

Department of Legislative Services
Maryland General Assembly
2010 Session

FISCAL AND POLICY NOTE
Revised

House Bill 1153 (Delegate Oaks, *et al.*)
Environmental Matters

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

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.

Fiscal Summary

State Effect: The bill creates an additional operational burden for the Maryland Department of the Environment (MDE) for administrative processing, training of lead inspectors, and development of regulations. However, this burden can be handled by with existing budgeted resources.

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

Small Business Effect: Potential meaningful.

Analysis

Current Law: Chapter 114 of 1994 established the Lead Paint Poisoning Prevention Program within 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) rehanging 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 106,452 children ages 0 to 72 months tested for lead in 2008, 713 (0.7%) were found to have blood lead levels greater than 10 micrograms per deciliter. This compares with 23.9% in 1993, the first year in which this data was tracked, and is the sixteenth straight year in which the rate has dropped in Maryland. 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. Baltimore City owns approximately 18,000 rental units, several thousand of which are affected properties. However, Baltimore City is itself unaffected, as the bill largely codifies its 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.

According to MDE, about 77% of landlords satisfying the lead reduction risk standard in 2009 performed a lead dust test, with the remaining 23% performing lead hazard reduction treatments. MDE advises that lead dust tests average \$300 and performance of lead hazard reduction treatments range between \$800 and \$2,500; however, the estimated range of costs for lead hazard reduction treatments may include significant costs associated with work that may already be required under current local housing codes. Further, landlords that have already performed lead hazard reduction treatments in the past may incur lower costs, as fewer lead hazard reduction treatments are necessary at future occupancy turnovers. Similarly, once an initial lead hazard reduction treatment is performed under the bill, costs for future treatments may decline significantly as certain treatments are not needed and as economies of scale are realized.

Additional Information

Prior Introductions: HB 236 of 2009 received a hearing by the House Environmental Matters Committee, but no further action was taken. SB 361 of 2009 failed on third reading in the Senate. In addition, a similar bill, HB 1173 of 2008, received a hearing by the House Environmental Matters Committee but was later withdrawn. HB 1446 of 2006, another similar bill, was heard by the House Environmental Matters Committee, but no further action was taken.

Cross File: SB 504 (Senator Gladden) - Judicial Proceedings.

Information Source(s): Baltimore City, Maryland Department of the Environment, Department of Housing and Community Development, Department of Health and Mental Hygiene, Centers for Disease Control and Prevention, Department of Legislative Services

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