

HOUSE BILL 1020

M3, N1

7lr1054

By: **Delegates Oaks, Glenn, Hubbard, Morhaim, and Rosenberg**

Introduced and read first time: February 9, 2007

Assigned to: Environmental Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Lead Poisoning Prevention Act of 2007**

3 FOR the purpose of requiring an applicant for a contractor license to meet a certain
4 accreditation or training requirement under certain circumstances; requiring a
5 certain licensee applying for a license renewal to submit to the Maryland Home
6 Improvement Commission proof of compliance with certain lead training
7 requirements; prohibiting a certain licensee from violating certain lead paint
8 abatement accreditation requirements; clarifying the requirements of certain
9 lead risk reduction standards relating to certain changes in occupancy;
10 requiring a person who intends to use certain funds to purchase a house to
11 complete certain counseling; providing that a qualified offer made under certain
12 provisions of law that relate to the reduction of lead risk in housing may provide
13 a housing subsidy and other relocation expenses for the permanent relocation of
14 the household; requiring an owner of a certain property who fails to comply with
15 certain standards, on written request of a tenant, to release a tenant from a
16 certain lease and pay to the tenant certain relocation expenses not to exceed a
17 certain amount; providing a tenant with a certain action in district court under
18 certain circumstances; altering certain definitions; and generally relating to
19 eliminating lead risk in housing.

20 BY repealing and reenacting, without amendments,
21 Article – Business Regulation
22 Section 8–301 and 8–620
23 Annotated Code of Maryland
24 (2004 Replacement Volume and 2006 Supplement)

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 BY repealing and reenacting, with amendments,
2 Article – Business Regulation
3 Section 8–302.2, 8–308, and 8–611
4 Annotated Code of Maryland
5 (2004 Replacement Volume and 2006 Supplement)

6 BY repealing and reenacting, with amendments,
7 Article – Environment
8 Section 6–801(m), (r), and (s), 6–815(a) and (b), 6–839, and 6–840
9 Annotated Code of Maryland
10 (1996 Replacement Volume and 2006 Supplement)

11 BY repealing and reenacting, without amendments,
12 Article – Environment
13 Section 6–1002
14 Annotated Code of Maryland
15 (1996 Replacement Volume and 2006 Supplement)

16 BY adding to
17 Article – Real Property
18 Section 8–215
19 Annotated Code of Maryland
20 (2003 Replacement Volume and 2006 Supplement)

21 Preamble

22 WHEREAS, Childhood lead poisoning is a major public health threat in
23 Maryland, poisoning over 1,300 children in Maryland as of 2005; and

24 WHEREAS, Lead poisoning severely and irreversibly impacts the cognitive and
25 physical development of young children; and

26 WHEREAS, The Governor and the State have endorsed plans to meet the
27 federal strategy to eliminate childhood lead poisoning by 2010; and

28 WHEREAS, Children are exposed to lead through ingesting and inhaling lead
29 dust, eating lead paint chips, or absorbing lead while in utero; and

30 WHEREAS, Most of the exposures to lead can be eliminated by removing lead
31 hazards and reducing exposure to toxic lead dust in the home; and

1 WHEREAS, Although the number of cases of childhood lead poisoning in
2 Maryland has decreased significantly over the past few years, lead paint remains a
3 significant health issue; now, therefore,

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

6 **Article – Business Regulation**

7 8–301.

8 (a) Except as otherwise provided in this title, a person must have a
9 contractor license whenever the person acts as a contractor in the State.

10 (b) Except as otherwise provided in this title, a person must have a
11 subcontractor license or contractor license whenever the person acts as a
12 subcontractor in the State.

13 (c) Except as otherwise provided in this title, a person must have a
14 salesperson license or contractor license whenever the person sells a home
15 improvement in the State.

16 (d) This section does not apply to:

17 (1) an individual who works for a contractor or subcontractor for a
18 salary or wages but who is not a salesperson for the contractor;

19 (2) a clerical employee, retail clerk, or other employee of a licensed
20 contractor who is not a salesperson, as to a transaction on the premises of the licensed
21 contractor;

22 (3) a solicitor for a contractor who calls an owner by telephone only;

23 (4) an architect, electrician, plumber, heating, ventilation,
24 air–conditioning, or refrigeration contractor, or other person who:

25 (i) is required by State or local law to meet standards of
26 competency or experience before engaging in an occupation or profession;

27 (ii) currently is licensed in that occupation or profession under
28 State or local law; and

29 (iii) is:

1 1. acting only within the scope of that occupation or
2 profession; or

3 2. installing a central heating or air-conditioning
4 system;

5 (5) a security systems technician licensed under Title 18 of the
6 Business Occupations and Professions Article; or

7 (6) a person who is selling a home improvement to be performed by a
8 person described in item (4) of this subsection.

9 8-302.2.

10 (A) [An] **SUBJECT TO SUBSECTION (B) OF THIS SECTION, AN** applicant for
11 a contractor license shall have:

12 (1) at least 2 years of trade experience that is satisfactory to the
13 Commission, under regulations adopted by the Commission; or

14 (2) comparable educational training to be determined by regulations
15 adopted by the Commission.

16 **(B) IN ADDITION TO THE REQUIREMENTS UNDER SUBSECTION (A) OF**
17 **THIS SECTION, IF AN APPLICANT PERFORMS WORK IN A RESIDENTIAL**
18 **PROPERTY CONSTRUCTED BEFORE 1978 THAT DISTURBS MORE THAN 3 SQUARE**
19 **FEET OF PAINT, AN APPLICANT SHALL HAVE COMPLETED:**

20 **(1) THE LEAD SUPERVISOR ACCREDITATION TRAINING**
21 **REQUIREMENTS FOR RESIDENTIAL, COMMERCIAL, AND PUBLIC BUILDINGS**
22 **REQUIRED UNDER § 6-1002 OF THE ENVIRONMENT ARTICLE; OR**

23 **(2) THE LEAD PAINT ABATEMENT WORKER TRAINING**
24 **REQUIREMENTS FOR RESIDENTIAL, COMMERCIAL, AND PUBLIC BUILDINGS**
25 **REQUIRED UNDER § 6-1002 OF THE ENVIRONMENT ARTICLE.**

26 8-308.

27 (a) The Secretary may stagger the terms of licenses.

1 (b) Unless a license is renewed for a 2-year term as provided in this section,
2 the license expires:

3 (1) if the Secretary staggers the terms of licenses, on the date that the
4 Secretary sets; or

5 (2) if the Secretary does not stagger the terms of licenses, on the first
6 June 30 that comes after the effective date of the license in an odd-numbered year.

7 (c) At least 1 month before a license expires, the Commission shall mail to
8 the licensee, at the last known address of the licensee:

9 (1) a renewal application form; and

10 (2) a notice that states:

11 (i) the date on which the current license expires;

12 (ii) the date by which the Commission must receive the renewal
13 application for the renewal to be issued and mailed before the license expires; and

14 (iii) the amount of the renewal fee.

15 (d) (1) Before a license expires, the licensee periodically may renew it for
16 an additional 2-year term, if the licensee:

17 (i) otherwise is entitled to be licensed;

18 (ii) submits to the Commission a renewal application on the
19 form that the Commission provides;

20 (iii) submits to the Commission proof of compliance with the
21 insurance requirement of § 8-302.1 of this subtitle, if the licensee is renewing a
22 contractor license; [and]

23 (IV) SUBMITS TO THE COMMISSION PROOF OF COMPLIANCE
24 WITH THE LEAD TRAINING REQUIREMENT OF § 8-302.2(B) OF THIS SUBTITLE;
25 AND

26 [(iv)] (V) pays to the Commission a renewal fee.

27 (2) The renewal fee:

(i) for a contractor license is \$225 for each place of business of the contractor;

(ii) for a subcontractor license is \$125; or

(iii) for a salesperson license is \$75.

(3) Notwithstanding paragraph (2) of this subsection, a licensee that is incorporated or has its principal office in another state shall pay to the Commission the fee imposed in that state on a similar nonresident business if that fee is higher than the renewal fee under paragraph (2) of this subsection.

(e) For renewal of a contractor license, the licensee shall:

(1) submit to the Commission, by a credit reporting agency approved by the Commission, a credit report that contains the information required by the Commission; or

(2) pay to the Commission or the Commission's designee a credit report fee in an amount not to exceed the cost charged by a credit reporting agency approved by the Commission to obtain a credit report that contains the information required by the Commission for renewal of a contractor license.

(f) (1) The Commission shall renew the license of each licensee who meets the requirements of this section.

(2) The Commission may not renew a contractor license unless the contractor submits proof of compliance with the insurance requirement of § 8-302.1 of this subtitle.

(g) A licensed contractor shall give the Commission notice of the cancellation of insurance required under § 8-302.1 of this subtitle at least 10 days before the effective date of the cancellation.

8-611.

A licensee may not violate:

(1) a building law of the State or a political subdivision of the State;

(2) a safety or labor law of the State; [or]

(3) the Maryland Workers' Compensation Act; **OR**

(4) **THE LEAD PAINT ABATEMENT ACCREDITATION REQUIREMENT
UNDER § 6-1002 OF THE ENVIRONMENT ARTICLE.**

8-620.

(a) The Commission may impose on a person who violates this title, including § 8-607(4) of this subtitle, a civil penalty not exceeding \$5,000 for each violation, whether or not the person is licensed under this title.

(b) In setting the amount of a civil penalty, the Commission shall consider:

(1) the seriousness of the violation;

(2) the good faith of the violator;

(3) any previous violations;

(4) the harmful effect of the violation on the complainant, the public, and the business of home improvement;

(5) the assets of the violator; and

(6) any other relevant factors.

Article – Environment

6-801.

(m) “Lead-safe housing” means:

(1) [a] **A** rental dwelling unit that:

[(1)] **(I)** Is certified to be lead-free in accordance with § 6-804 of this subtitle;

[(2)] **(II)** Was constructed after 1978;

[(3)] **(III)** Is deemed to be lead-safe by the Department in accordance with criteria established by the Department by regulation; or

1 [(4)] (IV) Is certified to be in compliance with § 6–815(a) of this
2 subtitle and:

3 [(i)] 1. In which all windows are [either] lead-free [or have
4 been treated so that all friction surfaces are lead-free];

5 [(ii)] 2. In which lead particulate levels are determined to be
6 within abatement clearance levels established by the Department by regulation,
7 within 15 days prior to [the relocation of a person at risk to the rental dwelling unit in
8 accordance with a qualified offer made under Part V of this subtitle] **OCCUPANCY**;
9 and

10 [(iii)] 3. Which is subject to ongoing maintenance and testing
11 as specified by the Department by regulation; **OR**

12 **(2) AN OWNER–OCCUPIED DWELLING UNIT THAT:**

13 **(I) IS VOLUNTARILY CERTIFIED TO BE LEAD–FREE IN**
14 **ACCORDANCE WITH § 6–804 OF THIS SUBTITLE;**

15 **(II) WAS CONSTRUCTED AFTER 1978;**

16 **(III) WAS CONSTRUCTED BEFORE 1978 IF:**

17 **1. ALL WINDOWS ARE LEAD–FREE;**

18 **2. THERE IS NO PRESENCE OF PEELING, CHIPPING,**
19 **OR FLAKING LEAD–BASED PAINT; AND**

20 **3. LEAD PARTICULATE LEVELS ARE DETERMINED TO**
21 **BE WITHIN ABATEMENT CLEARANCE LEVELS ESTABLISHED BY THE**
22 **DEPARTMENT BY REGULATIONS, WITHIN 15 DAYS PRIOR TO THE DWELLING**
23 **UNIT BEING OFFERED FOR SALE.**

24 (r) “Relocation expenses” means all expenses necessitated by the relocation
25 of a tenant’s household to lead-safe housing, including moving and hauling expenses,
26 the HEPA-vacuuming of all upholstered furniture, payment of a security deposit for
27 the lead-safe housing, **DOWN PAYMENTS, EARNEST MONEY, CLOSING COSTS,** and
28 installation and connection of utilities and appliances.

1 (s) ["Rent] **"HOUSING** subsidy" means the difference between the rent paid
2 by a tenant for housing at the time a qualified offer is made under Part V of this
3 subtitle and:

4 (1) [the] **THE** rent due for the lead-safe housing to which the tenant
5 is relocated; **OR**

6 (2) **THE MORTGAGE PAYMENT DUE FOR THE OWNER-OCCUPIED**
7 **PROPERTY THAT IS PURCHASED BY THE TENANT AND TO WHICH THE TENANT IS**
8 **RELOCATED.**

9 6-815.

10 (a) No later than the first change in occupancy in an affected property that
11 occurs on or after February 24, 1996, before the next tenant occupies the property, an
12 owner of an affected property shall initially satisfy the risk reduction standard
13 established under this subtitle by:

14 (1) Passing the test for lead-contaminated dust under § 6-816 of this
15 subtitle [provided that any chipping, peeling, or flaking paint has been removed or
16 repainted on:

17 (i) The exterior painted surfaces of the residential building in
18 which the rental dwelling unit is located; and

19 (ii) The interior painted surfaces of the rental dwelling unit];
20 [or] **AND**

21 (2) Performing the following lead hazard reduction treatments:

22 (i) A visual review of all exterior and interior painted surfaces;

23 (ii) The removal and repainting of chipping, peeling, or flaking
24 paint on exterior and interior painted surfaces;

25 (iii) The repair of any structural defect that is causing the paint
26 to chip, peel, or flake that the owner of the affected property has knowledge of or, with
27 the exercise of reasonable care, should have knowledge of;

28 (iv) Stripping and repainting, replacing, or encapsulating all
29 interior windowsills with vinyl, metal, or any other material in a manner and under
30 conditions approved by the Department;

(v) Ensure that caps of vinyl, aluminum, or any other material in a manner and under conditions approved by the Department, are installed in all window wells in order to make the window wells smooth and cleanable;

(vi) Except for a treated or replacement window that is free of lead-based paint on its friction surfaces, fixing the top sash of all windows in place in order to eliminate the friction caused by movement of the top sash;

(vii) Rehangng all doors necessary in order to prevent the rubbing together of a lead-painted surface with another surface;

(viii) Making all bare floors smooth and cleanable;

(ix) Ensure that all kitchen and bathroom floors are overlaid with a smooth, water-resistant covering; and

(x) HEPA-vacuuming and washing of the interior of the affected property with high phosphate detergent or its equivalent, as determined by the Department.

(b) At each change in occupancy thereafter, before the next tenant occupies the property, the owner of an affected property shall satisfy the risk reduction standard established under this subtitle by:

(1) Passing the test for lead-contaminated dust under § 6-816 of this subtitle; [or] **AND**

(2) (i) Repeating the lead hazard reduction treatments specified in subsection (a)(2)(i), (ii), (iii), and (x) of this section; and

(ii) Ensuring that the lead hazard reduction treatments specified in subsection (a)(2)(iv), (v), (vi), (vii), (viii), and (ix) of this section are still in effect.

6-839.

(a) Whenever a qualified offer is made under this part, the qualified offer shall include payment for reasonable expenses and costs up to the amount specified in § 6-840 of this subtitle for:

(1) The relocation of the household of the person at risk to lead-safe housing of comparable size and quality that may provide:

1 (i) The permanent relocation of the household of the affected
2 person at risk to lead-safe housing, including relocation expenses, a [rent] HOUSING
3 subsidy, and incidental expenses; or

4 (ii) The temporary relocation of the household of the affected
5 person at risk to lead-safe housing while necessary lead hazard reduction treatments
6 are being performed in the affected property to make that affected property lead-safe;
7 and

8 (2) Medically necessary treatment for the affected person at risk as
9 determined by the treating physician or other health care provider or case manager of
10 the person at risk that is necessary to mitigate the effects of lead poisoning, as defined
11 by the Department by regulation, and, in the case of a child, until the child reaches the
12 age of 18 years.

13 (b) An offeror is required to pay reasonable expenses for the medically
14 necessary treatments under subsection (a)(2) of this section if coverage for these
15 treatments is not otherwise provided by the Maryland Medical Assistance Program
16 under Title 15, Subtitle 1 of the Health – General Article or by a third-party health
17 insurance plan under which the person at risk has coverage or in which the person at
18 risk is enrolled.

19 (c) A qualified offer shall include a certification by the owner of the affected
20 property, under the penalties of perjury, that the owner has complied with the
21 applicable provisions of Parts III and IV of this subtitle in a manner that qualifies the
22 owner to make a qualified offer under this part.

23 (d) **A PERSON WHO INTENDS TO USE FUNDS FROM A QUALIFIED OFFER**
24 **FOR PURCHASING A HOUSE MUST FIRST COMPLETE COUNSELING ON**
25 **BUDGETING, CREDIT ISSUES, AND HOUSING AFFORDABILITY WITH AN ENTITY**
26 **THAT HAS BEEN CERTIFIED TO PERFORM HOUSING COUNSELING BY THE**
27 **UNITED STATES DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT.**

28 (E) The Department may adopt regulations that are necessary to carry out
29 the provisions of this section.

30 6-840.

31 (a) The amounts payable under a qualified offer made under this part are
32 subject to the following aggregate maximum caps:

1 (1) \$7,500 for all medically necessary treatments as provided and
2 limited in § 6–839(a) and (b) of this subtitle; and

3 (2) \$9,500 for relocation benefits which shall include:

4 (i) Relocation expenses;

5 (ii) A [rent] **HOUSING** subsidy, up to 150% of the existing rent
6 each month, for the period until the person at risk reaches the age of 6 years, or in the
7 case of a pregnant woman, until the child born as a result of that pregnancy reaches
8 the age of 6 years; and

9 (iii) Incidental expenses which may be incurred by the
10 household, such as transportation and child care expenses.

11 (b) All payments under a qualified offer specified in subsection (a) of this
12 section shall be paid to the provider of the service, except that payment of incidental
13 expenses as provided by subsection (a)(2)(iii) of this section may be paid directly to the
14 person at risk, or in the case of a child, to the parent or legal guardian of the person at
15 risk.

16 (c) The payments under a qualified offer may not be considered income or an
17 asset of the person at risk, the parent of a person at risk who is a child, the legal
18 guardian, or a person who accepts the offer on behalf of a person at risk who is a child
19 under § 6–833 of this subtitle for the purposes of determining eligibility for any State
20 entitlement program.

21 6–1002.

22 (a) Except as provided in subsection (c) of this section, unless the person is
23 accredited by the Department under this subtitle, a person may not:

24 (1) Act as a contractor or supervisor for the purpose of providing lead
25 paint abatement services;

26 (2) Provide training to others who provide lead paint abatement
27 services; or

28 (3) Engage in the inspection of lead-based paint hazards.

29 (b) The Department shall, by regulation, create exceptions to the
30 accreditation requirement for instances where the disturbance of lead-containing
31 substance is incidental.

1 (c) An individual who acts only as a worker or project designer need not be
2 accredited, but must be trained.

3 **Article – Real Property**

4 **8–215.**

5 (A) IN THIS SECTION, “AFFECTED PROPERTY” HAS THE MEANING
6 STATED IN § 6–801 OF THE ENVIRONMENT ARTICLE.

7 (B) (1) IF AN OWNER OF AN AFFECTED PROPERTY FAILS TO COMPLY
8 WITH THE APPLICABLE RISK REDUCTION STANDARDS UNDER §§ 6–815 AND
9 6–819 OF THE ENVIRONMENT ARTICLE, THE OWNER, ON THE WRITTEN
10 REQUEST OF THE TENANT, SHALL:

11 (I) IMMEDIATELY RELEASE THE TENANT FROM THE TERMS
12 OF THE LEASE OR RENTAL AGREEMENT FOR THAT PROPERTY; AND

13 (II) PAY TO THE TENANT ALL REASONABLE RELOCATION
14 EXPENSES, NOT TO EXCEED \$2,500, DIRECTLY RELATED TO THE PERMANENT
15 RELOCATION OF THE TENANT TO A LEAD-FREE DWELLING UNIT OR ANOTHER
16 DWELLING UNIT THAT HAS PASSED THE TEST FOR LEAD-CONTAMINATED DUST
17 ESTABLISHED UNDER § 6–816 OF THE ENVIRONMENT ARTICLE.

18 (2) A TENANT’S WRITTEN REQUEST TO THE LANDLORD UNDER
19 PARAGRAPH (1) OF THIS SUBSECTION SHALL INCLUDE ANY COMPLIANCE
20 INFORMATION PROVIDED BY THE DEPARTMENT OF THE ENVIRONMENT.

21 (C) IF AN OWNER FAILS TO RELEASE THE TENANT FROM THE LEASE OR
22 FAILS TO REIMBURSE THE TENANT FOR REASONABLE RELOCATION EXPENSES
23 IN ACCORDANCE WITH SUBSECTION (B) OF THIS SECTION, THE TENANT MAY
24 BRING AN ACTION IN DISTRICT COURT FOR THE:

25 (1) LEASE TERMINATION;

26 (2) REIMBURSEMENT OF REASONABLE RELOCATION EXPENSES;

27 AND

28 (3) REASONABLE ATTORNEY’S FEES.

1 **(D) THE RIGHT OF A TENANT TO REQUEST RELEASE IN ACCORDANCE**
2 **WITH SUBSECTION (B) OF THIS SECTION DOES NOT PRECLUDE THE TENANT**
3 **FROM PURSUING ANY OTHER RIGHT OR REMEDY AVAILABLE TO THE TENANT AT**
4 **LAW OR EQUITY AND IS IN ADDITION TO THEM.**

5 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
6 October 1, 2007.