
By: **The Speaker (By Request - Administration) and Delegates Arnick, Aumann, Bartlett, Boschert, Boteler, Boutin, Burns, Carter, V. Clagett, Cluster, Cryor, C. Davis, DeBoy, Donoghue, Doory, Eckardt, Edwards, Elliott, Elmore, Frank, Frush, Fulton, Goodwin, Haddaway, Hammen, Hogan, Holmes, Jennings, Kach, Kelly, Kirk, Krebs, Love, McComas, McHale, McIntosh, McKee, McMillan, Minnick, Moe, Morhaim, Murray, Myers, Nathan-Pulliam, O'Donnell, Parrott, Quinter, Rosenberg, Shank, Shewell, Smigel, Sossi, Stull, Taylor, Trueschler, Walkup, Weir, Weldon, and Wood**

Introduced and read first time: January 25, 2005

Assigned to: Environmental Matters and Health and Government Operations

A BILL ENTITLED

1 AN ACT concerning

2 **Waste Management Administration - Lead Poisoning Prevention**

3 FOR the purpose of making winter work waivers automatic except under certain
4 conditions; reducing the elevated blood lead level required to make a certain
5 qualified offer; reducing the elevated blood lead level that initiates a certain
6 notice to property owners; requiring property owners to perform certain
7 procedures for a certain event; eliminating the grace period for certain
8 violations; providing a transition period for residential rental property change in
9 ownership; altering certain definitions; and generally relating to lead poisoning
10 prevention.

11 BY repealing and reenacting, with amendments,
12 Article - Environment
13 Section 6-801(g), 6-804, 6-815(d), 6-817, 6-819(c), (e), and (j), 6-828, 6-830,
14 6-846, and 6-850
15 Annotated Code of Maryland
16 (1996 Replacement Volume and 2004 Supplement)

17 BY adding to
18 Article - Environment
19 Section 6-815(f) and 6-819(l)
20 Annotated Code of Maryland
21 (1996 Replacement Volume and 2004 Supplement)

22 BY repealing and reenacting, without amendments,
23 Article - Environment

1 Section 6-815(e) and 6-819(f) and (g)
2 Annotated Code of Maryland
3 (1996 Replacement Volume and 2004 Supplement)

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

6 **Article - Environment**

7 6-801.

8 (g) "Exterior surfaces" means:

9 (1) All fences and porches that are part of an affected property;

10 (2) All outside surfaces of an affected property that are accessible to a
11 child and that ARE:

12 (i) [Are attached] ATTACHED to the outside of an affected
13 property; or

14 (ii) [Consist of other] OTHER buildings AND STRUCTURES,
15 INCLUDING PLAY EQUIPMENT, BENCHES, AND LAUNDRY LINE POLES, that are part of
16 the affected property, EXCEPT BUILDINGS OR STRUCTURES OWNED BY PUBLIC
17 UTILITIES, CABLE PROVIDERS OR A UNIT OF FEDERAL, STATE, OR LOCAL
18 GOVERNMENT, OR ANY PUBLIC, QUASI-PUBLIC, OR MUNICIPAL CORPORATION; and

19 (3) All painted surfaces in stairways, hallways, entrance areas,
20 recreation areas, laundry areas, and garages within a multifamily rental dwelling
21 unit that are common to individual dwelling units and are accessible to a child.

22 6-804.

23 (a) Affected property is exempt from the provisions of Part IV of this subtitle
24 if the owner submits to the Department an inspection report that:

25 (1) Indicates that the affected property has been tested for the presence
26 of lead-based paint in accordance with standards and procedures established by the
27 Department by regulation;

28 (2) States that:

29 (i) All interior AND EXTERIOR surfaces of the affected property are
30 lead-free; OR

31 (ii) All INTERIOR SURFACES OF THE AFFECTED PROPERTY ARE
32 LEAD-FREE AND NO exterior painted surfaces of the affected property [that were]
33 ARE chipping, peeling, or flaking [have been restored with nonlead-based paint; and

1 (iii) No exterior painted surfaces of the affected property are
2 chipping, peeling, or flaking]; and

3 (3) Is verified by the Department accredited inspector who performed
4 the test.

5 (b) In order to maintain exemption from the provisions of Part IV of this
6 subtitle UNDER (A)(2)(II) OF THIS SECTION, the owner shall submit to the Department
7 every 2 years a certification, by a Department accredited inspector, stating that no
8 exterior painted surface of the affected property is chipping, peeling, or flaking.

9 6-815.

10 (d) (1) Exterior work required to satisfy the risk reduction standard may be
11 delayed[, pursuant to a waiver approved by the appropriate person under paragraph
12 (2) of this subsection,] during any time period in which exterior work is not required
13 to be performed under an applicable local housing code or, if no such time period is
14 specified, during the period from November 1 through April 1, inclusive UNLESS
15 OTHERWISE ORDERED BY THE CODE OFFICIAL FOR ENFORCEMENT OF THE HOUSING
16 CODE OR MINIMUM LIVABILITY CODE OF THE LOCAL JURISDICTION.

17 (2) [A waiver under paragraph (1) of this subsection may be approved by
18 the code official for enforcement of the housing code or minimum livability code of the
19 local jurisdiction, or, if there is no such official, the Department of Housing and
20 Community Development.

21 (3) Notwithstanding the terms of the waiver, all] ALL work delayed in
22 accordance with paragraph (1) of this subsection shall be completed within 30 days
23 after the end of the applicable time period.

24 [(4)] (3) Any delay allowed under paragraph (1) of this subsection may
25 not affect the obligation of the owner to complete all other components of the risk
26 reduction standard and to have those components inspected and verified.

27 [(5)] (4) If the owner has complied with the requirements of paragraph
28 [(4)] (3) of this subsection, the owner may rent the affected property during any
29 period of delay allowed under paragraph (1) of this subsection.

30 (e) On request of a local jurisdiction, the Secretary may designate the code
31 official for enforcement of the housing code or minimum livability code for the local
32 jurisdiction, or an appropriate employee of the local jurisdiction, to conduct
33 inspections under this subtitle.

34 (F) (1) EXCEPT AS PROVIDED IN § 6-819(C)(3) OF THIS SUBTITLE AND IN
35 PARAGRAPH (2) OF THIS SUBSECTION, ON OR AFTER OCTOBER 1, 2005, AN OWNER
36 WHO ACQUIRES, THROUGH AN ARM'S LENGTH TRANSACTION, ONE OR MORE
37 AFFECTED PROPERTIES THAT ARE NOT IN COMPLIANCE WITH THIS SECTION AND IN
38 WHICH NO PERSON AT RISK RESIDES SHALL SATISFY THE PROVISIONS OF THIS
39 SECTION IN ACCORDANCE WITH THE FOLLOWING SCHEDULE:

1 (I) FOR AN OWNER ACQUIRING 1 AFFECTED PROPERTY THAT IS
2 NOT IN COMPLIANCE, WITHIN 30 DAYS;

3 (II) FOR AN OWNER ACQUIRING 2 TO 5 AFFECTED PROPERTIES
4 THAT ARE NOT IN COMPLIANCE, WITHIN 90 DAYS;

5 (III) FOR AN OWNER ACQUIRING 6 TO 10 AFFECTED PROPERTIES
6 THAT ARE NOT IN COMPLIANCE, WITHIN 135 DAYS; AND

7 (IV) FOR AN OWNER ACQUIRING MORE THAN 10 AFFECTED
8 PROPERTIES THAT ARE NOT IN COMPLIANCE, WITHIN 180 DAYS.

9 (2) ON OR AFTER OCTOBER 1, 2005, AN OWNER WHO ACQUIRES,
10 THROUGH AN ARM'S LENGTH TRANSACTION, AN AFFECTED PROPERTY THAT IS NOT
11 IN COMPLIANCE WITH THIS SECTION AND IN WHICH A PERSON AT RISK RESIDES
12 SHALL SATISFY THE PROVISIONS OF THIS SECTION WITHIN 30 DAYS.

13 6-817.

14 (a) (1) On and after February 24, 2001, an owner of affected properties shall
15 ensure that at least 50% of the owner's affected properties have satisfied the risk
16 reduction standard specified in § 6-815(a) of this subtitle, without regard to the
17 number of affected properties in which there has been a change in occupancy.

18 (2) (i) Notwithstanding any other remedy that may be available, an
19 owner who fails to meet the requirements of subsections (a)(1) and (c) of this section
20 shall lose the liability protection under § 6-836 of this subtitle for any alleged injury
21 or loss caused by the ingestion of lead by a person at risk that is first documented by
22 a test for EBL of 20 ug/dl or more PERFORMED on or after February 24, 2001, OR 15
23 UG/DL OR MORE PERFORMED ON OR AFTER FEBRUARY 24, 2006, in any of the owner's
24 units that have not satisfied the risk reduction standard specified in § 6-815(a) of this
25 subtitle and the inspection requirement of subsection (c) of this section.

26 (ii) The liability protection under § 6-836 of this subtitle shall be
27 reinstated ON OR AFTER THE DATE THAT THE OWNER MEETS THE REQUIREMENTS
28 OF SUBSECTIONS (A)(1) AND (C) OF THIS SECTION for any alleged injury or loss caused
29 by the ingestion of lead by a person at risk that is first documented by a test for EBL
30 of 20 ug/dl or more PERFORMED ON OR AFTER FEBRUARY 24, 2001, OR 15 UG/DL OR
31 MORE PERFORMED ON OR AFTER FEBRUARY 24, 2006 [on or after the date that the
32 owner meets the requirements of subsections (a)(1) and (c) of this section].

33 (b) (1) On and after February 24, 2006, an owner of affected properties shall
34 ensure that 100% of the owner's affected properties in which a person at risk resides,
35 and of whom the owner has been notified in writing, have satisfied the risk reduction
36 standard specified in § 6-815(a) of this subtitle.

37 (2) (i) Notwithstanding any other remedy that may be available, an
38 owner who fails to meet the requirements of subsections (b)(1) and (c) of this section,
39 or of § 6-819(e) of this subtitle shall lose the liability protection under § 6-836 of this
40 subtitle for any alleged injury or loss caused by the ingestion of lead by a person at

1 risk that is first documented by a test for EBL of [20] 15 ug/dl or more on or after
2 February 24, 2006 in any of the owner's units that have not satisfied the risk
3 reduction standard specified in § 6-815(a) of this subtitle, the inspection requirement
4 of subsection (c) of this section, or the modified risk reduction standard specified in §
5 6-819(a) of this subtitle, as applicable.

6 (ii) The liability protection under § 6-836 of this subtitle shall be
7 reinstated for any alleged injury or loss caused by the ingestion of lead that is first
8 documented by a test for EBL of [20] 15 ug/dl or more after the date that the owner
9 meets the requirements of subsections (b)(1) and (c) of this section and the
10 requirements of § 6-819(e) of this subtitle.

11 (iii) The provisions of this paragraph do not apply if the owner
12 proves that the noncompliance results from:

13 1. A tenant's lack of cooperation with the owner's compliance
14 efforts; or

15 2. Legal action affecting access to the unit.

16 (3) Notice given under subsection (b)(1) of this section shall be sent by:

17 (i) Certified mail, return receipt requested; or

18 (ii) A verifiable method approved by the Department.

19 (c) On each occasion that an affected property which has not undergone a
20 change in occupancy is treated to satisfy the requirements of this section, the owner of
21 the affected property shall have the property inspected to verify that the risk
22 reduction standard specified in § 6-815(a) has been satisfied.

23 (d) The owner of an affected property shall be responsible for the cost of any
24 temporary relocation of the tenants of the affected property that is necessary to fulfill
25 the requirements of this section.

26 (E) (1) EXCEPT AS PROVIDED IN § 6-819(C)(3) OF THIS SUBTITLE AND
27 PARAGRAPH (2) OF THIS SUBSECTION, ON OR AFTER OCTOBER 1, 2005, AN OWNER
28 WHO ACQUIRES, THROUGH AN ARM'S LENGTH TRANSACTION, ONE OR MORE
29 AFFECTED PROPERTIES SHALL SATISFY THE PROVISIONS OF THIS SECTION IN
30 ACCORDANCE WITH THE FOLLOWING SCHEDULE:

31 (I) FOR AN OWNER ACQUIRING 1 AFFECTED PROPERTY, WITHIN 30
32 DAYS;

33 (II) FOR AN OWNER ACQUIRING 2 TO 5 AFFECTED PROPERTIES,
34 WITHIN 90 DAYS;

35 (III) FOR AN OWNER ACQUIRING 6 TO 10 AFFECTED PROPERTIES,
36 WITHIN 135 DAYS; AND

1 (IV) FOR AN OWNER ACQUIRING MORE THAN 10 AFFECTED
2 PROPERTIES, WITHIN 180 DAYS.

3 (2) ON OR AFTER FEBRUARY 24, 2006, AN OWNER WHO ACQUIRES,
4 THROUGH AN ARM'S LENGTH TRANSACTION, AN AFFECTED PROPERTY IN WHICH A
5 PERSON AT RISK RESIDES, SHALL SATISFY THE PROVISIONS OF THIS SECTION
6 WITHIN 30 DAYS.

7 6-819.

8 (c) (1) After February 23, 1996, an owner of an affected property shall
9 satisfy the modified risk reduction standard:

10 (i) Within 30 days after receipt of written notice that a person at
11 risk who resides in the property has an elevated blood lead level DOCUMENTED BY A
12 TEST FOR EBL greater than or equal to 15 ug/dl BEFORE FEBRUARY 24, 2006, OR
13 GREATER THAN OR EQUAL TO 10 UG/DL ON OR AFTER FEBRUARY 24, 2006; or

14 (ii) Except as provided in paragraph (2) of this subsection, within
15 30 days after receipt of written notice from the tenant, or from any other source, of:

16 1. A defect; and

17 2. The existence of a person at risk in the affected property.

18 (2) IF AN OWNER OF AN AFFECTED PROPERTY SATISFIES THE
19 PROVISIONS OF (F) OR (G) OF THIS SECTION AFTER THE DATE OF AN ELEVATED
20 BLOOD LEAD LEVEL, AS DOCUMENTED BY A TEST, EQUAL TO OR GREATER THAN 15
21 UG/DL OR A NOTICE OF DEFECT, THE OWNER SHALL HAVE MET THE REQUIREMENTS
22 OF THE MODIFIED RISK REDUCTION STANDARD.

23 (3) [After February 23, 1996, and before May 23, 1997, an owner of a
24 number of affected properties shall satisfy the modified risk reduction standard
25 within the specified period after receipt of written notice from the tenant, or from any
26 other source, of a defect in accordance with the following schedule:

27 (i) For an owner of 300 or fewer affected properties, within 30 days;
28 and

29 (ii) For an owner of more than 300 affected properties:

30 1. If the owner has received notice from the tenant, or from
31 any other source, of the existence of a person at risk in the affected property, within
32 60 days; or

33 2. If the owner has not received notice from the tenant, or
34 from any other source, of the existence of a person at risk in the affected property,
35 within 90 days.] ON OR AFTER OCTOBER 1, 2005, AN OWNER WHO ACQUIRES,
36 THROUGH AN ARM'S LENGTH TRANSACTION, AN AFFECTED PROPERTY THAT IS NOT

1 IN COMPLIANCE WITH THIS SUBSECTION SHALL SATISFY THE PROVISIONS OF THIS
2 SECTION WITHIN 30 DAYS AFTER ACQUISITION.

3 (e) Except as provided in § 6-817(b) of this subtitle, on and after February 24,
4 2006, an owner of affected properties shall:

5 (1) [ensure] ENSURE that 100% of the owner's affected properties in
6 which a person at risk does not reside have satisfied the modified risk reduction
7 standard; AND

8 (2) EXCEPT AS PROVIDED IN SUBSECTION (C)(3) OF THIS SECTION, ON OR
9 AFTER FEBRUARY 24, 2006, AN OWNER WHO ACQUIRES, THROUGH AN ARM'S LENGTH
10 TRANSACTION, AN AFFECTED PROPERTY IN WHICH NO PERSON AT RISK RESIDES
11 SHALL SATISFY THE PROVISIONS OF THIS SECTION IN ACCORDANCE WITH THE
12 FOLLOWING SCHEDULE:

13 (I) FOR AN OWNER ACQUIRING 1 AFFECTED PROPERTY, WITHIN 30
14 DAYS;

15 (II) FOR AN OWNER ACQUIRING 2 TO 5 AFFECTED PROPERTIES,
16 WITHIN 90 DAYS;

17 (III) FOR AN OWNER ACQUIRING 6 TO 10 AFFECTED PROPERTIES,
18 WITHIN 135 DAYS; AND

19 (IV) FOR AN OWNER ACQUIRING MORE THAN 10 AFFECTED
20 PROPERTIES, WITHIN 180 DAYS.

21 (f) (1) An owner of an affected property shall verify satisfaction of the
22 modified risk reduction standard by submitting a statement of the work performed on
23 the property, verified by the tenant and an accredited supervisor or contractor, to the
24 Department on or before the tenth day of the month following the month in which the
25 work was completed.

26 (2) (i) If the tenant fails or refuses to verify the statement of work
27 performed on the affected property, the owner shall within 5 business days of the
28 failure or refusal, contact an inspector accredited under § 6-818(a) of this subtitle to
29 inspect the affected property.

30 (ii) The inspector's report shall either certify that the work required
31 to be performed under this section was satisfactorily completed or specify precisely
32 what additional work is required.

33 (iii) If additional work is required:

34 1. The owner shall have 20 days after receipt of the
35 inspector's report in which to perform the work, subject to a weather delay under the
36 provisions of subsection (j) of this section; and

1 (b) A person may not bring an action against an owner of an affected property
2 for damages arising from alleged injury or loss to a person at risk caused by the
3 ingestion of lead by a person at risk that is first documented by a test for EBL of 25
4 ug/dl or more performed on or after February 24, 1996, or 20 ug/dl or more performed
5 on or after February 24, 2001, OR 15 UG/DL OR MORE PERFORMED ON OR AFTER
6 FEBRUARY 24, 2006, unless the owner has been given:

7 (1) Written notice from any person that the elevated blood level of a
8 person at risk is:

9 (i) Greater than or equal to 25 ug/dl as first documented by a test
10 for EBL performed on or after February 24, 1996; [or]

11 (ii) On or after February 24, 2001, an EBL greater than or equal to
12 20 ug/dl as first documented by a test for EBL performed on or after February 24,
13 2001; OR

14 (III) ON OR AFTER FEBRUARY 24, 2006, AN EBL GREATER THAN OR
15 EQUAL TO 15 UG/DL AS FIRST DOCUMENTED BY A TEST FOR EBL PERFORMED ON OR
16 AFTER FEBRUARY 24, 2006; and

17 (2) An opportunity to make a qualified offer under § 6-831 of this
18 subtitle.

19 6-830.

20 If, on or after February 24, 1996, the concentration of lead in a whole venous
21 blood sample of a person at risk tested within 30 days after the person at risk begins
22 residence or to regularly spend at least 24 hours per week in an affected property that
23 is certified as being in compliance with the provisions of § 6-815 of this subtitle is
24 greater than or equal to 25 ug/dl, or, on and after February 24, 2001, greater than or
25 equal to 20 ug/dl, OR, ON OR AFTER FEBRUARY 24, 2006, GREATER THAN OR EQUAL TO
26 15 UG/DL, it shall be presumed that the ingestion of lead occurred before a person at
27 risk began residing or regularly spending at least 24 hours per week in the affected
28 property.

29 6-846.

30 (a) A local health department that receives the results of a blood lead test
31 under § 6-303 of this title indicating that a person at risk has an EBL greater than or
32 equal to 15 ug/dl BEFORE FEBRUARY 24, 2006, OR GREATER THAN OR EQUAL TO 10
33 UG/DL ON OR AFTER FEBRUARY 24, 2006, shall notify:

34 (1) The person at risk, or in the case of a minor, the parent of the person
35 at risk, of the results of the test; and

36 (2) The owner of the affected property in which the person at risk resides
37 or regularly spends at least 24 hours per week of the results of the test.

1 (b) The notices to be provided to the parent or owner under subsection (a) of
2 this section shall be on the forms prepared by the Department, and shall contain any
3 information required by the Department.

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 per day for any violation of this subtitle [which is not cured
10 within 20 days after receipt of notice of the violation by the owner].

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

15 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
16 October 1, 2005.