

Department of Legislative Services
Maryland General Assembly
2009 Session

FISCAL AND POLICY NOTE

Senate Bill 975 (Senator Harrington)
Education, Health, and Environmental Affairs

Public Safety - Regulation of Demolition - Demolition Contractors

This bill requires a demolition contractor to obtain a permit from a local authority before beginning demolition in the State and establishes prerequisites for obtaining the permit. The bill establishes pre-demolition requirements, including an on-site consultation from the local authority and provision of notification to specified parties. The bill establishes requirements for the removal, recycling, selling, and distribution of removable architectural materials from a demolition site, including specified notice of potential exposure to lead-based paint. The bill also requires special permits for certain activities and establishes other requirements for activities that must occur before, during, and after demolition activity. Penalties, including a maximum fine of \$1,000 per day, are established for a demolition contractor who violates the bill's provisions.

The bill does not prevent a local authority from enforcing more restrictive laws or regulations.

Fiscal Summary

State Effect: State finances are not materially affected.

Local Effect: Expenditures for some local governments will increase to the extent that current requirements are less restrictive than provisions of the bill. Because local governments are likely to enforce the bill's requirements, it is assumed that any fines resulting from the bill will represent local revenue increases. **This bill imposes a mandate on a unit of local government.**

Small Business Effect: Potential meaningful.

Analysis

Bill Summary: Before beginning demolition in the State, a demolition contractor must obtain a demolition permit from the local designated authority. In those jurisdictions that have an existing approval process requiring county and municipal review, the jurisdiction must designate the authority to issue demolition permits.

To obtain a demolition permit, a demolition contractor must provide its business name and address; a copy of its liability insurance policy; and evidence that, if applicable, a bond has been obtained for the demolition to be performed. If a residential unit is to be demolished, a removal plan outlining how removable architectural materials (including windows, banisters, doors, mantels, baseboards, trim, and molding obtained from a residential unit constructed before 1978) will be safely removed is required unless the removable architectural materials are certified as lead-free.

Before demolition begins, a demolition contractor must participate in an on-site consultation with the local designated authority to discuss and confirm:

- appropriate wetting procedures (*i.e.*, control of dust emissions);
- public notification requirements;
- a main truck route that minimizes disruptions to the neighboring community; and
- any other pre-demolition requirements determined by the local designated authority.

The demolition contractor must also notify the local authority at least 24 hours before beginning demolition and provide written notice to owners and occupants of nearby property, as well as owners of wired or other facilities that may have to be removed because of the proposed demolition. Further, the demolition contractor must provide public notice between 5 and 10 days before the scheduled demolition by means of a specified sign. The demolition contractor must also have any detected rodent infestation in the building treated with rodenticide by a professional, prior to demolition. A special permit is required for specified use of explosives in the demolition.

The local authority must provide the demolition contractor with information about the safe demolition or renovation of buildings that contain lead paint or pigment; a fee may be charged to the demolition contractor for this information.

Demolition must begin within 30 days after, and be completed within 90 days after, obtaining a demolition permit. Unless a special permit is obtained, demolition may only occur between 7 a.m. and 7 p.m. The contractor must remove debris within 10 days after demolition is completed, or as otherwise instructed by the local authority.

The contractor must also secure the demolition site with temporary fencing both during the demolition phase and after debris removal. The contractor must remove any dangerous part and properly enclose any adjacent structure if that structure is made unsafe by the demolition. Demolition must be performed in approximately the reverse order in which the building was erected. The site must be backfilled unless plans for new construction will be submitted within three months after completion of the demolition.

The demolition contractor must comply with all applicable federal, State, and local laws and regulations regarding water management, asbestos, oil tanks, and other environmental standards.

A person that recycles, sells, or distributes removable architectural material obtained from a demolition site must provide notice of potential lead-based paint exposure by placing the material in plastic bags at least four millimeters thick and prominently placing on the bag a statement that:

- the removable architectural material may contain lead-based paint and exposure could result in adverse health effects; or
- the removable architectural material has been tested in accordance with specified state laws and regulations and is certified lead-free.

The local authority may suspend or revoke a demolition permit if the demolition is being performed in violation of the demolition permit or applicable law or regulation. The demolition permit may also be suspended or revoked if it was issued in error, on the basis of faulty information, or in violation of any law or regulation.

A demolition contractor must obtain a new demolition permit (even if the demolition has been completed), pay the demolition permit fee, and pay any penalty established by the local authority if the demolition contractor violates the provisions of the bill or performs demolition that is: beyond the scope of the permit; inconsistent with approved plans or drawings; or after a permit is revoked. A demolition contractor that violates the provisions of the bill is subject to a maximum fine of \$1,000 per day.

The bill does not prevent a local designated authority from enforcing a local law, regulation, or ordinance that is at least as restrictive as the requirements of the bill.

Current Law: Enforcement of building demolition regulations is primarily a local government responsibility in Maryland. Some jurisdictions charge a flat fee for demolitions, some charge a fee based on the size of the building, and some charge no fee. Regulations for demolition of commercial property are often different than those for residential property. Some local governments have specific provisions for emergency

demolitions (*e.g.*, in the aftermath of a building fire). Additional approval is often required for demolition of certified historic buildings and in historic districts. The local governmental authority that oversees demolitions may be a planning department, a permits and inspections department, a public works department, or some other agency or combination of agencies.

Chapter 114 of 1994 established the Lead Paint Poisoning Prevention Program in the Maryland Department of the Environment (MDE). The program is primarily concerned with the prevention of lead poisoning in children through regulation of lead-containing children's products and lead dust in homes. The program provides limited liability relief for owners of rental property 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.

MDE maintains a statewide listing of registered and inspected units and provides blood lead surveillance through a registry of test results of all children tested in Maryland. The program also oversees case management follow up by local health departments for children with elevated blood lead levels; certifies and enforces performance standards for inspectors and contractors working in lead hazard reduction; and performs environmental investigations for lead poisoned children. In addition, the program provides oversight for community education to parents, tenants, rental property owners, homeowners, and health care providers to enhance their role in lead poisoning prevention.

Local Fiscal Effect: Local government permit revenues may increase if permit fees are raised to cover the costs of the new requirements, but local governments already have the authority to set permit fees. Local governments may receive additional revenue in the form of fines paid by demolition contractors, but \$1,000 per day is a maximum amount. Local governments will incur costs associated with on-site consultations, inspections, development of information that must be provided to demolition contractors, and verification of documentation of contractors' liability insurance. The impact will vary, depending upon existing local requirements regarding demolition projects.

Baltimore City advises that the bill is similar to much of its code regarding demolition, but that the bill's provisions for removal of architectural materials will substantially increase city expenses, especially in cases where the city hires a contractor(s) for the demolition of a large group of residential units. The City of Havre de Grace advises that the bill will have no fiscal impact on the city because its current law is similar to what the bill entails.

Montgomery County's permitting process covers most of the provisions of the bill, but the county advises that the on-site, pre-demolition consultation will be a new responsibility. Allegany County advises that the bill may discourage demolition of

blighted property and as a result decrease property values and property tax revenues. Allegany County also advises that its personnel, training, and litigation costs will increase. Talbot County advises that its expenditures for inspections and review of required documents will increase by approximately \$10,000 annually, based on about 15 demolitions per year, and will increase considerably more if the definition of demolition includes destruction or removal of less than the full building.

Small Business Effect: Small business demolition contractors could incur expenditures to obtain required permits to the extent that local authorities either establish new fees or increase existing fees to comply with the bills provisions. Expenditures for these contractors may also increase to comply with any other provisions that are not currently required by a given locality. Some contractors may be discouraged from doing business in Maryland due to the prospect of daily fines and higher permit fees, and may not bid for projects involving residential buildings constructed before 1978. Small businesses that are authorized to test and certify architectural material as lead-free may realize increased revenues.

Additional Information

Prior Introductions: None.

Cross File: HB 1289 (Delegate Carr) - Economic Matters.

Information Source(s): Allegany County; Harford County, Montgomery County, Talbot County; Baltimore City; City of Havre de Grace; Department of Natural Resources; Maryland Department of Planning; Maryland Department of the Environment; Department of Labor, Licensing, and Regulation; Department of State Police; Department of Legislative Services

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