

Department of Legislative Services
Maryland General Assembly
2006 Session

FISCAL AND POLICY NOTE

House Bill 1450

(Delegate Oaks, *et al.*)

Environmental Matters

Judicial Proceedings

Environment - Reducing Lead Risk in Housing - Penalties

This bill doubles the maximum administrative, civil, and criminal penalties applicable to violations of the Reduction of Lead Risk in Housing Program within the Maryland Department of the Environment (MDE).

Fiscal Summary

State Effect: Potential increase in special fund revenues due to any increase in penalties assessed. Any such increase cannot be reliably estimated at this time but could be significant.

Local Effect: The bill would not materially affect local operations or finances.

Small Business Effect: None, assuming affected landlords are in compliance with the Reduction of Lead Risk in Housing law.

Analysis

Bill Summary: The bill's changes are shown in **Exhibit 1**.

Exhibit 1
Comparison of Current
Maximum Penalties and those Proposed Under Bill

<u>Type</u>	<u>Violation</u>	<u>Current Maximum Penalties</u>	<u>Max. Penalties Under HB 1450</u>
Administrative	Failure to register or renew	\$10 per day	\$20 per day
	Accredited inspector is a related party	\$25,000	\$50,000
	Violations of subtitle – generally (in addition to other remedies)	\$250 per day (\$100,000 total)	\$500 per day (\$100,000 total)
Civil	Falsifying accredited work	\$15,000	\$30,000
Criminal	Knowingly falsifying information in registration or renewal	\$1,000	\$2,000

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.

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.

MDE's general enforcement authority for the affected provisions 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 or failure to renew a registration is up to \$10 per day per property. A person who willfully

and knowingly falsifies information filed in a registration or renewal is guilty of a misdemeanor and on conviction is subject to a fine of up to \$1,000.

MDE must impose an administrative penalty of up to \$25,000 on any person who violates provisions prohibiting an accredited inspector from being a related party to the owner of affected property. In addition to other remedies provided in the Reduction of Lead Risk in Housing subtitle, current law provides for an administrative penalty of up to \$250 per day (not exceeding \$100,000 total) for any violation of the subtitle.

If an accredited supervisor falsely verifies that work was performed on an affected property, the owner of the affected property who employs the supervisor and who has actual knowledge of the false verification is subject to a civil penalty of up to \$15,000.

All penalties imposed under the Reduction of Lead Risk in Housing subtitle are paid into the Lead Poisoning Prevention Fund.

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 exposures 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.

MDE advises that penalties assessed under the Lead Poisoning Prevention Program have averaged approximately \$271,700 annually over the past three fiscal years.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Maryland Department of the Environment, Department of Housing and Community Development, Department of Health and Mental Hygiene, Baltimore City, Department of Legislative Services

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