

Department of Legislative Services  
Maryland General Assembly  
2009 Session

FISCAL AND POLICY NOTE

House Bill 236 (Delegate Oaks, *et al.*)  
Environmental Matters

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Environment - Reducing Lead Risk in Housing - Lead Paint Dust Testing

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This bill requires an owner of an affected property under the Reduction of Lead Risk in Housing Program to satisfy the risk reduction standard at each change of occupancy by passing the test for lead contaminated dust *and* performing the specified lead hazard reduction treatments. Currently, an owner has the option of either passing the test for lead contaminated dust *or* performing specified lead hazard reduction treatments. The bill also alters 3 of the 10 lead hazard reduction treatments required in order to pass the risk reduction standard or modified risk reduction standard, including specifying that fixing the top sash of any window is subject to local fire code standards.

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Fiscal Summary

**State Effect:** The bill's changes can be handled with existing budgeted resources.

**Local Effect:** The bill may impose additional costs on municipally owned housing entities.

**Small Business Effect:** Potential meaningful.

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Analysis

**Current Law:** Chapter 114 of 1994 established the Lead Paint Poisoning Prevention Program in the Maryland Department of the Environment (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. 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. An affected property is one that is built before 1950 or owned by a person electing to comply with the reduction of lead risk in housing subtitle of the Environment Article.

The specified treatments include (1) a visual review of all painted surfaces; (2) the removal and repainting of flaking paint on all painted surfaces; (3) the repair of any structural defect that is causing paint to flake that the owner should have knowledge of; (4) stripping and repainting, replacing, or encapsulating all interior windowsills with vinyl, metal, or any other material approved by the department; (5) ensuring that caps of vinyl, aluminum, or any other material approved by the department are installed in all window wells; (6) fixing the top sash of all nontreated windows; (7) re-hanging all doors necessary to prevent the rubbing together of a lead-painted surface; (8) making all bare floors smooth and cleanable; (9) ensuring all kitchen and bathroom floors are overlaid with a smooth, water-resistant covering; and (10) HEPA vacuuming and washing of the interior of the affected property with high phosphate detergent or its equivalent, as determined by the department.

A modified risk reduction standard consists of many of the same treatment requirements as the standard risk reduction standard, except that there is no requirement to make all bare floors smooth and cleanable, and the HEPA vacuuming only needs to be done around areas where repairs were done. If a spot check by MDE reveals that an affected property that has been verified as satisfying the modified risk reduction standard, but has not been reported as satisfying the risk reduction standard, MDE may order the owner of the property to satisfy the modified risk reduction standard, as verified by an inspection conducted within 30 days of receipt of the order.

**Background:** According to the federal Centers for Disease Control and Prevention (CDC), adverse health effects exist in children at blood lead levels less than 10 micrograms per deciliter. No treatments are known to lower the blood lead levels for children with lead levels less than 10 micrograms per deciliter. Measuring blood levels below the 10 micrograms per deciliter threshold is difficult. Therefore, although CDC warns there are no safe blood lead levels, the 10 micrograms per deciliter threshold is the standard measure at which statistics are reported.

According to the most recent data available, the number of children with elevated blood lead levels has been decreasing at both the State and national level. At the State level, out of the 105,708 children 0 to 72 months of age tested for lead in 2007, 892 (0.8%)

were found to have blood lead levels greater than 10 micrograms per deciliter compared to 1,274 (1.2%) in 2006 and 1,331 (1.3%) in 2005. According to MDE, lead paint dust from deteriorated lead paint or home renovation is the major source of exposure for children in Maryland.

**Local Fiscal Effect:** The bill may cause local governments to incur additional costs for the expanded treatment of affected properties which they own. For example, Baltimore City owns approximately 18,000 rental units, several thousand of which are affected properties. However, Baltimore City advises that the bill largely codifies existing lead paint procedure, with any additional treatment costs able to be absorbed within the budget of the Housing Authority of Baltimore City. In Maryland, housing authorities are public bodies corporate and politic, generally dependent on federal funds and rents collected from tenants.

**Small Business Effect:** More than 30,000 property owners have registered their properties with MDE under the Reduction of Lead Risk in Housing Program. Though tens of thousands of pre-1950 rental units have been certified as lead-free under the program, approximately 105,000 pre-1950 rental units remain subject to the risk reduction requirements. Affected landlords incur additional costs to comply with the bill's changes, while businesses performing the risk reduction treatments and inspections benefit from an increase in the demand for their services. Depending on the size and extent of lead exposure within a rental unit, cost estimates of dust tests range from \$125 to \$300, and \$800 to \$2,500 for risk reduction treatments. In addition, visual inspections cost \$40 per unit.

*For illustrative purposes only*, and using average data points from the above statistics, a property owner who currently complies with the Reduction of Lead Risk in Housing Program may incur an additional cost of \$2,255 over a three-year span under the bill. This estimate is based on the following assumptions:

- there are about 30,000 property owners and 105,000 rental units registered with MDE, with the average owner owning three rental units;
- the average cost of a dust test is \$175;
- the average cost of a lead hazard reduction treatment plus visual inspection is \$1,040;
- one-third of rental units are currently receiving a lead hazard reduction treatment and two-thirds of rental units are receiving a dust test;

- all units receive both under the bill; and
- the average span between changes in occupancy is three years.

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### **Additional Information**

**Prior Introductions:** A similar bill was introduced in the 2008 session as HB 1173, and heard by the House Environmental Matters Committee, and later withdrawn.

**Cross File:** None designated; however, SB 361 is identical.

**Information Source(s):** Public Housing Authorities Directors Association, Baltimore City, Maryland Department of Planning, Maryland Department of the Environment, Department of Housing and Community Development, Department of Health and Mental Hygiene, Department of Legislative Services

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Analysis by: Evan M. Isaacson

Direct Inquiries to:  
(410) 946-5510  
(301) 970-5510