

Department of Legislative Services
Maryland General Assembly
2004 Session

FISCAL AND POLICY NOTE

House Bill 628 (Delegate McIntosh)
Environmental Matters

**Local Governments – Regulation of Residential Property for Rent or Lease –
Lead Risk Reduction Requirements**

This bill requires residential rental property owners to certify to the local government that regulates the property that the property is not an affected property under the Lead Poisoning Prevention Program administered by the Maryland Department of the Environment (MDE); that it is certified as lead-free; or that it is in compliance with the registration and lead risk reduction requirements of that program. The bill authorizes a local government to forward to MDE any information obtained regarding residential property.

Fiscal Summary

State Effect: Potential increase in special fund revenues to the extent the bill increases compliance with MDE’s Lead Poisoning Prevention Program or results in an increase in penalties assessed for noncompliance. Expenditures would not be materially affected.

Local Effect: The bill’s changes could be handled with existing local resources.

Small Business Effect: Minimal.

Analysis

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. MDE is the State's leading agency because it identifies and monitors properties contaminated with lead paint. By December 31, 1995, the owner of an affected property must register 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 if the owner submits to MDE an inspection report that meets specified requirements. 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.

Enforcement includes right of entry, administrative search warrants, written complaints, issuance of notices or orders, injunctive relief, loss of protection from liability, administrative penalties, civil penalties, and criminal penalties. A local government agency is required to report to MDE any known noncompliance of an affected property.

Several local jurisdictions regulate residential rental property owners and/or their properties. For example, Anne Arundel, Howard, Montgomery, and Prince George's counties and the Town of Easton require owners of rental housing to be licensed. In Anne Arundel County, a separate license is also required for each multiple dwelling or rooming house. Howard County's law explicitly states that rental units must comply with MDE's regulations for lead-based paint. Baltimore City requires owners to register each rental unit; in addition, multi-family rental dwellings and rooming houses must be licensed.

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.

According to MDE's *Annual Enforcement and Compliance Report (Fiscal Year 2003)*, a total of 105,901 rental dwelling units in 86,210 properties (including those built between 1950 and 1978 that opt into the program) were registered at the end of fiscal 2003. Approximately 12,400 sites were inspected in fiscal 2003; of those, 366 sites had significant violations. MDE rendered 65 compliance assistance actions and issued 447 show cause, remedial, and corrective actions in fiscal 2003. MDE took one penalty

action and collected \$239,660 in penalties in fiscal 2003. MDE referred one case to the Attorney General for possible criminal action.

State Revenues: Although the number of affected properties not currently registered with MDE is unknown, MDE advises that, based on 2000 Census data, there are 134,530 rental units in the State built before 1950; 66,878 of those are currently registered. To the extent the bill increases compliance with MDE's Lead Poisoning Prevention Program, special fund revenues from registration and lead-free report processing fees would increase. Special fund revenues could also increase to the extent the bill results in increased penalties assessed for noncompliance.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Maryland Department of the Environment, Baltimore City, Town of Elkton, Town of Thurmont, Carroll County, Harford County, St. Mary's County, Department of Legislative Services

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