

SENATE BILL 747

M3
HB 1527/06 – ENV

7lr2915
CF HB 424

By: **Senator Klausmeier**

Introduced and read first time: February 12, 2007

Assigned to: Rules

A BILL ENTITLED

1 AN ACT concerning

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

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

20 BY repealing and reenacting, with amendments,
21 Article – Environment
22 Section 6–820 and 6–823
23 Annotated Code of Maryland
24 (1996 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, without amendments,
2 Article – Environment
3 Section 6–824 and 6–836
4 Annotated Code of Maryland
5 (1996 Replacement Volume and 2006 Supplement)

6 BY adding to
7 Article – Environment
8 Section 6–825
9 Annotated Code of Maryland
10 (1996 Replacement Volume and 2006 Supplement)

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

13 **Article – Environment**

14 6–820.

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

- 19 (1) At least 25% of the owner's affected properties by May 25, 1996;
20 (2) At least 50% of the owner's affected properties by August 25, 1996;
21 (3) At least 75% of the owner's affected properties by November 25,
22 1996; and
23 (4) 100% of the owner's affected properties by February 25, 1997.

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

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

1 (d) The owner shall include with the notice of the tenant's rights that is
2 provided to a tenant under this section upon the execution of a lease or the inception of
3 a tenancy, a copy of the current verified inspection certificate for the affected property
4 prepared under § 6-818 of this subtitle.

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

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

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

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

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

16 **(F) A PERSON WHO HAS ACQUIRED, OR WILL ACQUIRE, AN AFFECTED**
17 **PROPERTY MAY GIVE THE NOTICE REQUIRED UNDER THIS SECTION TO THE**
18 **TENANT OF THE AFFECTED PROPERTY:**

19 **(1) BEFORE TRANSFER OF LEGAL TITLE; OR**

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

21 6-823.

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

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

29 (c) An owner of an affected property shall give to the tenant of the affected
30 property another copy of the lead poisoning information packet prepared or designated

1 by the Department at least every 2 years after last giving the information packet to
2 the tenant.

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

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

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

6 (e) The packet required to be given to a tenant under this section shall be
7 sent to a party or parties identified as the lessee in a written lease in effect for an
8 affected property or, if there is no written lease, the party or parties to whom the
9 property was rented.

10 (F) **A PERSON WHO HAS ACQUIRED, OR WILL ACQUIRE, AN AFFECTED**
11 **PROPERTY MAY GIVE THE PACKET REQUIRED UNDER THIS SECTION TO THE**
12 **TENANT OF THE AFFECTED PROPERTY:**

13 (1) **BEFORE TRANSFER OF LEGAL TITLE; OR**

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

15 6-824.

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

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

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

25 **6-825.**

26 (A) **A PERSON WHO INTENDS TO ACQUIRE, THROUGH AN ARM'S LENGTH**
27 **TRANSACTION, INHERITANCE, TAX SALE, FORECLOSURE, OR JUDICIALLY**
28 **APPROVED TRANSFER, AN OCCUPIED AFFECTED PROPERTY THAT IS IN**

1 VIOLATION OF § 6-815, § 6-817, OR § 6-819 OF THIS SUBTITLE MAY SUBMIT TO
2 THE DEPARTMENT AN APPLICATION FOR A COMPLIANCE PLAN.

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

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

7 (II) BE ON A FORM PROVIDED BY THE DEPARTMENT THAT
8 INCLUDES, FOR EACH OCCUPIED AFFECTED PROPERTY, THE FOLLOWING
9 INFORMATION:

10 1. THE TRANSFEREE'S NAME, ADDRESS, AND
11 TELEPHONE NUMBER;

12 2. THE TRANSFEROR'S NAME AND ADDRESS;

13 3. A STATEMENT CERTIFYING THAT NEITHER THE
14 TRANSFEREE NOR ANY OFFICER OR DIRECTOR OF THE TRANSFEREE HAS A
15 CURRENT INTEREST, EITHER INDIVIDUALLY OR JOINTLY, IN THE OCCUPIED
16 AFFECTED PROPERTY;

17 4. THE TYPE AND SCHEDULED DATE OF TRANSFER;

18 5. THE ADDRESS OF THE OCCUPIED AFFECTED
19 PROPERTY INCLUDING, FOR A MULTIFAMILY-OCCUPIED AFFECTED PROPERTY,
20 EACH UNIT IN THE PROPERTY; AND

21 6. WHETHER A PERSON AT RISK RESIDES IN THE
22 AFFECTED OCCUPIED PROPERTY.

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

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

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

4 **(2) THE DEPARTMENT MAY DENY AN APPLICATION FOR A**
5 **COMPLIANCE PLAN FOR AN OCCUPIED NONCOMPLIANT AFFECTED PROPERTY**
6 **BASED ON THE FOLLOWING FACTORS:**

7 **(I) THE EXISTENCE OF PRIOR VIOLATIONS BY THE**
8 **TRANSFeree OF THE PROVISIONS OF THIS SUBTITLE OR APPLICABLE**
9 **REGULATIONS;**

10 **(II) PRIOR EXTENSION OF THE COMPLIANCE DEADLINE**
11 **UNDER SUBSECTION (D) OF THIS SECTION FOR AN AFFECTED PROPERTY;**

12 **(III) POTENTIAL OR ACTUAL HARM TO THE ENVIRONMENT**
13 **OR TO HUMAN HEALTH OR SAFETY; AND**

14 **(IV) ANY OTHER FACTOR THE DEPARTMENT CONSIDERS**
15 **APPROPRIATE.**

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

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

1 **(F) A COMPLIANCE PLAN UNDER THIS SECTION IS VOID UNLESS WITHIN**
2 **15 DAYS FOLLOWING TRANSFER OF A NONCOMPLIANT AFFECTED PROPERTY,**
3 **THE TRANSFEREE FILES WITH THE DEPARTMENT:**

4 **(1) DOCUMENTATION SATISFACTORY TO THE DEPARTMENT OF**
5 **THE TRANSFER OF LEGAL TITLE; AND**

6 **(2) A STATEMENT CERTIFYING THAT, SUBSEQUENT TO TRANSFER**
7 **OF LEGAL TITLE, ALL TENANTS HAVE BEEN PROVIDED WITH THE NOTICE OF**
8 **TENANT'S RIGHTS AND LEAD POISONING INFORMATION PACKET REQUIRED BY**
9 **§§ 6-820 AND 6-823 OF THIS SUBTITLE.**

10 **(G) IF THE DEPARTMENT DETERMINES THAT ANY INFORMATION**
11 **PROVIDED IN AN APPLICATION FOR A COMPLIANCE PLAN WAS ERRONEOUS OR**
12 **INCOMPLETE, THE DEPARTMENT MAY DECLARE THE COMPLIANCE PLAN VOID**
13 **IN WHOLE OR IN PART.**

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

17 **(I) SUBJECT TO SUBSECTION (J) OF THIS SECTION, AFTER THE**
18 **DEPARTMENT APPROVES A COMPLIANCE PLAN, THE PERSON WHO ACQUIRED**
19 **THE AFFECTED PROPERTY SHALL:**

20 **(1) BE CONSIDERED TO BE IN COMPLIANCE WITH THE**
21 **REQUIREMENTS OF THIS SUBTITLE; AND**

22 **(2) BE ELIGIBLE FOR THE PROTECTION AFFORDED AN OWNER OF**
23 **AN AFFECTED PROPERTY WHO HAS COMPLIED WITH THE REQUIREMENTS OF**
24 **THIS SUBTITLE.**

25 **(J) IF THE PERSON WHO ACQUIRED THE AFFECTED PROPERTY FAILS TO**
26 **COMPLY WITH THE TERMS OF AN APPROVED COMPLIANCE PLAN, THE PERSON**
27 **SHALL BE CONSIDERED TO BE NONCOMPLIANT FROM THE DATE LEGAL TITLE TO**
28 **THE AFFECTED PROPERTY WAS TRANSFERRED TO THE PERSON.**

29 **(K) THE DEPARTMENT MAY ADOPT REGULATIONS TO CARRY OUT THIS**
30 **SECTION.**

1 6–836.

2 An owner of an affected property is not liable, for alleged injury or loss caused
3 by ingestion of lead by a person at risk in the affected property, to a person at risk or a
4 parent, legal guardian, or other person authorized under § 6–833 of this subtitle to
5 respond on behalf of a person at risk who rejects a qualified offer made by the owner or
6 the owner’s insurer or agent if, during the period of the alleged ingestion of lead by the
7 person at risk, and with respect to the affected property in which the exposure
8 allegedly occurred, the owner:

9 (1) Has given to the tenant the notices required by §§ 6–820 and 6–823
10 of this subtitle; and

11 (2) Was in compliance with:

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

13 (ii) The applicable risk reduction standard and response
14 standard under § 6–815 or § 6–819 of this subtitle, and the risk reduction schedule
15 under § 6–817 of this subtitle.

16 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be
17 construed to apply retroactively and shall be applied to and interpreted to affect any
18 purchase of affected property on or after March 1, 2007.

19 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
20 October 1, 2007.