementing the Lead Paint Poisoning Prevention Program took effect February 24, 1996.

Additional Information

Prior Introductions: A similar bill, HB 720 of 2003, received an unfavorable report from the House Economic Matters Committee.

Cross File: None.

Information Source(s): Judiciary (Administrative Office of the Courts), Office of the Attorney General (Consumer Protection Division), Department of Legislative Services

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