
By: **The President (By Request - Administration) and Senators Astle,
Brinkley, Della, Hafer, Harris, Klausmeier, Lawlah, McFadden,
Middleton, Schrader, and Stoltzfus**

Introduced and read first time: January 21, 2005

Assigned to: Judicial Proceedings

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
24 Section 6-815(e) and 6-819(f) and (g)
25 Annotated Code of Maryland
26 (1996 Replacement Volume and 2004 Supplement)

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

3 **Article - Environment**

4 6-801.

5 (g) "Exterior surfaces" means:

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

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

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

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

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

19 6-804.

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

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

25 (2) States that:

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

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

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

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

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

5 6-815.

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

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

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

20 [(4)] (3) Any delay allowed under paragraph (1) of this subsection may
21 not affect the obligation of the owner to complete all other components of the risk
22 reduction standard and to have those components inspected and verified.

23 [(5)] (4) If the owner has complied with the requirements of paragraph
24 [(4)] (3) of this subsection, the owner may rent the affected property during any
25 period of delay allowed under paragraph (1) of this subsection.

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

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

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

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

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

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

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

9 6-817.

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

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

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

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

33 (2) (i) Notwithstanding any other remedy that may be available, an
34 owner who fails to meet the requirements of subsections (b)(1) and (c) of this section,
35 or of § 6-819(e) of this subtitle shall lose the liability protection under § 6-836 of this
36 subtitle for any alleged injury or loss caused by the ingestion of lead by a person at
37 risk that is first documented by a test for EBL of [20] 15 ug/dl or more on or after
38 February 24, 2006 in any of the owner's units that have not satisfied the risk
39 reduction standard specified in § 6-815(a) of this subtitle, the inspection requirement
40 of subsection (c) of this section, or the modified risk reduction standard specified in §
41 6-819(a) of this subtitle, as applicable.

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

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

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

10 2. Legal action affecting access to the unit.

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

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

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

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

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

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

26 (I) FOR AN OWNER ACQUIRING 1 AFFECTED PROPERTY, WITHIN 30
27 DAYS;

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

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

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

34 (2) ON OR AFTER FEBRUARY 24, 2006, AN OWNER WHO ACQUIRES,
35 THROUGH AN ARM'S LENGTH TRANSACTION, AN AFFECTED PROPERTY IN WHICH A

1 PERSON AT RISK RESIDES, SHALL SATISFY THE PROVISIONS OF THIS SECTION
2 WITHIN 30 DAYS.

3 6-819.

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

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

10 (ii) Except as provided in paragraph (2) of this subsection, within
11 30 days after receipt of written notice from the tenant, or from any other source, of:

12 1. A defect; and

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

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

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

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

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

26 1. If the owner has received notice from the tenant, or from
27 any other source, of the existence of a person at risk in the affected property, within
28 60 days; or

29 2. If the owner has not received notice from the tenant, or
30 from any other source, of the existence of a person at risk in the affected property,
31 within 90 days.] ON OR AFTER OCTOBER 1, 2005, AN OWNER WHO ACQUIRES,
32 THROUGH AN ARM'S LENGTH TRANSACTION, AN AFFECTED PROPERTY THAT IS NOT
33 IN COMPLIANCE WITH THIS SUBSECTION SHALL SATISFY THE PROVISIONS OF THIS
34 SECTION WITHIN 30 DAYS AFTER ACQUISITION.

35 (e) Except as provided in § 6-817(b) of this subtitle, on and after February 24,
36 2006, an owner of affected properties shall:

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

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

9 (I) FOR AN OWNER ACQUIRING 1 AFFECTED PROPERTY, WITHIN 30
10 DAYS;

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

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

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

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

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

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

29 (iii) If additional work is required:

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

33 2. The inspector shall reinspect the affected property after
34 the additional work is completed and:

35 A. Issue a report certifying that the work is complete; and

36 B. Mail a copy of the report to the tenant, the owner, and the
37 Department within 10 days after the inspection or reinspection.

1 (g) In lieu of satisfying the modified risk reduction standard, the owner of an
2 affected property may elect to pass the test for lead-contaminated dust under § 6-816
3 of this subtitle provided that any chipping, peeling, or flaking paint has been removed
4 or repainted on:

5 (1) The exterior painted surfaces of the residential building in which the
6 rental dwelling unit is located; and

7 (2) The interior painted surfaces of the rental dwelling unit.

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

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

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

23 [(4)] (3) Any delay allowed under paragraph (1) of this subsection may
24 not affect the obligation of the owner to complete all other components of the risk
25 reduction standard and to have those components inspected and verified.

26 (L) AN OWNER WHO ACQUIRES AN AFFECTED PROPERTY ON OR AFTER
27 OCTOBER 1, 2005, THAT IS NOT IN COMPLIANCE WITH THIS SECTION SHALL SATISFY
28 THE PROVISIONS OF THIS SECTION WITHIN 30 DAYS AFTER ACQUISITION.

29 6-828.

30 (a) This section applies to an owner of an affected property who has, with
31 respect to the affected property, complied with the applicable requirements of §§
32 6-811, 6-812, 6-815, 6-817, and 6-819 of this subtitle, and has sent to the tenant the
33 notices required by §§ 6-820 and 6-823 of this subtitle.

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

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

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

5 (ii) On or after February 24, 2001, an EBL greater than or equal to
6 20 ug/dl as first documented by a test for EBL performed on or after February 24,
7 2001; OR

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

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

13 6-830.

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

23 6-846.

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

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

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

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

35 6-850.

36 (a) Except as provided in § 6-849 of this subtitle, in addition to any other
37 remedies provided in this subtitle, the provisions and procedures of §§ 7-256 through

1 7-264 and 7-266(b) of this article shall be used and shall apply to enforce violations of
2 this subtitle, provided that the penalty imposed under § 7-266(b)(2)(i) of this article
3 may not exceed \$250 per day for any violation of this subtitle [which is not cured
4 within 20 days after receipt of notice of the violation by the owner].

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

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