

HB0644/768075/1

BY: Judicial Proceedings Committee

AMENDMENTS TO HOUSE BILL 644
(Third Reading File Bill)

AMENDMENT NO. 1

On page 1, in line 5, after “date;” insert “exempting certain properties built between certain dates from certain requirements relating to certain risk reduction standards;”; and strike beginning with “establishing” in line 8 down through “evidence;” in line 10 and substitute “providing for the admissibility of certain evidence in certain actions for damages for alleged injury or loss caused by the ingestion of lead; requiring a court to require a certain party, the party’s attorney, or both to pay certain costs under certain circumstances;”.

On page 2, in line 4, after “6-801(b),” insert “6-817(a)(1) and (b)(1), 6-819(f),”; after line 6, insert:

“BY repealing

Article - Environment

Section 6-838

Annotated Code of Maryland

(2007 Replacement Volume and 2011 Supplement)”;

and in line 9, strike “6-830.1” and substitute “6-838”.

AMENDMENT NO. 2

On page 2, after line 33, insert:

“6-817.

(a) (1) [On] EXCEPT FOR PROPERTIES CONSTRUCTED BETWEEN JANUARY 1, 1950, AND DECEMBER 31, 1997, BOTH INCLUSIVE, ON and after

(Over)

February 24, 2001, an owner of affected properties shall ensure that at least 50% of the owner's affected properties have satisfied the risk reduction standard specified in § 6-815(a) of this subtitle, without regard to the number of affected properties in which there has been a change in occupancy.

(b) (1) [On] EXCEPT FOR PROPERTIES CONSTRUCTED BETWEEN JANUARY 1, 1950, AND DECEMBER 31, 1997, BOTH INCLUSIVE, ON and after February 24, 2006, an owner of affected properties shall ensure that 100% of the owner's affected properties in which a person at risk resides, and of whom the owner has been notified in writing, have satisfied the risk reduction standard specified in § 6-815(a) of this subtitle.

6-819.

(f) Except as provided in § 6-817(b) of this subtitle AND EXCEPT FOR PROPERTIES CONSTRUCTED BETWEEN JANUARY 1, 1950, AND DECEMBER 31, 1997, BOTH INCLUSIVE, on and after February 24, 2006, an owner of affected properties shall ensure that 100% of the owner's affected properties in which a person at risk does not reside have satisfied the modified risk reduction standard."

AMENDMENT NO. 3

On pages 3 and 4, strike in their entirety the lines beginning with line 26 on page 3 through line 6 on page 4, inclusive, and substitute:

"[6-838.

(a) An owner of an affected property that is not in compliance with the provisions of Part IV of this subtitle during the period of residency of the person at risk is presumed to have failed to exercise reasonable care with respect to lead hazards during that period in an action seeking damages for alleged injury or loss caused by the ingestion of lead by a person at risk in the affected property.

(b) The owner has the burden of rebutting the presumption established under subsection (a) of this section by a preponderance of the evidence.]

6-838.

(A) (1) IN AN ACTION SEEKING DAMAGES FOR ALLEGED INJURY OR LOSS CAUSED BY THE INGESTION OF LEAD BY A PERSON AT RISK IN AN AFFECTED PROPERTY, EVIDENCE THAT THE OWNER OF THE AFFECTED PROPERTY WAS IN COMPLIANCE WITH THE PROVISIONS OF PART IV OF THIS SUBTITLE DURING THE PERIOD OF RESIDENCY OF THE PERSON AT RISK IS ADMISSIBLE AS EVIDENCE THAT THE OWNER EXERCISED REASONABLE CARE WITH RESPECT TO LEAD HAZARDS DURING THAT PERIOD.

(2) IN AN ACTION SEEKING DAMAGES FOR ALLEGED INJURY OR LOSS CAUSED BY THE INGESTION OF LEAD BY A PERSON AT RISK IN AN AFFECTED PROPERTY, EVIDENCE THAT THE OWNER OF THE AFFECTED PROPERTY WAS NOT IN COMPLIANCE WITH THE PROVISIONS OF PART IV OF THIS SUBTITLE DURING THE PERIOD OF RESIDENCY OF THE PERSON AT RISK IS ADMISSIBLE AS EVIDENCE THAT THE OWNER FAILED TO EXERCISE REASONABLE CARE WITH RESPECT TO LEAD HAZARDS DURING THAT PERIOD.

(B) IF A PARTY TO AN ACTION FOR DAMAGES ARISING FROM INGESTION OF LEAD BY A PERSON AT RISK IN AN AFFECTED PROPERTY ALLEGES OR DENIES THE TIME AND PLACE OF RESIDENCE OF THE PERSON AT RISK WITHOUT A GOOD FAITH BASIS FOR THE ALLEGATION OR DENIAL, THE COURT SHALL REQUIRE THE OFFENDING PARTY, THE PARTY'S ATTORNEY, OR BOTH TO PAY THE REASONABLE COSTS, INCLUDING ATTORNEY'S FEES, INCURRED BY THE ADVERSE PARTY IN OPPOSING THE ALLEGATION OR DENIAL."