

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

Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 25, 2011

CHAPTER _____

1 AN ACT concerning

2 **Environment – Reducing Lead Risk in Housing – ~~Lead Paint Dust Testing~~**
3 **Risk Reduction Standards**

4 FOR the purpose of altering the requirements for the owner of a certain affected
5 property to ~~initially~~ satisfy a certain lead-risk reduction standard; altering a
6 certain requirement relating to certain inspections of certain affected
7 properties; altering the performance components required under a certain
8 modified risk reduction standard; altering the information that the owner of a
9 certain affected property is required to submit to verify satisfaction of a certain
10 modified risk reduction standard; repealing certain requirements relating to a
11 tenant’s failure or refusal to verify the statement of work performed on a certain
12 affected property; repealing an alternative to satisfying a certain modified risk
13 reduction standard; altering certain provisions relating to a certain rebuttable
14 presumption related to verification of a certain modified risk reduction
15 standard; repealing certain requirements for a certain statement relating to
16 work performed on an affected property; authorizing certain civil penalties for
17 certain enforcement actions; making certain conforming changes; requiring the
18 Department of the Environment, in consultation with certain persons, to
19 conduct a certain study to evaluate processes that reduce the incidence of lead
20 poisoning in certain properties and submit a certain report to the General
21 Assembly by a certain date; requiring the Department to adopt certain
22 regulations; providing for a delayed effective date for certain provisions of this
23 Act; and generally relating to reducing lead risk in housing.

24 BY repealing and reenacting, with amendments,

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 Article – Environment
 2 Section ~~6–815(a) and (b)~~ 6–815(a), (b), and (c), 6–816, ~~and~~ 6–819(a), (e), (f), and
 3 (k), and 6–850(a)
 4 Annotated Code of Maryland
 5 (2007 Replacement Volume and 2010 Supplement)

6 BY repealing and reenacting, without amendments,
 7 Article – Environment
 8 Section ~~6–819(e)~~ 6–819(c) and (d)
 9 Annotated Code of Maryland
 10 (2007 Replacement Volume and 2010 Supplement)

11 BY adding to
 12 Article – Environment
 13 Section 6–819(e)
 14 Annotated Code of Maryland
 15 (2007 Replacement Volume and 2010 Supplement)

16 BY repealing
 17 Article – Environment
 18 Section 6–819(g)
 19 Annotated Code of Maryland
 20 (2007 Replacement Volume and 2010 Supplement)

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

23 **Article – Environment**

24 6–815.

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

29 ~~(i)~~ ~~Passing~~ **PASSING** the test for lead-contaminated dust under §
 30 6–816 of this subtitle provided that ~~any~~ chipping, peeling, or flaking paint has been
 31 removed or repainted on:

32 ~~(i)~~ **(1)** The exterior painted surfaces of the residential building in
 33 which the rental dwelling unit is located; and

34 ~~(ii)~~ **(2)** The interior painted surfaces of the rental dwelling unit;
 35 ~~or] NO INTERIOR OR EXTERIOR SURFACES OF THE AFFECTED PROPERTY HAVE~~
 36 ~~CHIPPING, PEELING, OR FLAKING PAINT; AND~~

- 1 (2) Performing the following lead hazard reduction treatments:
- 2 (i) ~~[A visual review of all exterior and interior painted surfaces;~~
- 3 (ii) ~~The removal and repainting of chipping, peeling, or flaking~~
4 ~~paint on exterior and interior painted surfaces;~~
- 5 (iii) ~~The repair of any structural defect that is causing the paint~~
6 ~~to chip, peel, or flake that the owner of the affected property has knowledge of or, with~~
7 ~~the exercise of reasonable care, should have knowledge of;~~
- 8 (iv) ~~[Stripping and repainting]~~ **REPAINTING**, ~~replacing, or~~
9 ~~encapsulating all interior LEAD-BASED PAINT OR UNTESTED PAINTED~~ windowsills
10 ~~with vinyl, metal, or any other material in a manner and under conditions approved~~
11 ~~by the Department;~~
- 12 (v) ~~(ii) [Ensure]~~ **ENSURING** that caps of vinyl, aluminum, or
13 ~~any other material in a manner and under conditions approved by the Department,~~
14 ~~are installed in all window wells WHERE LEAD-BASED PAINT OR UNTESTED PAINT~~
15 ~~EXISTS in order to make the window wells smooth and cleanable;~~
- 16 (vi) ~~(iii) [Ensure]~~ **ENSURING** that caps of vinyl, aluminum, or
17 ~~any other material in a manner and under conditions approved by the Department,~~
18 ~~are installed in all window wells WHERE LEAD-BASED PAINT OR UNTESTED PAINT~~
19 ~~EXISTS in order to make the window wells smooth and cleanable;~~
- 20 (vii) ~~(iv) [Ensure]~~ **ENSURING** that caps of vinyl, aluminum, or
21 ~~any other material in a manner and under conditions approved by the Department,~~
22 ~~are installed in all window wells WHERE LEAD-BASED PAINT OR UNTESTED PAINT~~
23 ~~EXISTS in order to make the window wells smooth and cleanable;~~
- 24 (viii) ~~(v) [Ensure]~~ **ENSURING** that all kitchen and bathroom
25 ~~floors are overlaid with a smooth, water-resistant covering; and~~
- 26 (ix) ~~(vi) [Ensure]~~ **ENSURING** that all kitchen and bathroom
27 ~~floors are overlaid with a smooth, water-resistant covering; and~~
- 28 (x) ~~(vii) [Ensure]~~ **ENSURING** that all kitchen and bathroom
29 ~~floors are overlaid with a smooth, water-resistant covering; and~~
- 30 (xi) ~~(viii) [Ensure]~~ **ENSURING** that all kitchen and bathroom
31 ~~floors are overlaid with a smooth, water-resistant covering; and~~
- 32 (b) At each change in occupancy thereafter, before the next tenant occupies
33 the property, the owner of an affected property shall satisfy the risk reduction
standard established under this subtitle by:
- 31 (1) ~~Passing~~ **PASSING** the test for lead-contaminated dust under §
32 6-816 of this subtitle **IN ACCORDANCE WITH SUBSECTION (A) OF THIS SECTION**;
33 ~~[or] AND~~

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

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

6 (c) [Except for affected properties that pass a test for lead-contaminated
 7 dust under § 6-816 of this subtitle, at] AT each change in occupancy, an owner of an
 8 affected property shall have the property inspected to verify that the risk reduction
 9 standard specified in this section has been satisfied.

10 6-816.

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

13 6-819.

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

16 (1) **PASSING THE TEST FOR LEAD-CONTAMINATED DUST UNDER §**
 17 **6-816 OF THIS SUBTITLE; AND**

18 (2) **PERFORMING THE FOLLOWING LEAD HAZARD REDUCTION**
 19 **TREATMENTS:**

20 ~~[(1)]~~ (1) A visual review of all exterior and interior painted surfaces;

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

23 (3) The repair of any structural defect that is causing the paint to
 24 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 ~~[(4)]~~ ~~(4)~~ [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 ~~[(5)]~~ ~~(5)~~ [Ensure] **ENSURING** that caps of vinyl, aluminum, or any
 31 other material in a manner and under conditions approved by the Department, are

1 installed in all window wells **WHERE LEAD-BASED PAINT OR UNTESTED PAINT**
 2 **EXISTS** in order to make the window wells smooth and cleanable;

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

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

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

11 ~~[(9)]~~ ~~(IV)~~ HEPA-vacuumping and washing with high phosphate
 12 detergent or its equivalent, as determined by the Department, any area of the affected
 13 property where repairs were made~~].~~ ~~AND~~

14 ~~(3) COMPLYING WITH ALL APPLICABLE FEDERAL, STATE, AND~~
 15 ~~LOCAL HOUSING LAWS.~~

16 (c) (1) After February 23, 1996, an owner of an affected property shall
 17 satisfy the modified risk reduction standard:

18 (i) Within 30 days after receipt of written notice that a person
 19 at risk who resides in the property has an elevated blood lead level documented by a
 20 test for EBL greater than or equal to 15 ug/dl before February 24, 2006 or greater than
 21 or equal to 10 ug/dl on or after February 24, 2006; or

22 (ii) Within 30 days after receipt of written notice from the
 23 tenant, or from any other source, of:

24 1. A defect; and

25 2. The existence of a person at risk in the affected
 26 property.

27 (2) (i) An owner who receives multiple notices of an elevated blood
 28 level under this subsection or multiple notices of defect under subsection (d) of this
 29 section may satisfy all such notices by subsequent compliance with the risk reduction
 30 measures specified in subsection (a) of this section, as documented by satisfaction of
 31 subsection (f) or (g) of this section, if the owner complies with the risk reduction
 32 measures specified in subsection (a) of this section after the date of the test
 33 documenting the elevated blood level or after the date the notices of defect were
 34 issued.

1 (ii) Subparagraph (i) of this paragraph does not affect an
 2 owner's obligation to perform the risk reduction measures specified in subsection (a) of
 3 this section for a triggering event that occurs after the owner satisfies the provisions of
 4 subparagraph (i) of this paragraph.

5 (d) After May 23, 1997, an owner of an affected property shall satisfy the
 6 modified risk reduction standard within 30 days after receipt of written notice from
 7 the tenant, or from any other source, of a defect.

8 **(E) AN OWNER OF AN AFFECTED PROPERTY IS IN COMPLIANCE WITH**
 9 **SUBSECTION (C) OR (D) OF THIS SECTION IF, AS APPLICABLE:**

10 **(1) THE OWNER SATISFIES THE MODIFIED RISK REDUCTION**
 11 **WITHIN 30 DAYS AFTER RECEIVING A NOTICE OF ELEVATED BLOOD LEAD LEVEL**
 12 **OR A NOTICE OF DEFECT IN ACCORDANCE WITH THIS SECTION; OR**

13 **(2) THE OWNER PROVIDES FOR THE TEMPORARY RELOCATION OF**
 14 **TENANTS TO A NONAFFECTED PROPERTY OR A COMPLIANT AFFECTED**
 15 **PROPERTY WITHIN 30 DAYS AFTER THE RECEIPT OF A NOTICE OF ELEVATED**
 16 **BLOOD LEAD LEVEL OR A NOTICE OF DEFECT.**

17 ~~(F)~~ (F) Except as provided in § 6–817(b) of this subtitle, on and after February
 18 24, 2006, an owner of affected properties shall ensure that 100% of the owner's
 19 affected properties in which a person at risk does not reside have satisfied the
 20 modified risk reduction standard.

21 ~~(G)~~ (G) [(1)] An owner of an affected property shall verify satisfaction of the
 22 modified risk reduction standard by submitting a [statement of the work performed on
 23 the property, verified by the tenant and an accredited supervisor or contractor,]
 24 **REPORT FROM AN ACCREDITED INSPECTOR** to the Department ~~on or before the~~
 25 ~~tenth day of the month following the month in which the work was completed.~~

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

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

33 (iii) If additional work is required:

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

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

3 A. Issue a report certifying that the work is complete;
4 and

5 B. Mail a copy of the report to the tenant, the owner, and
6 the Department within 10 days after the inspection or reinspection.】

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

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

13 (2) The interior painted surfaces of the rental dwelling unit.】

14 (k) 【(1)】 The 【statement verified by the owner and the tenant of work
15 performed on the affected property in accordance with subsection (f)(1) of this section
16 or the final】 report of the inspector verifying 【that work was performed on the affected
17 property in accordance with subsection (f)(2) of this section】**COMPLIANCE WITH THIS**
18 **SUBTITLE** shall create a rebuttable presumption, that may be overcome by clear and
19 convincing evidence, that the owner is in compliance with the modified risk reduction
20 standard for the affected property unless there is:

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

22 (ii) Proof that the work performed on the affected property was
23 not performed by or under the supervision of personnel accredited under § 6-1002 of
24 this title.

25 【(2) The statement verified by the owner and the tenant of work
26 performed on the affected property in accordance with subsection (f)(1) of this section
27 shall contain a statement:

28 (i) Describing the modified risk reduction standard required
29 under this subtitle;

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

32 (iii) That if the tenant is not satisfied that the modified risk
33 reduction standard has been met, the tenant should not execute the statement and

1 should inform the owner and that the owner will have the affected property inspected
2 by a certified inspector at the owner's expense.]

3 6-850.

4 (a) Except as provided in § 6-849 of this subtitle, in addition to any other
5 remedies provided in this subtitle, the provisions and procedures of §§ 7-256 through
6 7-264 and 7-266[(b)] of this article shall be used and shall apply to enforce violations
7 of this subtitle, provided that the penalty imposed under § 7-266(b)(2)(i) of this article
8 may not exceed \$500 per day for any violation of this subtitle.

9 ~~SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect~~
10 ~~October 1, 2011.~~

11 SECTION 2. AND BE IT FURTHER ENACTED, That:

12 (a) The Department of the Environment shall conduct a study to evaluate
13 processes that reduce the incidence of lead poisoning in affected and nonaffected
14 properties, including rental properties built from 1950 through 1978 and
15 owner-occupied properties.

16 (b) The Department of the Environment shall conduct the study required
17 under subsection (a) of this section in consultation with:

18 (1) one member of the Senate of Maryland, appointed by the President
19 of the Senate;

20 (2) two members of the House of Delegates, appointed by the Speaker
21 of the House; and

22 (3) one or two representatives from each of the following:

23 (i) the Department of Health and Mental Hygiene;

24 (ii) the Department of Housing and Community Development;

25 (iii) the City of Baltimore;

26 (iv) the Apartment and Office Building Association;

27 (v) the Coalition to End Childhood Lead Poisoning;

28 (vi) the Maryland Association of Realtors;

29 (vii) the Maryland Lead Poisoning Prevention Commission;

30 (viii) the Maryland MultiHousing Association;

1 (ix) the Maryland Property Owners Association; and

2 (x) a lead abatement contractors association.

3 (c) The study shall evaluate:

4 (1) current lead poisoning data, including housing and population
5 at-risk data from the United States Census, related to affected and nonaffected
6 properties to determine the populations most at risk in the State;

7 (2) lead poisoning data collection methods for affected and nonaffected
8 properties, including identification of data gaps and methods to fill them;

9 (3) outreach to and education of owners and tenants of nonaffected
10 properties;

11 (4) potential for expanding the applicability of the current Reduction
12 of Lead Risk in Housing law to nonaffected and noncompliant properties;

13 (5) long-term funding for lead poisoning prevention activities; and

14 (6) other issues the Department determines relevant to reducing the
15 incidence of lead poisoning in affected and nonaffected properties.

16 (d) On or before December 31, 2011, the Department of the Environment
17 shall report to the General Assembly, in accordance with § 2-1246 of the State
18 Government Article, on the results of the study required under subsection (a) of this
19 section.

20 SECTION 3. AND BE IT FURTHER ENACTED, That the Department of the
21 Environment shall adopt regulations related to reporting requirements of dust testing
22 laboratory results.

23 SECTION 4. AND BE IT FURTHER ENACTED, That Section 1 of this Act shall
24 take effect January 1, 2012.

25 SECTION 5. AND BE IT FURTHER ENACTED, That, except as provided in
26 Section 4 of this Act, this Act shall take effect July 1, 2011.