

Department of Legislative Services
Maryland General Assembly
2008 Session

FISCAL AND POLICY NOTE
Revised

Senate Bill 718

(Senator Klausmeier)

Judicial Proceedings

Environmental Matters

Lead Risk Reduction - Acquisition of Property - Compliance Requirements

This bill establishes new provisions under the Reduction of Lead Risk in Housing subtitle in the Environment Article that authorize a person who intends to acquire an occupied affected property that is in violation of the risk reduction requirements under current law to submit a compliance plan to the Maryland Department of the Environment. An application fee of \$200 for each occupied affected property and each occupied unit in a multifamily affected property, up to \$10,000, must be paid. If approved, the person is considered to be in compliance. The bill also establishes provisions regarding when a person who has acquired or will acquire affected property must give tenants the notice and information required under current law.

Fiscal Summary

State Effect: Special fund revenues to MDE's Lead Poisoning Prevention Fund would increase as a result of application fees (\$200 per unit, up to \$10,000 per application); a reliable estimate of the number of applications that would be submitted to MDE cannot be made at this time. MDE could begin to implement the bill with existing resources; however, depending on the number of applications submitted, general/special fund expenditures could increase to review compliance plans and track approvals.

Local Effect: The bill is not anticipated to significantly affect local operations or finances.

Small Business Effect: Minimal.

Analysis

Bill Summary: The application for a compliance plan must be submitted and received by MDE at least 30 days before transfer of legal title. The application must be on a form provided by MDE that includes specified information; MDE may require additional information. The bill requires MDE to take action within 20 days after receipt of an application and authorizes MDE to deny an application based on specified factors.

The bill requires the transferee to submit an inspection report as proof that the risk reduction standard has been satisfied or an inspection report that states that all interior and exterior surfaces of the property are lead-free or that all interior surfaces are lead-free and that all exterior surfaces meet specified requirements. A compliance plan for an occupied affected property is void unless the transferee files satisfactory documentation of the transfer and specified certifications within 15 days following the transfer of the affected property. If MDE determines that any information provided in an application or required by the bill was erroneous or incomplete, MDE may declare the compliance plan void.

After MDE approves a plan, the person that acquired the property is considered to be in compliance with specified provisions of the Reduction of Lead Risk in Housing subtitle and, thus, is eligible for the protection afforded to owners of affected property that are in compliance. If the person that acquired an occupied affected property fails to comply with the terms of the approved plan, the affected property is considered to be noncompliant with specified provisions of current law from the date legal title to the affected property was transferred.

MDE is authorized to adopt regulations to carry out the provisions governing compliance plans.

The bill also requires a person who has acquired or will acquire an affected property to give the required notice and lead poisoning information packet to tenants before transfer of legal title or within 15 days following transfer of legal title.

Current Law: Chapter 114 of 1994 established the Lead 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. A qualified offer by a landowner in such instances covers up to \$7,500 for all medically necessary treatments and up to \$9,500 for relocation benefits. Acceptance of a qualified offer discharges and releases all potential liability of the offeror to the person at risk and to the parent or legal guardian of the person at risk for alleged injury or loss caused by the ingestion of lead by the person at risk in the affected

property. An owner is not liable for alleged injury or loss caused by ingestion of lead by a person at risk who rejects a qualified offer if, during the period of the alleged ingestion, the owner has given to the tenant the required notices and was in compliance with the registration and risk reduction standards.

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. Current law requires an owner of affected property to give tenants notice of their rights under the lead law, along with a copy of the current inspection certificate. In addition, an owner must give tenants a lead poisoning information packet.

Background: Lead poisoning impacts the cognitive and physical development of young children. Exposure to lead can cause long-term neurological damage that may be associated with learning and behavioral problems and with decreased intelligence. 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 there has been a steady decline in childhood lead exposure over the past decade, lead poisoning remains a significant health issue.

State Expenditures: MDE could begin to implement the bill with existing resources; however, depending on the number of applications submitted, general/special fund expenditures could increase to review compliance plans and track approvals.

MDE advises that costs would increase by an estimated \$85,364 in fiscal 2009 to hire one environmental compliance specialist and one administrative specialist to review applications and to track plan approvals; the estimate assumes that there would be at least 25 applications received each year. Legislative Services advises, however, that the number of individuals who will apply for this approval is unknown. Without good information about the number of applicants, the need for additional staff is unjustified at this time. To the extent MDE is unable to handle any additional workload with existing staff, additional staff may be requested through the annual budget process.

Additional Information

Prior Introductions: Similar legislation was introduced as SB 747/HB 424 of 2007 and HB 1527 of 2006. HB 424 of 2007 passed the House with amendments (the amended bill was nearly identical to this legislation as introduced); the bill was referred to the Senate Judicial Proceedings Committee but no further action was taken. Judicial Proceedings held a hearing on SB 747 of 2007 but no further action was taken. HB 1527 of 2006 passed the House with amendments and was referred to the Senate Rules Committee but no further action was taken.

Cross File: None.

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

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