

HOUSE BILL 1156

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By: **Delegates Rosenberg, Anderson, Carter, Conaway, Glenn, McHale, Oaks, Robinson, and Stukes**

Introduced and read first time: February 13, 2009

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Baltimore City Lead Poisoning Recovery Act of 2009**

3 FOR the purpose of requiring certain manufacturers of lead pigment to reimburse
4 certain persons for certain damages caused by lead-based paint in Baltimore
5 City; establishing the types of damages for which certain manufacturers of lead
6 pigment are required to pay reimbursement; providing that certain
7 manufacturers of lead pigment may be held liable under any legally recognized
8 theory of liability; providing that failure to join a certain manufacturer in a
9 certain action does not constitute failure to join a required party for any
10 purpose; providing that a person is not required to prove that a manufacturer
11 manufactured the lead pigment contained in certain lead-based paint that
12 caused the damage to establish the liability of the manufacturer; requiring the
13 person to prove by a preponderance of the evidence certain elements in order to
14 recover damages; requiring a trier of fact, if a party satisfies a certain burden of
15 proof against a certain manufacturer to find the manufacturer liable, unless the
16 manufacturer establishes certain facts by a preponderance of the evidence;
17 requiring the trier of fact, if a certain manufacturer is found liable for certain
18 damages, to make a certain finding and enter a certain judgment based on
19 certain factors; providing that a certain manufacturer who is found to be liable
20 is subject to joint and several liability; establishing a duty of a certain attorney
21 to notify and reimburse the State for certain expenses; declaring a certain
22 action under this Act is not exclusive and is independent of and in addition to
23 any right, remedy, or cause of action available to the State or Baltimore City;
24 allowing medical assistance expenditures attributable to lead paint to be proved
25 or disproved by evidence of statistical analysis; creating the Lead Paint
26 Restitution Fund; declaring a certain intent of the General Assembly; defining
27 certain terms; providing for the application of this Act; and generally relating to
28 the liability of manufacturers for damage caused by lead pigment in lead-based
29 paint in residential buildings in Baltimore City.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 BY adding to
2 Article – Courts and Judicial Proceedings
3 Section 3–1801 through 3–1809 to be under the new subtitle “Subtitle 18.
4 Baltimore City Lead Poisoning Recovery Act”
5 Annotated Code of Maryland
6 (2006 Replacement Volume and 2008 Supplement)

7 Preamble

8 WHEREAS, Baltimore City has the highest proportion of tested children in the
9 State with blood lead levels higher than ≥ 10 $\mu\text{g}/\text{dl}$, a level that negatively affects
10 children’s physical and mental development according to the Centers for Disease
11 Control and Prevention; and

12 WHEREAS, 624 of the 892 children identified in the State with at least one
13 blood test ≥ 10 $\mu\text{g}/\text{dl}$ resided in Baltimore City according to data from the Maryland
14 Department of the Environment, Maryland Childhood Lead Registry, Childhood Blood
15 Lead Surveillance in Maryland, 2007 Annual Report; and

16 WHEREAS, Most children confirmed with venous blood lead levels ≥ 20 $\mu\text{g}/\text{dl}$ in
17 the State reside in housing built before 1950 according to the Maryland Department of
18 Housing and Community Development; and

19 WHEREAS, Greater than 50% of housing units in Baltimore City are pre–1950
20 housing units with serious lead hazard potential based on data from the United States
21 Census Bureau, 2005 American Community Survey; and

22 WHEREAS, Approximately 70% of all children with elevated blood lead levels
23 in the State reside in Baltimore City; and

24 WHEREAS, Baltimore City accounted for nearly 67% of the State’s reported
25 cases of lead poisoning from 2007 to 1998, according to the Maryland Department of
26 Environment Childhood Lead Registry annual report; and

27 WHEREAS, The overwhelming majority of lead poisoned children in Baltimore
28 City reside in rental properties; and

29 WHEREAS, More than 100,000 homes in Baltimore have potentially hazardous
30 levels of lead paint, raising the risk of poisoning generation after generation, according
31 to the Abel Foundation; and

32 WHEREAS, Lead poisoning causes irreversible damage to the brain and
33 nervous system as well as the heart and red blood cells, resulting in: learning
34 disabilities; lowered I.Q.; hyperactivity; attention deficit disorder; speech delays;
35 hearing loss; slowed or reduced growth; behavioral problems; violent and/or aggressive
36 behavior; cognitive disabilities; convulsions; coma; and death; and

1 WHEREAS, The harmful effects of lead poisoning are permanent and there is
2 no cure; and

3 WHEREAS, Children exposed to lead are seven times more likely to drop out of
4 school and six times more likely to have reading disabilities, according to the New
5 England Journal of Medicine; and

6 WHEREAS, children exposed to lead are seven times more likely to drop out of
7 school and six times more likely to have reading disabilities, according to the New
8 England Journal of Medicine; and

9 WHEREAS, 15 to 18 percent of Baltimore City children are receiving special
10 education services and a significant number of them are lead poisoned, according to
11 the Baltimore City Health Department; and

12 WHEREAS, Medical and hospital costs associated with lead poisoning can reach
13 more than \$700,000 over a lifetime; and

14 WHEREAS, Children served by Medicaid and those living in older, dilapidated
15 properties are at highest risk of lead poisoning, according to the federal Centers for
16 Disease Control and Prevention;

17 WHEREAS, Throughout the first half of the 20th century and despite the
18 growing knowledge of the deadly consequences of lead paint, the lead pigment
19 manufacturers engaged in an advertising campaign to convince families to buy lead
20 paint and to assure parents that lead paint was safe; and

21 WHEREAS, Lead paint makes houses uninhabitable; and

22 WHEREAS, As of the year 2000, Baltimore ranked number one in the country
23 in the percentage of housing which becomes vacant; and

24 WHEREAS, There are an estimated 14,000 public-housing units under
25 Baltimore City control and the City is financially responsible for keeping them
26 compliant with lead laws; and

27 WHEREAS, The cycle of lead poisoning will continue if fair, equitable, and
28 definitive action is not taken; now, therefore,

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

31 **Article – Courts and Judicial Proceedings**

32 **SUBTITLE 18. BALTIMORE CITY LEAD POISONING RECOVERY ACT.**

33 **3-1801.**

1 (A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS
2 INDICATED.

3 (B) “ABATEMENT” MEANS A SET OF MEASURES DESIGNED TO
4 ELIMINATE OR REDUCE LEAD-BASED PAINT HAZARDS IN A RESIDENTIAL
5 BUILDING IN ACCORDANCE WITH STANDARDS ESTABLISHED BY THE
6 DEPARTMENT OF THE ENVIRONMENT OR THE BALTIMORE CITY HEALTH
7 DEPARTMENT THAT MAY INCLUDE:

8 (1) THE REMOVAL OF LEAD-BASED PAINT AND
9 LEAD-CONTAMINATED DUST, THE CONTAINMENT OR ENCAPSULATION OF
10 LEAD-BASED PAINT, THE REPLACEMENT OR DEMOLITION OF LEAD-BASED
11 PAINTED SURFACES OR FIXTURES, AND THE REMOVAL OR COVERING OF
12 LEAD-CONTAMINATED SOIL; AND

13 (2) ALL PREPARATION, CLEANUP, DISPOSAL, AND
14 POSTABATEMENT CLEARANCE TESTING ACTIVITIES ASSOCIATED WITH THESE
15 MEASURES.

16 (C) “LEAD-BASED PAINT” MEANS LEAD-BASED PAINT AS DEFINED BY
17 REGULATIONS ADOPTED BY THE DEPARTMENT OF THE ENVIRONMENT.

18 (D) (1) “MANUFACTURER OF LEAD PIGMENT” MEANS A PERSON WHO
19 MANUFACTURED OR PRODUCED LEAD PIGMENT FOR SALE OR USE AS A
20 COMPONENT IN PAINT OR A PREDECESSOR-IN-INTEREST OF THE PERSON.

21 (2) “MANUFACTURER OF LEAD PIGMENT” DOES NOT INCLUDE:

22 (I) A PERSON OR A PREDECESSOR-IN-INTEREST OF THE
23 PERSON WHO ONLY SOLD LEAD PIGMENT OR LEAD PIGMENT AS A COMPONENT
24 OF LEAD-BASED PAINT AT RETAIL OR WHOLESALE; OR

25 (II) A PERSON OR A PREDECESSOR-IN-INTEREST OF THE
26 PERSON WHO ONLY APPLIED LEAD-BASED PAINT IN A RESIDENTIAL BUILDING.

27 (E) “MARKET FOR LEAD PIGMENT” MEANS THE MARKET FOR LEAD
28 PIGMENT INTENDED FOR USE OR USED AS A COMPONENT OF LEAD-BASED
29 PAINT INTENDED FOR USE OR USED IN THE UNITED STATES OF AMERICA.

30 (F) “SHARE OF THE MARKET” MEANS A PERCENTAGE OF SALES OF
31 LEAD PIGMENT AND LEAD-BASED PAINT IN THE MARKET FOR LEAD PIGMENT
32 ATTRIBUTABLE TO A MANUFACTURER OF LEAD PIGMENT DURING THE TIME
33 PERIOD THE RESIDENTIAL BUILDING AT ISSUE IN THE LITIGATION EXISTED.

1 **3-1802.**

2 (A) THIS SUBTITLE APPLIES ONLY TO AN ACTION INVOLVING
3 LEAD-BASED PAINT IN A RESIDENTIAL BUILDING IN BALTIMORE CITY,
4 WHETHER OWNED BY BALTIMORE CITY OR OTHERWISE.

5 (B) BALTIMORE CITY MAY BE A PARTY IN AN ACTION DESCRIBED IN
6 THIS SUBTITLE.

7 **3-1803.**

8 (A) A MANUFACTURER OF LEAD PIGMENT SHALL BE LIABLE TO A
9 PERSON UNDER ANY LEGALLY RECOGNIZED THEORY OF LIABILITY FOR
10 DAMAGES CAUSED BY THE PRESENCE OF LEAD-BASED PAINT IN A RESIDENTIAL
11 BUILDING, INCLUDING:

12 (1) PERSONAL INJURY DAMAGES SUSTAINED BY AN INDIVIDUAL
13 IN WHICH LEAD PIGMENT CONTAINED IN LEAD-BASED PAINT WAS A
14 SUBSTANTIAL CONTRIBUTING FACTOR;

15 (2) DAMAGES SUSTAINED BY THE OWNER OF A BUILDING
16 REQUIRED TO COMPLY WITH:

17 (I) THE REQUIREMENTS OF TITLE 6, SUBTITLE 8 OF THE
18 ENVIRONMENT ARTICLE;

19 (II) AN ABATEMENT ORDER ISSUED BY AN AGENCY OF THE
20 STATE OR A LOCAL GOVERNMENT; OR

21 (III) A REQUIREMENT TO REPAIR LEAD-BASED PAINT
22 DEFECTS UNDER § 8-211 OR § 8-211.1 OF THE REAL PROPERTY ARTICLE;

23 (3) EXPENSES TO ABATE LEAD-BASED PAINT VOLUNTARILY
24 INCURRED BY AN OWNER OF A BUILDING;

25 (4) THE REASONABLE FUTURE COSTS ASSOCIATED WITH THE
26 TESTING, REMOVAL, ABATEMENT, OR ELIMINATION OF LEAD-BASED PAINT
27 FROM A BUILDING THAT CONTAINS LEAD-BASED PAINT AT THE TIME AN ACTION
28 IS FILED; AND

29 (5) LOST RENT.

1 **(B) (1) A MANUFACTURER OF LEAD PIGMENT MAY BE HELD LIABLE**
2 **UNDER ANY LEGALLY RECOGNIZED THEORY OF LIABILITY:**

3 **(I) IN AN ACTION FOR DAMAGES; AND**

4 **(II) SUBJECT TO PARAGRAPH (3) OF THIS SUBSECTION,**
5 **THIRD PARTY OR CLASS ACTION PLEADING PRACTICES AUTHORIZED UNDER**
6 **THE MARYLAND RULES.**

7 **(2) AN OWNER OF A BUILDING MAY FILE A THIRD PARTY ACTION**
8 **AGAINST A MANUFACTURER OF LEAD PIGMENT TO RECOVER DAMAGES**
9 **RESULTING FROM THE PRESENCE OF LEAD-BASED PAINT IN THE BUILDING.**

10 **(3) FAILURE TO JOIN A MANUFACTURER OF LEAD PIGMENT OR A**
11 **MANUFACTURER OF LEAD-BASED PAINT CONTAINING LEAD PIGMENT IN AN**
12 **ACTION INVOLVING DAMAGES CAUSED BY LEAD PIGMENT CONTAINED IN**
13 **LEAD-BASED PAINT DOES NOT CONSTITUTE FAILURE TO JOIN A REQUIRED**
14 **PARTY FOR ANY PURPOSE.**

15 **3-1804.**

16 **(A) IN AN ACTION UNDER THIS SUBTITLE, A PARTY IS NOT REQUIRED TO**
17 **PROVE THAT AN INDIVIDUAL MANUFACTURER OF LEAD PIGMENT**
18 **MANUFACTURED THE LEAD PIGMENT CONTAINED IN LEAD-BASED PAINT THAT**
19 **CAUSED THE DAMAGE IN ORDER TO ESTABLISH THE LIABILITY OF THE**
20 **MANUFACTURER OF LEAD PIGMENT FOR THE DAMAGES.**

21 **(B) IN ORDER TO RECOVER DAMAGES FOR NEGLIGENCE UNDER**
22 **SUBSECTION (A) OF THIS SECTION, A PARTY SHALL HAVE THE BURDEN OF**
23 **PROVING BY A PREPONDERANCE OF THE EVIDENCE THAT:**

24 **(1) LEAD PIGMENT USED AS A COMPONENT IN LEAD-BASED**
25 **PAINT WAS A SUBSTANTIAL CONTRIBUTING FACTOR IN CAUSING THE DAMAGES**
26 **ALLEGED;**

27 **(2) THE MANUFACTURER OF LEAD PIGMENT HAD A SHARE OF**
28 **THE MARKET FOR LEAD PIGMENT; AND**

29 **(3) THE MANUFACTURER OF LEAD PIGMENT BREACHED A**
30 **LEGALLY RECOGNIZED DUTY BY MANUFACTURING, PRODUCING, OR MARKETING**
31 **LEAD PIGMENT INTENDED FOR USE OR USED AS A COMPONENT OF LEAD-BASED**
32 **PAINT.**

1 **(C) IN ORDER TO RECOVER DAMAGES FOR STRICT PRODUCTS LIABILITY**
2 **UNDER SUBSECTION (A) OF THIS SECTION, A PARTY SHALL HAVE THE BURDEN**
3 **OF PROVING BY A PREPONDERANCE OF THE EVIDENCE THAT:**

4 **(1) THE LEAD PIGMENT WAS DEFECTIVE WHEN THE LEAD**
5 **PIGMENT LEFT THE POSSESSION OR CONTROL OF THE MANUFACTURER OF LEAD**
6 **PIGMENT;**

7 **(2) THE LEAD PIGMENT WAS UNREASONABLY DANGEROUS TO**
8 **THE USER OR CONSUMER OR TO PROPERTY;**

9 **(3) THE DEFECT WAS A PROXIMATE CAUSE OF THE INJURIES OR**
10 **DAMAGES ALLEGED;**

11 **(4) THE SELLER OF LEAD PIGMENT ENGAGED IN THE BUSINESS**
12 **OF MANUFACTURING, PRODUCING, MARKETING, OR SELLING LEAD PIGMENT;**
13 **AND**

14 **(5) THE LEAD PIGMENT WAS EXPECTED TO AND DID REACH THE**
15 **USER OR CONSUMER WITHOUT SUBSTANTIAL CHANGE IN THE CONDITION IN**
16 **WHICH THE LEAD PIGMENT WAS SOLD.**

17 **(D) IF A PARTY SATISFIES THE BURDEN OF PROOF UNDER SUBSECTION**
18 **(B) OR (C) OF THIS SECTION, OR ANY OTHER LEGALLY RECOGNIZED THEORY OF**
19 **LIABILITY AGAINST A MANUFACTURER OF LEAD PIGMENT, THE TRIER OF FACT**
20 **SHALL FIND THE MANUFACTURER LIABLE FOR DAMAGES IN AN ACTION UNDER**
21 **THIS SUBTITLE, UNLESS THE MANUFACTURER OF LEAD PIGMENT ESTABLISHES**
22 **BY A PREPONDERANCE OF THE EVIDENCE THAT:**

23 **(1) THE MANUFACTURER DID NOT MANUFACTURE, PRODUCE, OR**
24 **MARKET LEAD PIGMENT DURING THE DURATION OF THE EXISTENCE OF THE**
25 **BUILDING AT ISSUE IN THE ACTION; OR**

26 **(2) THE LEAD PIGMENT INTENDED FOR USE OR USED AS A**
27 **COMPONENT OF LEAD-BASED PAINT DID NOT ENTER THE RETAIL MARKET OF**
28 **THE GEOGRAPHICAL LOCATION WHERE THE BUILDING WAS LOCATED.**

29 **(E) (1) IF A MANUFACTURER OF LEAD PIGMENT IS FOUND TO BE**
30 **LIABLE FOR DAMAGES UNDER SUBSECTION (D) OF THIS SECTION, THE TRIER OF**
31 **FACT SHALL:**

32 **(I) FIND A TOTAL AMOUNT OF DAMAGES SUFFERED BY A**
33 **PARTY; AND**

1 **(II) APPORTION THE TOTAL AMOUNT OF DAMAGES AMONG**
2 **THE LIABLE MANUFACTURERS OF LEAD PIGMENT ON THE BASIS OF EACH**
3 **MANUFACTURER'S OVERALL CONTRIBUTION TO THE RISK OF HARM TO THE**
4 **PARTY.**

5 **(2) FACTORS TO BE CONSIDERED BY A TRIER OF FACT IN**
6 **DETERMINING APPORTIONMENT OF DAMAGES UNDER THIS SECTION MAY**
7 **INCLUDE:**

8 **(I) THE EXTENT OF THE SHARE OF THE MARKET FOR LEAD**
9 **PIGMENT OF THE MANUFACTURER OF LEAD PIGMENT;**

10 **(II) THE ROLE OF THE MANUFACTURER OF LEAD PIGMENT**
11 **IN MARKETING LEAD PIGMENT INTENDED FOR USE OR USED AS A COMPONENT**
12 **OF LEAD-BASED PAINT;**

13 **(III) THE KNOWLEDGE OF THE MANUFACTURER OF LEAD**
14 **PIGMENT OF THE DANGERS OF LEAD PIGMENT USED OR INTENDED FOR USE AS**
15 **A COMPONENT OF LEAD-BASED PAINT;**

16 **(IV) WHETHER THE MANUFACTURER OF LEAD PIGMENT**
17 **MANUFACTURED, PRODUCED, OR MARKETED LEAD PIGMENT AFTER THE**
18 **MANUFACTURER KNEW OR SHOULD HAVE KNOWN OF THE POSSIBLE HAZARDS**
19 **OF LEAD PIGMENT;**

20 **(V) THE DEGREE OF TOXICITY OF THE LEAD PIGMENT**
21 **MANUFACTURED, PRODUCED, OR MARKETED BY THE MANUFACTURER OF LEAD**
22 **PIGMENT; AND**

23 **(VI) AFFIRMATIVE STEPS OF THE MANUFACTURER OF LEAD**
24 **PIGMENT TO REDUCE THE DANGER OF LEAD PIGMENT TO THE PUBLIC.**

25 **(F) IF A MANUFACTURER OF LEAD PIGMENT IS FOUND TO BE LIABLE**
26 **FOR DAMAGES UNDER SUBSECTION (D) OF THIS SECTION, THE LIABILITY OF**
27 **THE MANUFACTURER SHALL BE JOINT AND SEVERAL LIABILITY.**

28 **(G) THIS SECTION MAY NOT BE CONSTRUED OR INTERPRETED TO**
29 **PROHIBIT A MANUFACTURER OF LEAD PIGMENT FROM BRINGING CLAIMS**
30 **AGAINST ANOTHER MANUFACTURER OF LEAD PIGMENT FOR CONTRIBUTION OR**
31 **INDEMNIFICATION.**

32 **3-1805.**

1 (A) (1) AN ATTORNEY WHO REPRESENTS AN INDIVIDUAL WHO IS OR
2 WAS A MINOR WHEN THE INDIVIDUAL SUFFERED LEAD POISONING INJURIES IN
3 ACCORDANCE WITH THIS SUBTITLE SHALL, ON FILING SUIT ON BEHALF OF THE
4 MINOR, NOTIFY IN WRITING THE STATE OF MARYLAND MEDICAL ASSISTANCE
5 COMPLIANCE DIVISION OF THE PENDENCY OF THE ACTION.

6 (2) THE MEDICAL ASSISTANCE COMPLIANCE DIVISION SHALL
7 PROVIDE THE ATTORNEY WHO REPRESENTS THE MINOR, WITHIN 90 DAYS OF
8 THE DATE OF THE NOTICE UNDER PARAGRAPH (1) OF THIS SUBSECTION, WITH A
9 LIEN NOTICE IN ACCORDANCE WITH § 15-120 OF THE HEALTH - GENERAL
10 ARTICLE.

11 (B) AN ATTORNEY WHO RECEIVES FUNDS BY WAY OF SETTLEMENT OR
12 JUDGMENT ON BEHALF OF A LEAD-POISONED MINOR IN ACCORDANCE WITH
13 THIS SUBTITLE SHALL REIMBURSE THE STATE FOR A PROPERLY ASSERTED
14 LIEN IN ACCORDANCE WITH § 15-120 OF THE HEALTH - GENERAL ARTICLE,
15 FOR MONEY THAT WAS PAID BY THE STATE ON BEHALF OF THE MINOR AS A
16 RESULT OF THE LEAD POISONING OF THE MINOR.

17 (C) (1) THE MEDICAL ASSISTANCE COMPLIANCE DIVISION SHALL
18 NOTIFY THE OFFICE OF THE ATTORNEY GENERAL OF EVERY CLAIM FOR WHICH
19 THE DIVISION RECEIVES NOTICE IN ACCORDANCE WITH THIS SECTION.

20 (2) THE OFFICE OF THE ATTORNEY GENERAL MAY INTERVENE
21 AS AN ADDITIONAL PLAINTIFF IN AN ACTION UNDER THIS SUBTITLE FOR THE
22 PURPOSE OF ASSISTING IN THE RECOVERY OF MONEY PAID OUT BY THE STATE
23 ON BEHALF OF THE INJURED MINOR.

24 **3-1806.**

25 (A) AN ACTION UNDER THIS SUBTITLE IS NOT EXCLUSIVE AND IS
26 INDEPENDENT OF AND IN ADDITION TO A RIGHT, REMEDY, OR CAUSE OF ACTION
27 AVAILABLE TO THE STATE, THE DEPARTMENT, ANOTHER STATE AGENCY,
28 BALTIMORE CITY, A PROGRAM RECIPIENT, OR ANY OTHER INDIVIDUAL TO
29 RECOVER EXPENDITURES ATTRIBUTABLE TO LEAD-BASED PAINT.

30 (B) IN AN ACTION UNDER THIS SUBTITLE OR IN ACCORDANCE WITH ANY
31 OTHER RIGHT, REMEDY, OR CAUSE OF ACTION BROUGHT BY THE STATE
32 AGAINST A MANUFACTURER OF LEAD PIGMENT, THE CAUSATION AND THE
33 AMOUNT OF MEDICAL ASSISTANCE EXPENDITURES ATTRIBUTABLE TO
34 LEAD-BASED PAINT MAY BE PROVED OR DISPROVED BY EVIDENCE OF
35 STATISTICAL ANALYSIS, WITHOUT PROOF OF THE CAUSATION OR THE AMOUNT
36 OF EXPENDITURES FOR A PARTICULAR PROGRAM RECIPIENT OR OTHER
37 INDIVIDUAL.

1 **3-1807.**

2 (A) **THERE IS A LEAD PAINT RESTITUTION FUND.**

3 (B) (1) **THE FUND IS A CONTINUING, NONLAPSING FUND THAT IS NOT**
4 **SUBJECT TO § 7-302 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.**

5 (2) **ALL REVENUES CONSISTING OF FUNDS RECEIVED BY THE**
6 **STATE FROM ANY SOURCE RESULTING, DIRECTLY OR INDIRECTLY, FROM A**
7 **JUDGMENT AGAINST OR SETTLEMENT WITH A MANUFACTURER OF LEAD**
8 **PIGMENT, OR ANOTHER PERSON OR ENTITY IN THE LEAD PAINT INDUSTRY**
9 **RELATING TO LITIGATION, ADMINISTRATIVE PROCEEDINGS, OR ANY OTHER**
10 **CLAIMS MADE OR PROSECUTED BY THE STATE TO RECOVER DAMAGES FOR**
11 **VIOLATIONS OF STATE LAW SHALL BE CREDITED TO THE FUND.**

12 (C) **THE STATE TREASURER SHALL:**

13 (1) **INVEST AND REINVEST THE FUND IN THE SAME MANNER AS**
14 **OTHER STATE FUNDS; AND**

15 (2) **CREDIT ANY INVESTMENT EARNINGS TO THE FUND.**

16 (D) **EXPENDITURES FROM THE FUND SHALL BE MADE BY AN**
17 **APPROPRIATION IN THE ANNUAL STATE BUDGET.**

18 (E) (1) **THE FUND SHALL BE EXPENDED SUBJECT TO ANY**
19 **RESTRICTIONS ON THE USE OF THE FUND OR OTHER LIMITATIONS ON THE**
20 **ALLOCATION OF THE FUND THAT ARE:**

21 (I) **EXPRESSLY PROVIDED BY STATUTE;**

22 (II) **REQUIRED AS A CONDITION OF THE ACCEPTANCE OF**
23 **FUNDS; OR**

24 (III) **DETERMINED TO BE NECESSARY TO AVOID**
25 **RECOUPMENT BY THE FEDERAL GOVERNMENT OF MONEY PAID TO THE FUND.**

26 (2) **DISBURSEMENTS FROM THE FUND TO PROGRAMS FUNDED BY**
27 **THE STATE OR WITH FEDERAL FUNDS ADMINISTERED BY THE STATE SHALL BE**
28 **USED SOLELY TO SUPPLEMENT, AND NOT TO SUPPLANT, FUNDS OTHERWISE**
29 **AVAILABLE FOR THE PROGRAMS UNDER FEDERAL OR STATE LAW AS PROVIDED**
30 **IN THIS SECTION.**

1 **(F) (1) THE LEAD PAINT RESTITUTION FUND SHALL BE USED TO**
2 **FUND:**

3 **(I) THE MARYLAND DEPARTMENT OF THE ENVIRONMENT**
4 **LEAD POISONING PREVENTION PROGRAM; AND**

5 **(II) OTHER PROGRAMS THAT SERVE THE FOLLOWING**
6 **PURPOSES:**

7 **1. ELIMINATION AND PREVENTION OF LEAD**
8 **POISONING;**

9 **2. PRIMARY HEALTH CARE PREVENTION,**
10 **EDUCATION, SCREENING, AND TREATMENT OF LEAD POISONING;**

11 **3. PUBLIC EDUCATION TO PREVENT LEAD**
12 **POISONING;**

13 **4. ENFORCEMENT OF THE LAWS REGARDING**
14 **LEAD-BASED PAINT;**

15 **5. RESEARCH CONCERNING PREVENTION AND**
16 **TREATMENT OF LEAD POISONING;**

17 **6. RESEARCH CONCERNING REDUCTION, REMOVAL,**
18 **ABATEMENT, AND ELIMINATION OF LEAD-BASED PAINT;**

19 **7. REDUCTION, REMOVAL, ABATEMENT, AND**
20 **ELIMINATION OF LEAD-BASED PAINT;**

21 **8. SPECIAL EDUCATION PROGRAMS ADDRESSING**
22 **THE NEEDS OF LEAD-POISONED CHILDREN AND ADULTS;**

23 **9. JOB TRAINING PROGRAMS ADDRESSING THE**
24 **NEEDS OF LEAD-POISONED ADULTS; AND**

25 **10. ANY OTHER PUBLIC PURPOSE.**

26 **(2) THE PROVISIONS OF THIS SUBSECTION MAY NOT BE**
27 **CONSTRUED TO AFFECT THE POWERS OF THE GOVERNOR WITH RESPECT TO A**
28 **REQUEST FOR AN APPROPRIATION IN THE ANNUAL BUDGET BILL.**

1 **(G) (1) AMOUNTS MAY BE EXPENDED FROM THE FUND ONLY**
2 **THROUGH APPROPRIATIONS IN THE BUDGET BILL AS PROVIDED IN THIS**
3 **SUBSECTION.**

4 **(2) THE GOVERNOR SHALL INCLUDE IN THE ANNUAL BUDGET**
5 **BILL APPROPRIATIONS FROM THE FUND EQUIVALENT TO THE LESSER OF**
6 **\$100,000,000 OR 90% OF THE FUNDS ESTIMATED TO BE AVAILABLE TO THE**
7 **FUND IN THE FISCAL YEAR FOR WHICH THE APPROPRIATIONS ARE MADE.**

8 **(3) (I) FOR EACH FISCAL YEAR FOR WHICH APPROPRIATIONS**
9 **ARE MADE, AT LEAST 75% OF THE APPROPRIATIONS SHALL BE MADE FOR THE**
10 **PURPOSE OF LEAD HAZARD ELIMINATION, REDUCTION, ABATEMENT, AND**
11 **REMOVAL OF LEAD PAINT IN PROPERTIES IN BALTIMORE CITY.**

12 **(II) PRIORITY FOR FUNDING UNDER SUBPARAGRAPH (I) OF**
13 **THIS PARAGRAPH WILL BE FOR ELIGIBLE PROPERTIES OCCUPIED BY YOUNG**
14 **CHILDREN, PREGNANT WOMEN, OR BOTH.**

15 **(III) APPROPRIATIONS MADE FOR THE PURPOSES OF THE**
16 **MARYLAND MEDICAL ASSISTANCE PROGRAM MAY NOT BE COUNTED AS**
17 **APPROPRIATIONS SATISFYING THE REQUIREMENT UNDER SUBPARAGRAPH (I)**
18 **OF THIS PARAGRAPH.**

19 **(4) FOR EACH FISCAL YEAR FOR WHICH APPROPRIATIONS ARE**
20 **MADE, AT LEAST 15% OF THE APPROPRIATIONS SHALL BE MADE FOR THE**
21 **PURPOSES OF THE MARYLAND MEDICAL ASSISTANCE PROGRAM.**

22 **(5) ADDITIONAL APPROPRIATIONS NOT SUBJECT TO PARAGRAPH**
23 **(3) OR (4) OF THIS SUBSECTION MAY BE MADE FOR ANY LAWFUL PURPOSE.**

24 **(6) APPROPRIATIONS FOR LEAD HAZARD ELIMINATION,**
25 **REDUCTION, ABATEMENT, AND REMOVAL OF LEAD PAINT MAY BE GRANTED BY**
26 **THE STATE TO LOCAL JURISDICTIONS AND NONPROFIT ORGANIZATIONS TO**
27 **ADMINISTER THE FUNDS.**

28 **(H) FOR EACH PROGRAM, PROJECT, OR ACTIVITY RECEIVING FUNDS**
29 **APPROPRIATED UNDER SUBSECTION (G)(3) OF THIS SECTION, THE GOVERNOR**
30 **SHALL:**

31 **(1) DEVELOP APPROPRIATE STATEMENTS OF VISION, MISSION,**
32 **KEY GOALS, KEY OBJECTIVES, AND KEY PERFORMANCE INDICATORS AND**
33 **REPORT THESE STATEMENTS IN A DISCRETE PART OF THE STATE BUDGET**
34 **SUBMISSION, WHICH SHALL ALSO PROVIDE DATA FOR KEY PERFORMANCE**
35 **INDICATORS; AND**

1 **(2) REPORT ANNUALLY, SUBJECT TO § 2-1246 OF THE STATE**
2 **GOVERNMENT ARTICLE, TO THE GENERAL ASSEMBLY NO LATER THAN**
3 **OCTOBER 1 ON:**

4 **(I) TOTAL FUNDS EXPENDED, BY PROGRAM AND**
5 **SUBDIVISION, IN THE PRIOR FISCAL YEAR FROM THE FUND ESTABLISHED**
6 **UNDER THIS SECTION; AND**

7 **(II) THE SPECIFIC OUTCOMES OR PUBLIC BENEFITS**
8 **RESULTING FROM THAT EXPENDITURE.**

9 **3-1808.**

10 **THE GENERAL ASSEMBLY DECLARES THAT:**

11 **(1) THE PURPOSE OF THIS SUBTITLE IS REMEDIAL AND**
12 **ESSENTIAL TO THE PUBLIC INTEREST; AND**

13 **(2) IT IS THE INTENT OF THE GENERAL ASSEMBLY THAT THIS**
14 **SUBTITLE BE LIBERALLY CONSTRUED BY THE COURTS.**

15 **3-1809.**

16 **THIS SUBTITLE MAY BE CITED AS THE BALTIMORE CITY LEAD POISONING**
17 **RECOVERY ACT.**

18 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be
19 construed to apply only prospectively and may not be applied or interpreted to have
20 any effect on or application to any case filed before the effective date of this Act.

21 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
22 October 1, 2009.