

HOUSE BILL 21

M3

2lr0412

(PRE-FILED)

By: **Delegate McConkey**

Requested: August 1, 2011

Introduced and read first time: January 11, 2012

Assigned to: Environmental Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Environment – Reduction of Lead Risk in Housing – Repeal of Obsolete**
3 **Language**

4 FOR the purpose of removing obsolete language in provisions relating to reduction of
5 lead risk in rental housing; making conforming changes; and generally relating
6 to the repeal of obsolete language in provisions relating to reduction of lead risk
7 in rental housing.

8 BY repealing and reenacting, with amendments,
9 Article – Environment
10 Section 6–811(a)(1), 6–812, 6–819, 6–820, 6–823, 6–843(a), (b), and (c), and
11 6–846(a)
12 Annotated Code of Maryland
13 (2007 Replacement Volume and 2011 Supplement)

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

16 **Article – Environment**

17 6–811.

18 (a) (1) [On or before December 31, 1995, the] **THE** owner of an affected
19 property shall register the affected property with the Department **WITHIN 30 DAYS**
20 **AFTER ACQUIRING THE PROPERTY.**

21 6–812.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 [(a)] An owner who has registered an affected property under § 6–811 of this
2 subtitle shall:

3 (1) Renew the registration of the affected property on or before
4 December 31 of each year or according to a schedule established by the Department by
5 regulation; and

6 (2) Update the information contained in the owner's registration
7 required by § 6–811(b)(1) through (5) of this subtitle within 30 days after any change
8 in the information required in the registration.

9 [(b) An owner who first acquires affected property after December 1, 1995
10 shall register the affected property under § 6–811 of this subtitle within 30 days after
11 the acquisition.]

12 6–819.

13 (a) The modified risk reduction standard shall consist of performing the
14 following:

15 (1) Passing the test for lead–contaminated dust under § 6–816 of this
16 subtitle; and

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

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

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

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

24 (iv) Repainting, replacing, or encapsulating all interior
25 lead–based paint or untested painted windowsills with vinyl, metal, or any other
26 material in a manner and under conditions approved by the Department;

27 (v) Ensuring that caps of vinyl, aluminum, or any other
28 material in a manner and under conditions approved by the Department, are installed
29 in all window wells where lead–based paint or untested paint exists in order to make
30 the window wells smooth and cleanable;

31 (vi) Except for a treated or replacement window that is free of
32 lead–based paint on its friction surfaces, fixing the top sash, subject to federal, State,
33 or local fire code standards, of all windows in place in order to eliminate the friction
34 caused by the movement of the top sash;

1 (vii) Rehangng all doors in order to prevent the rubbing together
2 of a lead-painted surface with another surface;

3 (viii) Ensure that all kitchen and bathroom floors are overlaid
4 with a smooth, water-resistant covering; and

5 (ix) HEPA-vacuuming and washing with high phosphate
6 detergent or its equivalent, as determined by the Department, any area of the affected
7 property where repairs were made.

8 (b) (1) A tenant of an affected property may notify the owner of the
9 affected property of a defect in the affected property under this section in accordance
10 with this subsection.

11 (2) Notice of a defect under this section shall consist of:

12 (i) If the modified risk reduction standard has not been
13 satisfied for the affected property, the presence of chipping, peeling, or flaking paint on
14 the interior or exterior surfaces of the affected property or of a structural defect
15 causing chipping, peeling, or flaking paint in the affected property; or

16 (ii) If the modified risk reduction standard has been satisfied for
17 the affected property, a defect relating to the modified risk reduction standard.

18 (c) (1) [After February 23, 1996, an] AN owner of an affected property
19 shall satisfy the modified risk reduction standard:

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

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

26 1. A] OF A defect[; and

27 2. The existence of a person at risk in the affected
28 property].

29 (2) (i) An owner who receives multiple notices of an elevated blood
30 level [under this subsection] or multiple notices of defect under [subsection (d) of] this
31 [section] SUBSECTION may satisfy all such notices by subsequent compliance with the
32 risk reduction measures specified in subsection (a) of this section, as documented by
33 satisfaction of subsection (E) OR (f) [or (g)] of this section, if the owner complies with

1 the risk reduction measures specified in subsection (a) of this section after the date of
2 the test documenting the elevated blood level or after the date the notices of defect
3 were issued.

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

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

11 (e) An owner of an affected property is in compliance with subsection (c) [or
12 (d)] of this section if, as applicable:

13 (1) The owner satisfies the modified risk reduction within 30 days
14 after receiving a notice of elevated blood lead level or a notice of defect in accordance
15 with this section; or

16 (2) The owner provides for the temporary relocation of tenants to a
17 lead-free dwelling unit or another dwelling unit that has satisfied the risk reduction
18 standard in accordance with § 6-815 of this subtitle within 30 days after the receipt of
19 a notice of elevated blood lead level or a notice of defect.

20 [(f)] (E) Except as provided in § 6-817(b) of this subtitle, on and after
21 February 24, 2006, an owner of affected properties shall ensure that 100% of the
22 owner's affected properties in which a person at risk does not reside have satisfied the
23 modified risk reduction standard.

24 [(g)] (F) An owner of an affected property shall verify satisfaction of the
25 modified risk reduction standard by submitting a report from an accredited inspector
26 to the Department.

27 [(h)] (G) Notice given under this section shall be written, and shall be sent
28 by:

29 (1) Certified mail, return receipt requested; or

30 (2) A verifiable method approved by the Department.

31 [(i)] (H) The Department may, by regulation, eliminate any treatment from
32 the modified risk reduction standard if the Department finds that performing the
33 treatment in an occupied property is harmful to public health.

1 **[(j)] (I)** (1) Exterior work required to satisfy the modified risk reduction
2 standard may be delayed, pursuant to a waiver approved by the appropriate person
3 under paragraph (2) of this subsection, during any time period in which exterior work
4 is not required to be performed under an applicable local housing code or, if no such
5 time period is specified, during the period from November 1 through April 1, inclusive.

6 (2) A waiver under paragraph (1) of this subsection may be approved
7 by the code official for enforcement of the housing code or minimum livability code of
8 the local jurisdiction, or, if there is no such official, the Department of Housing and
9 Community Development.

10 (3) Notwithstanding the terms of the waiver, all work delayed in
11 accordance with paragraph (1) of this subsection shall be completed within 30 days
12 after the end of the applicable time period.

13 (4) Any delay allowed under paragraph (1) of this subsection may not
14 affect the obligation of the owner to complete all other components of the risk
15 reduction standard and to have those components inspected and verified.

16 **[(k)] (J)** The report of the inspector verifying compliance with this subtitle
17 shall create a rebuttable presumption, that may be overcome by clear and convincing
18 evidence, that the owner is in compliance with the modified risk reduction standard
19 for the affected property unless there is:

20 (1) Proof of actual fraud as to that affected property; or

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

24 6–820.

25 (a) **[E]**xcept as provided in subsection (b) of this section, an owner of an
26 affected property shall give to the tenant of the affected property a notice, prepared by
27 the Department, of the tenant's rights under §§ 6–817 and 6–819 of this subtitle,
28 according to the following schedule:

29 (1) At least 25% of the owner's affected properties by May 25, 1996;

30 (2) At least 50% of the owner's affected properties by August 25, 1996;

31 (3) At least 75% of the owner's affected properties by November 25,
32 1996; and

33 (4) 100% of the owner's affected properties by February 25, 1997.

1 (b) On or after February 24, 1996, an] **AN** owner of an affected property shall
2 give to the tenant of the affected property a notice, prepared by the Department, of the
3 tenant's rights under §§ 6-817 and 6-819 of this subtitle upon the execution of a lease
4 or the inception of a tenancy.

5 [(c)] **(B)** An owner of an affected property shall give to the tenant of the
6 affected property a notice, prepared by the Department, of the tenant's rights under §§
7 6-817 and 6-819 of this subtitle at least every 2 years after last giving the notice to
8 the tenant.

9 [(d)] **(C)** The owner shall include, with the notice of the tenant's rights that
10 is provided to a tenant under this section upon the execution of a lease or the inception
11 of a tenancy, a copy of the current verified inspection certificate for the affected
12 property prepared under § 6-818 of this subtitle.

13 [(e)] **(D)** (1) Notice given under this section shall be written, and shall be
14 sent by:

15 (i) Certified mail, return receipt requested; or

16 (ii) A verifiable method approved by the Department.

17 (2) When giving notice to a tenant under this section, the owner shall
18 provide documentation of the notice to the Department in a manner acceptable to the
19 Department.

20 (3) A notice required to be given to a tenant under this section shall be
21 sent to a party or parties identified as the lessee in a written lease in effect for an
22 affected property or, if there is no written lease, the party or parties to whom the
23 property was rented.

24 [(f)] **(E)** A person who has acquired, or will acquire, an affected property
25 shall give the notice required under this section to the tenant of the affected property:

26 (1) Before transfer of legal title; or

27 (2) Within 15 days following transfer of legal title.

28 6-823.

29 (a) [By May 23, 1996, an] **AN** owner of an affected property shall:

30 (1) [give] **GIVE** to the tenant of each of the owner's affected properties
31 a lead poisoning information packet prepared or designated by the Department[.];
32 **AND**

1 **[(b)] (2)** [On or after February 24, 1996, upon] **ON** the execution of a lease
2 or the inception of a tenancy for an affected property [the owner of the affected
3 property shall], give to the tenant a lead poisoning information packet prepared or
4 designated by the Department.

5 **[(c)] (B)** An owner of an affected property shall give to the tenant of the
6 affected property another copy of the lead poisoning information packet prepared or
7 designated by the Department at least every 2 years after last giving the information
8 packet to the tenant.

9 **[(d)] (C)** A packet given to a tenant under this section shall be sent by:

10 (1) Certified mail, return receipt requested; or

11 (2) A verifiable method approved by the Department.

12 **[(e)] (D)** The packet required to be given to a tenant under this section shall
13 be sent to a party or parties identified as the lessee in a written lease in effect for an
14 affected property or, if there is no written lease, the party or parties to whom the
15 property was rented.

16 **[(f)] (E)** A person who has acquired, or will acquire, an affected property
17 shall give the packet required under this section to the tenant of the affected property:

18 (1) Before transfer of legal title; or

19 (2) Within 15 days following transfer of legal title.

20 6-843.

21 (a) (1) Except as provided in this subsection and subsection (b) of this
22 section, and in cooperation with the Department of Housing and Community
23 Development, the State Department of Assessments and Taxation, and other
24 appropriate governmental units, the Department shall provide for the collection of an
25 annual fee for every rental dwelling unit in the State.

26 (2) The annual fee for an affected property is \$15.

27 (3) **[(i)** Subject to the provisions of subparagraphs (ii) and (iii) of
28 this paragraph, on or before December 31, 2000, the annual fee for a rental dwelling
29 unit built after 1949 that is not an affected property is \$5. After December 31, 2000,
30 there] **THERE** is no annual fee for a rental dwelling unit built after 1949 that is not an
31 affected property.

32 **[(ii)** The owner of a rental dwelling unit built after 1949 that is
33 not an affected property may not be required to pay the fee provided under this

1 paragraph if the owner certifies to the Department that the rental dwelling unit is
2 lead free pursuant to § 6–804 of this subtitle.

3 (iii) An owner of a rental dwelling unit who submits a report to
4 the Department that the rental dwelling unit is lead free pursuant to § 6–804 of this
5 subtitle shall include a \$10 processing fee with the report.]

6 (b) The [fees] FEE imposed under this section [do] DOES not apply to any
7 rental dwelling unit:

8 (1) Built after 1978; or

9 (2) Owned and operated by a unit of federal, State, or local
10 government, or any public, quasi–public, or municipal corporation.

11 (c) The fee imposed under this section shall be paid [on or before December
12 31, 1995, or the date of registration of the affected property under Part III of this
13 subtitle and] on or before December 31 of each year [thereafter] or according to a
14 schedule established by the Department by regulation.

15 6–846.

16 (a) A local health department that receives the results of a blood lead test
17 under § 6–303 of this title indicating that a person at risk has an EBL [greater than or
18 equal to 15 ug/dl before February 24, 2006, or] greater than or equal to 10 ug/dl [on or
19 after February 24, 2006,] shall notify:

20 (1) The person at risk, or in the case of a minor, the parent of the
21 person at risk, of the results of the test; and

22 (2) The owner of the affected property in which the person at risk
23 resides or regularly spends at least 24 hours per week of the results of the test.

24 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
25 October 1, 2012.