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By: **Delegate Weir**

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Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 31, 2006

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CHAPTER \_\_\_\_\_

1 AN ACT concerning

2 **Lead Risk Reduction - Acquisition of Property - Compliance Requirements**

3 FOR the purpose of authorizing ~~an owner~~ a person who is acquiring intends to  
 4 acquire a property that is considered to be affected under certain lead risk  
 5 reduction provisions to submit a compliance plan to the Department of the  
 6 Environment; authorizing a person who has acquired, or will acquire, an  
 7 affected property to give certain notice and information at a certain time;  
 8 establishing a process and fee for submitting an application for a compliance  
 9 plan; requiring the Department to review and approve or deny the plan approve  
 10 or deny the plan, or request additional information, within a certain number of  
 11 days after the plan is submitted; authorizing the Department to deny certain  
 12 applications under certain circumstances; requiring certain proof that a certain  
 13 risk reduction standard has been met, or a certain inspection report, to be filed  
 14 with the Department under certain circumstances; providing that a compliance  
 15 plan is void under certain circumstances authorizing the Department to request  
 16 certain modifications to the plan and the owner to voluntarily submit these  
 17 modifications; providing certain protections for an owner after a plan is  
 18 approved; prohibiting certain protections from applying if the owner withdraws  
 19 the compliance plan; establishing providing that if the owner fails to comply  
 20 with the compliance plan, the owner shall be considered noncompliant as of a  
 21 certain date; authorizing the Department to adopt certain regulations; providing  
 22 for the application of this Act; and generally relating to acquiring property with  
 23 lead risks.

24 BY repealing and reenacting, with amendments,

25 Article - Environment

26 Section 6-820 and 6-823

1 Annotated Code of Maryland  
2 (1996 Replacement Volume and 2005 Supplement)

3 BY repealing and reenacting, without amendments,  
4 Article - Environment  
5 Section 6-824 and 6-836  
6 Annotated Code of Maryland  
7 (1996 Replacement Volume and 2005 Supplement)

8 BY adding to  
9 Article - Environment  
10 Section 6-825  
11 Annotated Code of Maryland  
12 (1996 Replacement Volume and 2005 Supplement)

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

15 **Article - Environment**

16 6-820.

17 (a) Except as provided in subsection (b) of this section, an owner of an affected  
18 property shall give to the tenant of the affected property a notice, prepared by the  
19 Department, of the tenant's rights under §§ 6-817 and 6-819 of this subtitle,  
20 according to the following schedule:

21 (1) At least 25% of the owner's affected properties by May 25, 1996;

22 (2) At least 50% of the owner's affected properties by August 25, 1996;

23 (3) At least 75% of the owner's affected properties by November 25, 1996;

24 and

25 (4) 100% of the owner's affected properties by February 25, 1997.

26 (b) On or after February 24, 1996, an owner of an affected property shall give  
27 to the tenant of the affected property a notice, prepared by the Department, of the  
28 tenant's rights under §§ 6-817 and 6-819 of this subtitle upon the execution of a lease  
29 or the inception of a tenancy.

30 (c) An owner of an affected property shall give to the tenant of the affected  
31 property a notice, prepared by the Department, of the tenant's rights under §§ 6-817  
32 and 6-819 of this subtitle at least every 2 years after last giving notice to the tenant.

33 (d) The owner shall include with the notice of the tenant's rights that is  
34 provided to a tenant under this section upon the execution of a lease or the inception

1 of a tenancy, a copy of the current verified inspection certificate for the affected  
2 property prepared under § 6-818 of this subtitle.

3 (e) (1) Notice given under this section shall be written, and shall be sent by:

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

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

6 (2) When giving notice to a tenant under this section, the owner shall  
7 provide documentation of the notice to the Department in a manner acceptable to the  
8 Department.

9 (3) A notice required to be given to a tenant under this section shall be  
10 sent to a party or parties identified as the lessee in a written lease in effect for an  
11 affected property or, if there is no written lease, the party or parties to whom the  
12 property was rented.

13 (F) A PERSON WHO HAS ACQUIRED, OR WILL ACQUIRE, AN AFFECTED  
14 PROPERTY MAY GIVE THE NOTICE REQUIRED UNDER THIS SECTION TO THE TENANT  
15 OF THE AFFECTED PROPERTY:

16 (1) BEFORE TRANSFER OF LEGAL TITLE; OR

17 (2) WITHIN 15 DAYS FOLLOWING TRANSFER OF LEGAL TITLE.

18 6-823.

19 (a) By May 23, 1996, an owner of an affected property shall give to the tenant  
20 of each of the owner's affected properties a lead poisoning information packet  
21 prepared or designated by the Department.

22 (b) On or after February 24, 1996, upon the execution of a lease or the  
23 inception of a tenancy for an affected property the owner of the affected property shall  
24 give to the tenant a lead poisoning information packet prepared or designated by the  
25 Department.

26 (c) An owner of an affected property shall give to the tenant of the affected  
27 property another copy of the lead poisoning information packet prepared or  
28 designated by the Department at least every 2 years after last giving the information  
29 packet to the tenant.

30 (d) A packet given to a tenant under this section shall be sent by:

31 (1) Certified mail, return receipt requested; or

32 (2) A verifiable method approved by the Department.

33 (e) The packet required to be given to a tenant under this section shall be sent  
34 to a party or parties identified as the lessee in a written lease in effect for an affected

1 property or, if there is no written lease, the party or parties to whom the property was  
 2 rented.

3 (F) A PERSON WHO HAS ACQUIRED, OR WILL ACQUIRE, AN AFFECTED  
 4 PROPERTY MAY GIVE THE PACKET REQUIRED UNDER THIS SECTION TO THE TENANT  
 5 OF THE AFFECTED PROPERTY:

6 (1) BEFORE TRANSFER OF LEGAL TITLE; OR

7 (2) WITHIN 15 DAYS FOLLOWING TRANSFER OF LEGAL TITLE.

8 6-824.

9 An owner shall disclose an obligation to perform either the modified or full risk  
 10 reduction treatment to an affected property under this subtitle to any prospective  
 11 purchaser of an affected property at or prior to the time a contract of sale is executed,  
 12 if:

13 (1) An event has occurred that requires performance of either the  
 14 modified or full risk reduction treatment to the affected property under this subtitle;  
 15 and

16 (2) The owner will not perform the required treatment prior to the  
 17 transfer of ownership.

18 6-825.

19 ~~(A) THIS SECTION APPLIES TO A PERSON WHO ACQUIRES AN AFFECTED~~  
 20 ~~PROPERTY AND WHO HAD NO CURRENT OWNERSHIP INTEREST, EXCLUSIVE OF~~  
 21 ~~GROUND RENT, IN THE AFFECTED PROPERTY BEFORE ACQUIRING IT.~~

22 ~~(B) (1) ON OR AFTER MARCH 1, 2006, WHEN A PERSON SEEKS TO PURCHASE~~  
 23 ~~AN AFFECTED PROPERTY THAT IS NOT IN COMPLIANCE IN ACCORDANCE WITH THIS~~  
 24 ~~SUBTITLE, THE PERSON MAY SUBMIT A COMPLIANCE PLAN TO THE DEPARTMENT~~  
 25 ~~WITHIN 90 DAYS BEFORE AND 30 DAYS AFTER SETTLEMENT ON THE PROPERTY.~~

26 ~~(2) (1) THE DEPARTMENT SHALL REVIEW AND APPROVE OR DENY THE~~  
 27 ~~TERMS OF THE COMPLIANCE PLAN WITHIN 30 DAYS AFTER THE PERSON THAT~~  
 28 ~~ACQUIRED THE PROPERTY SUBMITS A PLAN.~~

29 ~~(H) IF MODIFICATIONS TO A COMPLIANCE PLAN ARE DETERMINED~~  
 30 ~~TO BE NECESSARY TO RECEIVE APPROVAL, THE MODIFICATIONS MAY BE:~~

31 1. ~~REQUESTED BY THE DEPARTMENT; OR~~

32 2. ~~VOLUNTARILY SUBMITTED BY THE PERSON THAT~~  
 33 ~~ACQUIRED THE PROPERTY.~~

34 ~~(C) AFTER THE DEPARTMENT APPROVES A COMPLIANCE PLAN, THE PERSON~~  
 35 ~~THAT ACQUIRED THE PROPERTY SHALL:~~

1 ~~(1) BE CONSIDERED TO BE IN COMPLIANCE IN ACCORDANCE WITH THE~~  
2 ~~REQUIREMENTS OF THIS SUBTITLE; AND~~

3 ~~(2) BE ELIGIBLE FOR THE PROTECTION AFFORDED TO AN OWNER OF AN~~  
4 ~~AFFECTED PROPERTY WHO HAS COMPLIED WITH THE REQUIREMENTS OF THIS~~  
5 ~~SUBTITLE.~~

6 ~~(D) (1) IF A COMPLIANCE PLAN THAT IS SUBMITTED IN ACCORDANCE WITH~~  
7 ~~THIS SECTION IS WITHDRAWN BY THE PERSON THAT ACQUIRED THE PROPERTY, THE~~  
8 ~~PROTECTION SET FORTH IN SUBSECTION (C) OF THIS SECTION DOES NOT APPLY.~~

9 ~~(2) IF THE PERSON THAT ACQUIRED THE PROPERTY FAILS TO COMPLY~~  
10 ~~WITH THE TERMS OF THE COMPLIANCE PLAN THAT IS APPROVED BY THE~~  
11 ~~DEPARTMENT, THAT PERSON SHALL BE CONSIDERED TO BE NONCOMPLIANT FROM~~  
12 ~~THE DATE OF SETTLEMENT AND TRANSFER OF THE AFFECTED PROPERTY.~~

13 (A) A PERSON WHO INTENDS TO ACQUIRE, THROUGH AN ARM'S LENGTH  
14 TRANSACTION, INHERITANCE, TAX SALE, FORECLOSURE, OR JUDICIALLY APPROVED  
15 TRANSFER, AN OCCUPIED AFFECTED PROPERTY THAT IS IN VIOLATION OF § 6-815, §  
16 6-817, OR § 6-819 OF THIS SUBTITLE MAY SUBMIT TO THE DEPARTMENT AN  
17 APPLICATION FOR A COMPLIANCE PLAN.

18 (B) (1) THE APPLICATION FOR A COMPLIANCE PLAN SHALL:

19 (I) BE SUBMITTED AND RECEIVED BY THE DEPARTMENT AT LEAST  
20 30 DAYS BEFORE TRANSFER OF LEGAL TITLE TO THE OCCUPIED AFFECTED  
21 PROPERTY; AND

22 (II) BE ON A FORM PROVIDED BY THE DEPARTMENT THAT  
23 INCLUDES, FOR EACH OCCUPIED AFFECTED PROPERTY, THE FOLLOWING  
24 INFORMATION:

25 1. THE TRANSFEREE'S NAME, ADDRESS, AND TELEPHONE  
26 NUMBER;

27 2. THE TRANSFEROR'S NAME AND ADDRESS;

28 3. A STATEMENT CERTIFYING THAT NEITHER THE  
29 TRANSFEREE NOR ANY OFFICER OR DIRECTOR OF THE TRANSFEREE HAS A CURRENT  
30 INTEREST, EITHER INDIVIDUALLY OR JOINTLY, IN THE OCCUPIED AFFECTED  
31 PROPERTY;

32 4. THE TYPE AND SCHEDULED DATE OF TRANSFER;

33 5. THE ADDRESS OF THE OCCUPIED AFFECTED PROPERTY  
34 INCLUDING, FOR A MULTIFAMILY OCCUPIED AFFECTED PROPERTY, EACH UNIT IN  
35 THE PROPERTY; AND

36 6. WHETHER A PERSON AT RISK RESIDES IN THE AFFECTED  
37 OCCUPIED PROPERTY.

1           (2)     THE DEPARTMENT MAY REQUIRE ANY ADDITIONAL INFORMATION  
2 THAT IT CONSIDERS APPROPRIATE.

3           (3)     AN APPLICATION FEE OF \$200 SHALL BE SUBMITTED TO THE  
4 DEPARTMENT WITH THE APPLICATION.

5     (C)     (1)     THE DEPARTMENT SHALL APPROVE, DENY, OR REQUEST  
6 ADDITIONAL INFORMATION WITHIN 20 DAYS AFTER RECEIPT OF AN APPLICATION  
7 FOR A COMPLIANCE PLAN.

8           (2)     THE DEPARTMENT MAY DENY AN APPLICATION FOR A COMPLIANCE  
9 PLAN FOR AN OCCUPIED NONCOMPLIANT AFFECTED PROPERTY BASED ON THE  
10 FOLLOWING FACTORS:

11                   (I)     THE EXISTENCE OF PRIOR VIOLATIONS BY THE TRANSFEREE  
12 OF THE PROVISIONS OF THIS SUBTITLE OR APPLICABLE REGULATIONS:

13                           (II)     PRIOR EXTENSION OF THE COMPLIANCE DEADLINE UNDER  
14 SUBSECTION (D) OF THIS SECTION FOR AN AFFECTED PROPERTY:

15                                   (III)     POTENTIAL OR ACTUAL HARM TO THE ENVIRONMENT OR TO  
16 HUMAN HEALTH OR SAFETY; AND

17   (IV)     ANY OTHER FACTOR THE DEPARTMENT CONSIDERS  
18 APPROPRIATE.

19     (D)     SUBJECT TO SUBSECTION (E) OF THIS SECTION, IF AN APPLICATION FOR A  
20 COMPLIANCE PLAN IS APPROVED, THE TRANSFEREE SHALL FILE WITH THE  
21 DEPARTMENT PROOF THAT THE RISK REDUCTION STANDARD SPECIFIED IN § 6-815  
22 OF THIS SUBTITLE HAS BEEN MET, OR AN INSPECTION REPORT IN ACCORDANCE  
23 WITH § 6-804 OF THIS SUBTITLE, FOR EACH NONCOMPLIANT AFFECTED PROPERTY IN  
24 WHICH A PERSON AT RISK DOES NOT RESIDE WITHIN TIME FRAMES SPECIFIED IN  
25 REGULATIONS ADOPTED BY THE DEPARTMENT.

26     (E)     NOTWITHSTANDING THE STATUS OF AN APPLICATION FOR A COMPLIANCE  
27 PLAN, THE TRANSFEREE SHALL FILE WITH THE DEPARTMENT PROOF THAT THE RISK  
28 REDUCTION STANDARD SPECIFIED IN § 6-815 OF THIS SUBTITLE HAS BEEN MET, OR  
29 AN INSPECTION REPORT IN ACCORDANCE WITH § 6-804 OF THIS SUBTITLE, FOR EACH  
30 NONCOMPLIANT AFFECTED PROPERTY IN WHICH A PERSON AT RISK RESIDES  
31 WITHIN 30 DAYS AFTER TRANSFER OF LEGAL TITLE.

32     (F)     A COMPLIANCE PLAN UNDER THIS SECTION IS VOID UNLESS WITHIN 15  
33 DAYS FOLLOWING TRANSFER OF A NONCOMPLIANT AFFECTED PROPERTY, THE  
34 TRANSFEREE FILES WITH THE DEPARTMENT:

35                   (1)     DOCUMENTATION SATISFACTORY TO THE DEPARTMENT OF THE  
36 TRANSFER OF LEGAL TITLE; AND

37                   (2)     A STATEMENT CERTIFYING THAT, SUBSEQUENT TO TRANSFER OF  
38 LEGAL TITLE, ALL TENANTS HAVE BEEN PROVIDED WITH THE NOTICE OF TENANT'S

1 RIGHTS AND LEAD POISONING INFORMATION PACKET REQUIRED BY §§ 6-820 AND  
2 6-823 OF THIS SUBTITLE.

3 (G) IF THE DEPARTMENT DETERMINES THAT ANY INFORMATION PROVIDED  
4 IN AN APPLICATION FOR A COMPLIANCE PLAN WAS ERRONEOUS OR INCOMPLETE,  
5 THE DEPARTMENT MAY DECLARE THE COMPLIANCE PLAN VOID IN WHOLE OR IN  
6 PART.

7 (H) THIS SECTION DOES NOT AFFECT AN OWNER'S OBLIGATION TO COMPLY  
8 WITH §§ 6-815, 6-819(C), AND 6-819(D) OF THIS SUBTITLE THAT ARISES AFTER LEGAL  
9 TITLE TO THE AFFECTED PROPERTY IS TRANSFERRED.

10 (I) SUBJECT TO SUBSECTION (J) OF THIS SECTION, AFTER THE DEPARTMENT  
11 APPROVES A COMPLIANCE PLAN, THE PERSON WHO ACQUIRED THE AFFECTED  
12 PROPERTY SHALL:

13 (1) BE CONSIDERED TO BE IN COMPLIANCE WITH THE REQUIREMENTS  
14 OF THIS SUBTITLE; AND

15 (2) BE ELIGIBLE FOR THE PROTECTION AFFORDED AN OWNER OF AN  
16 AFFECTED PROPERTY WHO HAS COMPLIED WITH THE REQUIREMENTS OF THIS  
17 SUBTITLE.

18 (J) IF THE PERSON WHO ACQUIRED THE AFFECTED PROPERTY FAILS TO  
19 COMPLY WITH THE TERMS OF AN APPROVED COMPLIANCE PLAN, THE PERSON  
20 SHALL BE CONSIDERED TO BE NONCOMPLIANT FROM THE DATE LEGAL TITLE TO  
21 THE AFFECTED PROPERTY WAS TRANSFERRED TO THE PERSON.

22 (K) THE DEPARTMENT MAY ADOPT REGULATIONS TO CARRY OUT THIS  
23 SECTION.

24 6-836.

25 An owner of an affected property is not liable, for alleged injury or loss caused by  
26 ingestion of lead by a person at risk in the affected property, to a person at risk or a  
27 parent, legal guardian, or other person authorized under § 6-833 of this subtitle to  
28 respond on behalf of a person at risk who rejects a qualified offer made by the owner  
29 or the owner's insurer or agent if, during the period of the alleged ingestion of lead by  
30 the person at risk, and with respect to the affected property in which the exposure  
31 allegedly occurred, the owner:

32 (1) Has given to the tenant the notices required by §§ 6-820 and 6-823 of  
33 this subtitle; and

34 (2) Was in compliance with:

35 (i) The registration provisions of Part III of this subtitle; and

1                   (ii)       The applicable risk reduction standard and response standard  
2 under § 6-815 or § 6-819 of this subtitle, and the risk reduction schedule under §  
3 6-817 of this subtitle.

4       SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be  
5 construed to apply retroactively and shall be applied to and interpreted to affect any  
6 purchase of affected property on or after March 1, 2006.

7       SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect  
8 October 1, 2006.