

Department of Legislative Services  
Maryland General Assembly  
2005 Session

FISCAL AND POLICY NOTE

Senate Bill 212 (The President, *et al.*) (By Request – Administration)  
Judicial Proceedings

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Waste Management Administration - Lead Poisoning Prevention

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This Administration bill makes several changes to the Reduction of Lead Risk in Housing Program administered by the Maryland Department of the Environment (MDE).

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Fiscal Summary

**State Effect:** The bill's changes could be handled with existing budgeted resources. Revenues would not be materially affected.

**Local Effect:** Any increase in expenditures for local health departments to provide additional notices regarding elevated blood lead levels (EBL) could likely be handled with existing resources.

**Small Business Effect:** The Administration has determined that this bill has minimal or no impact on small business (attached). Legislative Services concurs with this assessment.

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Analysis

**Bill Summary:** The bill:

- reduces, as of February 24, 2006, the EBL that triggers notification by local health departments, lead hazard reduction requirements, and compensation to children for medical care and relocation;
- strengthens enforcement authority by eliminating the 20-day grace period for violations, thereby authorizing MDE to seek immediate administrative penalties;

- expands current law to include exterior structures such as playground equipment and benches, thereby making such structures subject to the risk reduction, liability protection, and other provisions of the Reduction of Lead Risk in Housing subtitle;
- provides for automatic waivers from risk reduction requirements during the winter months except under specified conditions;
- establishes a transition period for meeting the risk reduction requirements for owners who acquire specified noncompliant properties;
- provides that a rental property owner who receives a notice of defect or notice of EBL is only obligated to satisfy the modified risk reduction standard once for the same triggering event; and
- modifies the provision exempting specified property from the risk reduction standards by requiring that the inspection report state that all interior and exterior surfaces are lead-free.

**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. The program also provides for limited compensation to children who are poisoned by lead. 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.

By December 31, 1995, the owner of an affected property must have registered that property with MDE. An owner who first acquires affected property after that date must register the property 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.

Exterior surfaces subject to lead hazard reduction (generally, surfaces attached to the outside of an affected property as well as fences and porches), do not include exterior structures such as playground equipment or benches. Property owners may request a winter waiver from a local code official to stabilize exterior paint from November 1 to April 1; waivers are not automatic.

A local health department that receives the results of a blood lead test indicating that a person at risk has an EBL greater than or equal to 15 µg/dl must notify the person at risk, the parent (if the person at risk is a minor), and the owner of the affected property. Notification of EBL is one of three triggers that require property owners to perform lead

hazard reduction treatments and to make qualified offers. (The other two triggers include tenant turnover and notice of defect.) An owner is required to satisfy the modified risk reduction standard within 30 days after receipt of such notice.

Failure to register and failure to comply with the risk reduction standard result in loss of liability protection.

MDE's enforcement authority includes right of entry, administrative search warrants, complaints, issuance of notices or orders, injunctive relief, and administrative penalties. The administrative penalty for failure to register is up to \$10 per day per property. For other violations, the administrative penalty may not exceed \$250 per day for any violation which is not cured within 20 days after receipt of notice of the violation by the owner.

**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 (defined as EBL of 20 µg/dl or higher) 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, states must have an elimination plan to be eligible for future federal lead poisoning prevention funding or lead hazard reduction funding. In July 2004, the State issued its plan to eliminate childhood lead poisoning by 2010. This bill is intended to help meet that goal. The Administration advises that a number of issues with respect to the current lead statute are addressed in the bill:

- According to MDE, the EBLs in current law are based on research that is at least 10 years old. Recent scientific studies have shown that even low levels of lead over a period of time may result in significant and permanent health effects in young children and pregnant women.
- The Administration advises that the current notice of violation requirement enables property owners to avoid administrative penalties for years of noncompliance by resolving the violation within 20 days.
- Under current law, the exterior surfaces subject to lead hazard reduction do not include exterior structures such as playground equipment or benches. This exclusion prohibits a compliant property owner from seeking liability protection if the lead poisoning is attributed to the exterior structure. MDE advises that historically, these exterior structures were painted with lead-based paint. In addition, federal law addresses lead-based paint in such structures.

- The establishment of a transition period for purchasers of noncompliant property is intended to encourage responsible property owners to buy noncompliant properties and remediate lead hazards.
- Currently, property owners may request a winter waiver from a local code official to stabilize exterior paint from November 1 to April 1. Many local code officials are unaware of their obligations to process these requests, and many jurisdictions do not have the resources to process them.
- Finally, because notices of EBL or notices of defect may be issued from multiple sources, the rental property owner currently may be required to obtain multiple modified risk reduction certificates for the same triggering event.

The Governor's proposed fiscal 2006 budget includes \$3,713,265 (\$1,681,827 in special funds, \$713,873 in general funds, and \$1,317,565 in federal funds) for the Lead Poisoning Prevention Program in MDE.

**Local Expenditures:** Local health departments could incur additional costs to send additional notices regarding EBL to persons at risk and owners of affected property. Under current law, the notice must be mailed when the EBL is 15 µg/dl or greater. Under the bill, the notice must be mailed when the EBL is 10 µg/dl or greater. According to MDE, in 2003, there were approximately 1,100 children statewide with blood lead levels between 10 and 14 µg/dl (including owner-occupied dwellings). Any costs incurred, however, could likely be absorbed within existing resources.

**Additional Comments:** Current law provides that an owner of affected property must ensure that 100% of the owner's affected properties have satisfied the risk reduction requirements by February 24, 2006; accordingly, even though the bill reduces the EBL that triggers lead hazard reduction, property owners would be required to perform this work regardless of the bill.

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### **Additional Information**

**Prior Introductions:** None.

**Cross File:** HB 251 (The Speaker, *et al.*) (By Request – Administration) – Environmental Matters and Health and Government Operations.

**Information Source(s):** Maryland Department of the Environment, Department of Health and Mental Hygiene, Department of Housing and Community Development, Baltimore City, Calvert County, Caroline County, Howard County, Montgomery County, Prince George's County, Department of Legislative Services

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