

HOUSE BILL 1033

M3
HB 1153/10 – ENV

11r2730
CF SB 840

By: **Delegates Oaks and McIntosh**
Introduced and read first time: February 11, 2011
Assigned to: Environmental Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Environment – Reducing Lead Risk in Housing – Lead Paint Dust Testing**

3 FOR the purpose of altering the requirements for the owner of a certain affected
4 property to initially satisfy a certain lead-risk reduction standard; altering the
5 performance components required under a certain modified risk reduction
6 standard; altering the information that the owner of a certain affected property
7 is required to submit to verify satisfaction of a certain modified risk reduction
8 standard; repealing certain requirements relating to a tenant's failure or refusal
9 to verify the statement of work performed on a certain affected property;
10 repealing an alternative to satisfying a certain modified risk reduction
11 standard; altering certain provisions relating to a certain rebuttable
12 presumption related to verification of a certain modified risk reduction
13 standard; repealing certain requirements for a certain statement relating to
14 work performed on an affected property; making certain conforming changes;
15 and generally relating to reducing lead risk in housing.

16 BY repealing and reenacting, with amendments,
17 Article – Environment
18 Section 6–815(a) and (b), 6–816, and 6–819(a), (f), and (k)
19 Annotated Code of Maryland
20 (2007 Replacement Volume and 2010 Supplement)

21 BY repealing and reenacting, without amendments,
22 Article – Environment
23 Section 6–819(e)
24 Annotated Code of Maryland
25 (2007 Replacement Volume and 2010 Supplement)

26 BY repealing
27 Article – Environment
28 Section 6–819(g)

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.
[Brackets] indicate matter deleted from existing law.



1 Annotated Code of Maryland
2 (2007 Replacement Volume and 2010 Supplement)

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

5 **Article – Environment**

6 6–815.

7 (a) No later than the first change in occupancy in an affected property that
8 occurs on or after February 24, 1996, before the next tenant occupies the property, an
9 owner of an affected property shall initially satisfy the risk reduction standard
10 established under this subtitle by:

11 (1) Passing the test for lead–contaminated dust under § 6–816 of this
12 subtitle provided that [any chipping, peeling, or flaking paint has been removed or
13 repainted on:

14 (i) The exterior painted surfaces of the residential building in
15 which the rental dwelling unit is located; and

16 (ii) The interior painted surfaces of the rental dwelling unit; or]
17 **NO INTERIOR OR EXTERIOR SURFACES OF THE AFFECTED PROPERTY HAVE**
18 **CHIPPING, PEELING, OR FLAKING PAINT; AND**

19 (2) Performing the following lead hazard reduction treatments:

20 (i) [A visual review of all exterior and interior painted surfaces;

21 (ii) The removal and repainting of chipping, peeling, or flaking
22 paint on exterior and interior painted surfaces;

23 (iii) The repair of any structural defect that is causing the paint
24 to chip, peel, or flake that the owner of the affected property has knowledge of or, with
25 the exercise of reasonable care, should have knowledge of;

26 (iv)] [Stripping and repainting] **REPAINTING**, replacing, or
27 encapsulating all interior **LEAD–BASED PAINT OR UNTESTED PAINTED** windowsills
28 with vinyl, metal, or any other material in a manner and under conditions approved
29 by the Department;

30 [(v)] **(II)** [Ensure] **ENSURING** that caps of vinyl, aluminum, or
31 any other material in a manner and under conditions approved by the Department,
32 are installed in all window wells **WHERE LEAD–BASED PAINT OR UNTESTED PAINT**
33 **EXISTS** in order to make the window wells smooth and cleanable;

1 [(vi)] (III) Except for a treated or replacement window that is
2 free of lead-based paint on its friction surfaces, fixing the top sash, **SUBJECT TO**
3 **LOCAL FIRE CODE STANDARDS**, of all windows in place in order to eliminate the
4 friction caused by movement of the top sash;

5 [(vii)] (IV) Rehanging all doors necessary in order to prevent the
6 rubbing together of a lead-painted surface with another surface;

7 [(viii)] (V) Making all bare floors smooth and cleanable;

8 [(ix)] (VI) [Ensure] **ENSURING** that all kitchen and bathroom
9 floors are overlaid with a smooth, water-resistant covering; and

10 [(x)] (VII) HEPA-vacuumping and washing of the interior of the
11 affected property with high phosphate detergent or its equivalent, as determined by
12 the Department.

13 (b) At each change in occupancy thereafter, before the next tenant occupies
14 the property, the owner of an affected property shall satisfy the risk reduction
15 standard established under this subtitle by:

16 (1) Passing the test for lead-contaminated dust under § 6-816 of this
17 subtitle; [or] **AND**

18 (2) (i) Repeating the lead hazard reduction treatments specified in
19 subsection (a)(2)(i), (ii), (iii), and (x) of this section; and

20 (ii) Ensuring that the lead hazard reduction treatments
21 specified in subsection (a)(2)(iv), (v), (vi), (vii), (viii), and (ix) of this section are still in
22 effect.

23 6-816.

24 The Department shall establish procedures and standards for the [optional]
25 lead-contaminated dust testing by regulation.

26 6-819.

27 (a) The modified risk reduction standard shall consist of performing the
28 following [lead hazard reduction treatments]:

29 (1) **PASSING THE TEST FOR LEAD-CONTAMINATED DUST UNDER §**
30 **6-816 OF THIS SUBTITLE;**

31 (2) **PERFORMING THE FOLLOWING LEAD HAZARD REDUCTION**
32 **TREATMENTS:**

1 [(1) A visual review of all exterior and interior painted surfaces;

2 (2) The removal and repainting of chipping, peeling, or flaking paint
3 on exterior and interior painted surfaces;

4 (3) The repair of any structural defect that is causing the paint to
5 chip, peel, or flake, that the owner of the affected property has knowledge of or, with
6 the exercise of reasonable care, should have knowledge of;]

7 [(4) (I) [Stripping and repainting] **REPAINTING**, replacing, or
8 encapsulating all interior **LEAD-BASED PAINT OR UNTESTED PAINTED** windowsills
9 with vinyl, metal, or any other material in a manner and under conditions approved
10 by the Department;

11 [(5) (II) [Ensure] **ENSURING** that caps of vinyl, aluminum, or any
12 other material in a manner and under conditions approved by the Department, are
13 installed in all window wells **WHERE LEAD-BASED PAINT OR UNTESTED PAINT**
14 **EXISTS** in order to make the window wells smooth and cleanable;

15 [(6) (III) Except for a treated or replacement window that is free of
16 lead-based paint on its friction surfaces, fixing the top sash, **SUBJECT TO LOCAL**
17 **FIRE CODE STANDARDS**, of all windows in place in order to eliminate the friction
18 caused by the movement of the top sash;

19 [(7) Rehanging all doors in order to prevent the rubbing together of a
20 lead-painted surface with another surface;

21 (8) Ensure that all kitchen and bathroom floors are overlaid with a
22 smooth, water-resistant covering; and]

23 [(9) (IV) HEPA-vacuuuming and washing with high phosphate
24 detergent or its equivalent, as determined by the Department, any area of the affected
25 property where repairs were made[.]; AND

26 **(3) COMPLYING WITH ALL APPLICABLE FEDERAL, STATE, AND**
27 **LOCAL HOUSING LAWS.**

28 (e) Except as provided in § 6-817(b) of this subtitle, on and after February
29 24, 2006, an owner of affected properties shall ensure that 100% of the owner's
30 affected properties in which a person at risk does not reside have satisfied the
31 modified risk reduction standard.

32 (f) [(1)] An owner of an affected property shall verify satisfaction of the
33 modified risk reduction standard by submitting a [statement of the work performed on
34 the property, verified by the tenant and an accredited supervisor or contractor,]

1 **REPORT FROM AN ACCREDITED INSPECTOR** to the Department on or before the
2 tenth day of the month following the month in which the work was completed.

3 [(2) (i) If the tenant fails or refuses to verify the statement of work
4 performed on the affected property, the owner shall within 5 business days of the
5 failure or refusal, contact an inspector accredited under § 6–818(a) of this subtitle to
6 inspect the affected property.

7 (ii) The inspector's report shall either certify that the work
8 required to be performed under this section was satisfactorily completed or specify
9 precisely what additional work is required.

10 (iii) If additional work is required:

11 1. The owner shall have 20 days after receipt of the
12 inspector's report in which to perform the work, subject to a weather delay under the
13 provisions of subsection (j) of this section; and

14 2. The inspector shall reinspect the affected property
15 after the additional work is completed and:

16 A. Issue a report certifying that the work is complete;
17 and

18 B. Mail a copy of the report to the tenant, the owner, and
19 the Department within 10 days after the inspection or reinspection.]

20 [(g) In lieu of satisfying the modified risk reduction standard, the owner of an
21 affected property may elect to pass the test for lead-contaminated dust under § 6–816
22 of this subtitle provided that any chipping, peeling, or flaking paint has been removed
23 or repainted on:

24 (1) The exterior painted surfaces of the residential building in which
25 the rental dwelling unit is located; and

26 (2) The interior painted surfaces of the rental dwelling unit.]

27 (k) [(1)] The [statement verified by the owner and the tenant of work
28 performed on the affected property in accordance with subsection (f)(1) of this section
29 or the final] report of the inspector verifying [that work was performed on the affected
30 property in accordance with subsection (f)(2) of this section]**COMPLIANCE WITH THIS**
31 **SUBTITLE** shall create a rebuttable presumption, that may be overcome by clear and
32 convincing evidence, that the owner is in compliance with the modified risk reduction
33 standard for the affected property unless there is:

34 (i) Proof of actual fraud as to that affected property; or

1 (ii) Proof that the work performed on the affected property was
2 not performed by or under the supervision of personnel accredited under § 6–1002 of
3 this title.

4 [(2) The statement verified by the owner and the tenant of work
5 performed on the affected property in accordance with subsection (f)(1) of this section
6 shall contain a statement:

7 (i) Describing the modified risk reduction standard required
8 under this subtitle;

9 (ii) That execution of this statement by the tenant can affect the
10 tenant's legal rights; and

11 (iii) That if the tenant is not satisfied that the modified risk
12 reduction standard has been met, the tenant should not execute the statement and
13 should inform the owner and that the owner will have the affected property inspected
14 by a certified inspector at the owner's expense.]

15 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
16 October 1, 2011.