

SENATE BILL 840

M3
SB 504/10 – JPR

11r2734
CF HB 1033

By: **Senator Gladden**

Introduced and read first time: February 14, 2011

Assigned to: Rules

Re-referred to: Judicial Proceedings, February 18, 2011

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: April 6, 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 certain property owners to satisfy~~
5 ~~certain lead risk reduction standards relating to certain changes in occupancy~~
6 ~~in certain properties; requiring certain lead risk reduction standards to be~~
7 ~~performed in accordance with certain requirements; making certain conforming~~
8 ~~changes; altering the requirements for the owner of a certain affected property~~
9 ~~to satisfy a certain lead-risk reduction standard; altering a certain requirement~~
10 ~~relating to certain inspections of certain affected properties; altering the~~
11 ~~performance components required under a certain modified risk reduction~~
12 ~~standard; altering the information that the owner of a certain affected property~~
13 ~~is required to submit to verify satisfaction of a certain modified risk reduction~~
14 ~~standard; repealing certain requirements relating to a tenant's failure or refusal~~
15 ~~to verify the statement of work performed on a certain affected property;~~
16 ~~repealing an alternative to satisfying a certain modified risk reduction~~
17 ~~standard; altering certain provisions relating to a certain rebuttable~~
18 ~~presumption related to verification of a certain modified risk reduction~~
19 ~~standard; repealing certain requirements for a certain statement relating to~~
20 ~~work performed on an affected property; authorizing certain civil penalties for~~
21 ~~certain enforcement actions; making certain conforming changes; requiring the~~
22 ~~Department of the Environment, in consultation with certain persons, to~~
23 ~~conduct a certain study to evaluate processes that reduce the incidence of lead~~
24 ~~poisoning in certain properties and submit a certain report to the General~~

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 Assembly by a certain date; requiring the Department to adopt certain
 2 regulations; providing for a delayed effective date for certain provisions of this
 3 Act; and generally relating to reducing lead risk in housing.

4 ~~BY repealing and reenacting, with amendments,~~
 5 ~~Article – Environment~~
 6 ~~Section 6–815(a) and (b), 6–816, and 6–819(a)~~
 7 ~~Annotated Code of Maryland~~
 8 ~~(2007 Replacement Volume and 2010 Supplement)~~

9 BY repealing and reenacting, with amendments,
 10 Article – Environment
 11 Section 6–815(a), (b), and (c), 6–816, 6–819(a), (e), (f), and (k), and 6–850(a)
 12 Annotated Code of Maryland
 13 (2007 Replacement Volume and 2010 Supplement)

14 BY repealing and reenacting, without amendments,
 15 Article – Environment
 16 Section 6–819(c) and (d)
 17 Annotated Code of Maryland
 18 (2007 Replacement Volume and 2010 Supplement)

19 BY adding to
 20 Article – Environment
 21 Section 6–819(e)
 22 Annotated Code of Maryland
 23 (2007 Replacement Volume and 2010 Supplement)

24 BY repealing
 25 Article – Environment
 26 Section 6–819(g)
 27 Annotated Code of Maryland
 28 (2007 Replacement Volume and 2010 Supplement)

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

31 **Article – Environment**

32 6–815.

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

1 ~~(1)~~ ~~Passing~~ **PASSING** the test for lead-contaminated dust under §
2 6-816 of this subtitle provided that any chipping, peeling, or flaking paint has been
3 removed or repainted on:

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

6 ~~(ii)~~ **(2)** The interior painted surfaces of the rental dwelling
7 unit; ~~for~~ ~~AND~~

8 ~~(2)~~ ~~Performing the following lead hazard reduction treatments:~~

9 ~~(i)~~ ~~A visual review of all exterior and interior painted surfaces;~~

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

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

15 ~~(iv)~~ ~~[Stripping and repainting]~~ **REPAINTING**, replacing, or
16 ~~encapsulating all interior LEAD-BASED PAINT OR UNTESTED PAINTED~~ windowsills
17 ~~with vinyl, metal, or any other material in a manner and under conditions approved~~
18 ~~by the Department;~~

19 ~~(v)~~ ~~Ensure that caps of vinyl, aluminum, or any other material~~
20 ~~in a manner and under conditions approved by the Department, are installed in all~~
21 ~~window wells WHERE LEAD-BASED PAINT OR UNTESTED PAINT EXISTS in order to~~
22 ~~make the window wells smooth and cleanable;~~

23 ~~(vi)~~ ~~Except for a treated or replacement window that is free of~~
24 ~~lead-based paint on its friction surfaces, fixing the top sash, SUBJECT TO LOCAL~~
25 ~~FIRE CODE STANDARDS, of all windows in place in order to eliminate the friction~~
26 ~~caused by movement of the top sash;~~

27 ~~(vii)~~ ~~Rehanging all doors necessary in order to prevent the~~
28 ~~rubbing together of a lead-painted surface with another surface;~~

29 ~~(viii)~~ ~~Making all bare floors smooth and cleanable;~~

30 ~~(ix)~~ ~~Ensure that all kitchen and bathroom floors are overlaid~~
31 ~~with a smooth, water-resistant covering; and~~

1 ~~(x) HEPA vacuuming and washing of the interior of the~~
 2 ~~affected property with high phosphate detergent or its equivalent, as determined by~~
 3 ~~the Department.~~

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

7 ~~(1) Passing~~ **PASSING** the test for lead-contaminated dust under §
 8 6-816 of this subtitle; ~~or~~ **AND**

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

11 ~~(ii) Ensuring that the lead hazard reduction treatments~~
 12 ~~specified in subsection (a)(2)(iv), (v), (vi), (vii), (viii), and (ix) of this section are still in~~
 13 ~~effect~~ **IN ACCORDANCE WITH SUBSECTION (A) OF THIS SECTION.**

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

18 6-816.

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

21 6-819.

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

24 **(1) PASSING THE TEST FOR LEAD-CONTAMINATED DUST UNDER §**
 25 **6-816 OF THIS SUBTITLE; AND**

26 **(2) PERFORMING THE FOLLOWING LEAD HAZARD REDUCTION**
 27 **TREATMENTS:**

28 **[(1)] (I)** A visual review of all exterior and interior painted surfaces;

29 **[(2)] (II)** The removal and repainting of chipping, peeling, or flaking
 30 paint on exterior and interior painted surfaces;

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

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

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

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

16 [(7)] (VII) Rehangng all doors in order to prevent the rubbing together
17 of a lead-painted surface with another surface;

18 [(8)] (VIII) Ensure that all kitchen and bathroom floors are overlaid
19 with a smooth, water-resistant covering; and

20 [(9)] (IX) HEPA-vacuuuming and washing with high phosphate
21 detergent or its equivalent, as determined by the Department, any area of the affected
22 property where repairs were made.

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

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

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

31 1. A defect; and

32 2. The existence of a person at risk in the affected
33 property.

1 (2) (i) An owner who receives multiple notices of an elevated blood
2 level under this subsection or multiple notices of defect under subsection (d) of this
3 section may satisfy all such notices by subsequent compliance with the risk reduction
4 measures specified in subsection (a) of this section, as documented by satisfaction of
5 subsection (f) or (g) of this section, if the owner complies with the risk reduction
6 measures specified in subsection (a) of this section after the date of the test
7 documenting the elevated blood level or after the date the notices of defect were
8 issued.

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

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

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

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

21 **(2) THE OWNER PROVIDES FOR THE TEMPORARY RELOCATION OF**
22 **TENANTS TO A LEAD-FREE DWELLING UNIT OR ANOTHER DWELLING UNIT THAT**
23 **HAS SATISFIED THE RISK REDUCTION STANDARD IN ACCORDANCE WITH § 6-815**
24 **OF THIS SUBTITLE WITHIN 30 DAYS AFTER THE RECEIPT OF A NOTICE OF**
25 **ELEVATED BLOOD LEAD LEVEL OR A NOTICE OF DEFECT.**

26 ~~[(e)]~~(F) Except as provided in § 6-817(b) of this subtitle, on and after February
27 24, 2006, an owner of affected properties shall ensure that 100% of the owner's
28 affected properties in which a person at risk does not reside have satisfied the
29 modified risk reduction standard.

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

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

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

4 (iii) If additional work is required:

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

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

10 A. Issue a report certifying that the work is complete;
11 and

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

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

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

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

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

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

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

- 1 (iv) the Apartment and Office Building Association;
2 (v) the Coalition to End Childhood Lead Poisoning;
3 (vi) the Maryland Association of Realtors;
4 (vii) the Maryland Lead Poisoning Prevention Commission;
5 (viii) the Maryland MultiHousing Association;
6 (ix) the Maryland Property Owners Association; and
7 (x) a lead abatement contractors association.

8 (c) The study shall evaluate:

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

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

14 (3) outreach to and education of owners and tenants of nonaffected
15 properties;

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

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

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

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

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

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

1 SECTION ~~2~~ 5. AND BE IT FURTHER ENACTED, That, except as provided in
2 Section 4 of this Act, this Act shall take effect ~~October~~ July 1, 2011.

Approved:

Governor.

President of the Senate.

Speaker of the House of Delegates.