

CHAPTER 444

(Senate Bill 718)

AN ACT concerning

Lead Risk Reduction – Acquisition of Property – Compliance Requirements

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

BY repealing and reenacting, with amendments,
Article – Environment
Section 6–820 and 6–823
Annotated Code of Maryland
(2007 Replacement Volume and 2007 Supplement)

BY repealing and reenacting, without amendments,
Article – Environment
Section 6–824 and 6–836
Annotated Code of Maryland
(2007 Replacement Volume and 2007 Supplement)

BY adding to
Article – Environment
Section 6–825
Annotated Code of Maryland
(2007 Replacement Volume and 2007 Supplement)

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

Article – Environment

6–820.

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

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

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

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

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

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

- (i) Certified mail, return receipt requested; or
- (ii) A verifiable method approved by the Department.

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

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

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

(1) BEFORE TRANSFER OF LEGAL TITLE; OR

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

6-823.

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

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

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

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

(1) Certified mail, return receipt requested; or

(2) A verifiable method approved by the Department.

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

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

(1) BEFORE TRANSFER OF LEGAL TITLE; OR

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

6-824.

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

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

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

6-825.

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

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

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

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

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

2. THE TRANSFEROR'S NAME AND ADDRESS;

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

4. THE TYPE AND SCHEDULED DATE OF TRANSFER;
5. THE ADDRESS OF THE OCCUPIED AFFECTED PROPERTY INCLUDING, FOR A MULTIFAMILY-OCCUPIED AFFECTED PROPERTY, EACH UNIT IN THE PROPERTY; AND
6. WHETHER A PERSON AT RISK RESIDES IN THE OCCUPIED AFFECTED PROPERTY.

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

(3) AN APPLICATION FEE OF \$200 FOR EACH OCCUPIED AFFECTED PROPERTY AND EACH OCCUPIED UNIT IN A MULTIFAMILY AFFECTED PROPERTY, NOT TO EXCEED ~~\$6,000~~ \$10,000, SHALL BE SUBMITTED TO THE DEPARTMENT WITH THE APPLICATION.

(c) (1) WITHIN 20 DAYS OF RECEIPT OF THE APPLICATION FOR A COMPLIANCE PLAN, THE DEPARTMENT SHALL:

(i) APPROVE THE COMPLIANCE PLAN, IN WHOLE OR IN PART;

(ii) DENY THE COMPLIANCE PLAN, IN WHOLE OR IN PART;
OR

(iii) REQUEST ADDITIONAL INFORMATION.

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

(i) FAILURE TO SUBMIT OR TIMELY SUBMIT A COMPLETE APPLICATION;

(ii) FAILURE TO SUBMIT OR TIMELY SUBMIT INFORMATION REQUESTED BY THE DEPARTMENT;

(iii) THE EXISTENCE OF PRIOR VIOLATIONS BY THE TRANSFEREE OF THE PROVISIONS OF THIS SUBTITLE OR APPLICABLE REGULATIONS;

(iv) PRIOR EXTENSION OF THE COMPLIANCE DEADLINE UNDER SUBSECTION (D) OF THIS SECTION FOR AN AFFECTED PROPERTY;

(V) POTENTIAL OR ACTUAL HARM TO THE ENVIRONMENT OR TO HUMAN HEALTH OR SAFETY; AND

(VI) ANY OTHER FACTOR THE DEPARTMENT CONSIDERS APPROPRIATE.

(D) (1) THIS SUBSECTION APPLIES TO AN OCCUPIED AFFECTED PROPERTY IN WHICH A PERSON AT RISK DOES NOT RESIDE.

(2) SUBJECT TO SUBSECTION (E) OF THIS SECTION, IF AN APPLICATION FOR A COMPLIANCE PLAN IS APPROVED, THE TRANSFEREE SHALL FILE WITH THE DEPARTMENT AN INSPECTION REPORT AS PROOF THAT THE RISK REDUCTION STANDARD SPECIFIED IN § 6-815 OF THIS SUBTITLE HAS BEEN SATISFIED, OR AN INSPECTION REPORT IN ACCORDANCE WITH § 6-804 OF THIS SUBTITLE, FOR EACH OCCUPIED AFFECTED PROPERTY THAT HAS NOT SATISFIED THE REQUIREMENTS OF § 6-815, § 6-817, OR § 6-819 OF THIS SUBTITLE WITHIN THE FOLLOWING TIME FRAMES:

(I) WITHIN 30 DAYS AFTER TRANSFER OF LEGAL TITLE FOR A TRANSFEREE ACQUIRING 1 OCCUPIED AFFECTED PROPERTY;

(II) WITHIN 90 DAYS AFTER THE TRANSFER OF LEGAL TITLE FOR A TRANSFEREE ACQUIRING 2 TO 5 OCCUPIED AFFECTED PROPERTIES;

(III) WITHIN 135 DAYS AFTER THE TRANSFER OF LEGAL TITLE FOR A TRANSFEREE ACQUIRING 6 TO 10 OCCUPIED AFFECTED PROPERTIES; OR

(IV) WITHIN 180 DAYS AFTER THE TRANSFER OF LEGAL TITLE FOR A TRANSFEREE ACQUIRING MORE THAN 10 OCCUPIED AFFECTED PROPERTIES.

(E) (1) THIS SUBSECTION APPLIES TO AN OCCUPIED AFFECTED PROPERTY IN WHICH A PERSON AT RISK RESIDES.

(2) NOTWITHSTANDING THE STATUS OF AN APPLICATION FOR A COMPLIANCE PLAN, THE TRANSFEREE SHALL FILE WITH THE DEPARTMENT AN INSPECTION REPORT AS PROOF THAT THE RISK REDUCTION STANDARD SPECIFIED IN § 6-815 OF THIS SUBTITLE HAS BEEN SATISFIED, OR AN INSPECTION REPORT IN ACCORDANCE WITH § 6-804 OF THIS SUBTITLE, FOR EACH OCCUPIED AFFECTED PROPERTY THAT HAS NOT SATISFIED THE

REQUIREMENTS OF § 6-815, § 6-817, OR § 6-819 OF THIS SUBTITLE WITHIN 30 DAYS AFTER TRANSFER OF LEGAL TITLE.

(F) A COMPLIANCE PLAN FOR AN OCCUPIED AFFECTED PROPERTY UNDER THIS SECTION IS VOID UNLESS WITHIN 15 DAYS FOLLOWING TRANSFER OF THE OCCUPIED AFFECTED PROPERTY SUBJECT TO THE COMPLIANCE PLAN, THE TRANSFEREE FILES WITH THE DEPARTMENT:

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

(2) A STATEMENT CERTIFYING THAT, PRIOR TO OR WITHIN 15 DAYS OF TRANSFER OF LEGAL TITLE, THE TRANSFEREE PROVIDED THE TENANTS OF THE OCCUPIED PROPERTIES WITH THE NOTICE OF TENANT'S RIGHTS AND LEAD POISONING INFORMATION PACKET REQUIRED BY §§ 6-820 AND 6-823 OF THIS SUBTITLE; AND

(3) A STATEMENT CERTIFYING THAT WITHIN 15 DAYS OF TRANSFER OF LEGAL TITLE, THE TRANSFEREE REGISTERED THE OCCUPIED AFFECTED PROPERTIES WITH THE DEPARTMENT IN ACCORDANCE WITH §§ 6-811 AND 6-812 OF THIS SUBTITLE.

(G) IF THE DEPARTMENT DETERMINES THAT ANY INFORMATION PROVIDED IN AN APPLICATION FOR A COMPLIANCE PLAN OR REQUIRED IN SUBSECTION (F) OF THIS SECTION WAS ERRONEOUS OR INCOMPLETE, THE DEPARTMENT MAY DECLARE THE COMPLIANCE PLAN VOID IN WHOLE OR IN PART.

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

(I) SUBJECT TO SUBSECTIONS (H) AND (J) OF THIS SECTION, IF THE DEPARTMENT APPROVES A COMPLIANCE PLAN, AN AFFECTED PROPERTY SUBJECT TO THE COMPLIANCE PLAN SHALL BE CONSIDERED IN COMPLIANCE WITH §§ 6-815, 6-817, AND 6-819 OF THIS SUBTITLE AS OF THE DAY OF THE DATE OF TRANSFER.

(J) IF THE PERSON WHO ACQUIRED AN OCCUPIED AFFECTED PROPERTY THAT DOES NOT SATISFY THE REQUIREMENTS OF § 6-815, § 6-817, OR § 6-819 OF THIS SUBTITLE FAILS TO COMPLY WITH THE TERMS OF AN APPROVED COMPLIANCE PLAN, THE AFFECTED PROPERTY SHALL BE CONSIDERED TO BE NONCOMPLIANT WITH § 6-815 OF THIS SUBTITLE FROM THE

DATE LEGAL TITLE TO THE AFFECTED PROPERTY WAS TRANSFERRED TO THE PERSON.

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

6-836.

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

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

(2) Was in compliance with:

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

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

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2008.

Approved by the Governor, May 13, 2008.