

Chapter 373

(House Bill 472)

AN ACT concerning

~~Reduction of Lead Risk in Housing—Creation of Lead Poisoning
Compensation Fund~~
Workgroup on Lead Liability Protection for Rental Property

FOR the purpose of ~~establishing the Lead Poisoning Compensation Fund; establishing the purposes of the Fund; establishing a Board of Trustees of the Fund; providing for the membership of the Board; establishing the duties of the Board; providing for the appointment of an Executive Director of the Fund; establishing the powers and duties of the Executive Director; providing for the appointment and removal of staff; requiring certain owners of residential rental property to pay a Lead Poisoning Compensation Fee; establishing the amount of and manner of collection of the fee; establishing that the Fund consists of certain money; providing for the uses of the Fund; establishing that the Fund is not a part of the State Treasury and that the debts and obligations of the Fund are not a debt or pledge of credit of the State; providing for the management and investment of the Fund; providing for auditing of the Fund; requiring the Fund to provide coverage for certain claims to certain persons; authorizing certain persons to obtain coverage from the Fund by paying a certain fee; authorizing the Fund to provide coverage only if a claim is not covered by any other source of insurance or indemnity; requiring the Executive Director to settle, compromise, or defend claims against the Fund; authorizing the Executive Director to authorize certain employees to record certain telephone conversations under certain circumstances; providing for the establishment and review of certain reserves; limiting the maximum amount payable by the Fund; including employees and officials of the Fund in the definition of "State personnel" for purposes of the Maryland Tort Claims Act; defining certain terms; specifying the terms of the initial members of the Board of Trustees of the Fund; and generally relating to reducing lead risk in housing and providing compensation for injuries arising out of lead poisoning~~ requiring the Maryland Insurance Commissioner to convene a certain workgroup to examine certain issues; requiring the workgroup to include certain representatives; requiring the Commissioner to report the findings and any recommendations of the workgroup on or before a certain date; and generally relating to lead liability insurance for rental property.

BY adding to

~~Article—Insurance~~

~~Section 32-101 through 32-502 to be under the new title "Title 32. Lead Poisoning Compensation Fund"~~

~~Annotated Code of Maryland
(2011 Replacement Volume)~~

~~BY repealing and reenacting, without amendments,
Article — State Finance and Procurement
Section 6 — 226(a)(2)(i)
Annotated Code of Maryland
(2009 Replacement Volume and 2011 Supplement)~~

~~BY repealing and reenacting, with amendments,
Article — State Finance and Procurement
Section 6 — 226(a)(2)(ii)62. and 63.
Annotated Code of Maryland
(2009 Replacement Volume and 2011 Supplement)~~

~~BY adding to
Article — State Finance and Procurement
Section 6 — 226(a)(2)(ii)64.
Annotated Code of Maryland
(2009 Replacement Volume and 2011 Supplement)~~

~~BY repealing and reenacting, with amendments,
Article — State Government
Section 12 — 101
Annotated Code of Maryland
(2009 Replacement Volume and 2011 Supplement)~~

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

~~Article — Insurance~~

~~TITLE 32. LEAD POISONING COMPENSATION FUND.~~

~~SUBTITLE 1. DEFINITIONS.~~

~~32-101.~~

~~(A) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS
INDICATED:~~

~~(B) “BOARD OF TRUSTEES” MEANS THE BOARD OF TRUSTEES OF THE
FUND.~~

~~(C) "COMPLIANT OWNER" MEANS AN OWNER OF RESIDENTIAL RENTAL PROPERTY THAT, DURING THE PERIOD OF AN ALLEGED INGESTION OF LEAD ON THE OWNER'S PROPERTY:~~

~~(1) HAD GIVEN TO THE TENANT THE NOTICES REQUIRED BY §§ 6-820 AND 6-823 OF THE ENVIRONMENT ARTICLE; AND~~

~~(2) WAS IN COMPLIANCE WITH:~~

~~(I) THE REGISTRATION PROVISIONS OF TITLE 6, SUBTITLE 8, PART III OF THE ENVIRONMENT ARTICLE; AND~~

~~(II) THE APPLICABLE RISK REDUCTION STANDARD AND RESPONSE STANDARD UNDER § 6-815 OR § 6-819 OF THE ENVIRONMENT ARTICLE, AND THE RISK REDUCTION SCHEDULE UNDER § 6-817 OF THE ENVIRONMENT ARTICLE.~~

~~(D) "EXECUTIVE DIRECTOR" MEANS THE EXECUTIVE DIRECTOR OF THE FUND.~~

~~(E) "FUND" MEANS THE LEAD POISONING COMPENSATION FUND.~~

~~(F) (1) "OWNER" MEANS A PERSON, FIRM, CORPORATION, GUARDIAN, CONSERVATOR, RECEIVER, TRUSTEE, EXECUTOR, OR LEGAL REPRESENTATIVE THAT, ALONE OR JOINTLY OR SEVERALLY WITH OTHERS, OWNS, HOLDS, OR CONTROLS THE WHOLE OR ANY PART OF THE FREEHOLD OR LEASEHOLD INTEREST TO ANY PROPERTY, WITH OR WITHOUT ACTUAL POSSESSION.~~

~~(2) "OWNER" INCLUDES:~~

~~(I) ANY VENDEE IN POSSESSION OF THE PROPERTY; AND~~

~~(II) ANY AUTHORIZED AGENT OF THE OWNER, INCLUDING A PROPERTY MANAGER OR LEASING AGENT.~~

~~(3) "OWNER" DOES NOT INCLUDE:~~

~~(I) A TRUSTEE OR A BENEFICIARY UNDER A DEED OF TRUST OR A MORTGAGEE; OR~~

~~(II) THE OWNER OF A REVERSIONARY INTEREST UNDER A GROUND LEASE.~~

~~SUBTITLE 2. ESTABLISHED; PURPOSE.~~

~~32-201.~~

~~THERE IS A LEAD POISONING COMPENSATION FUND.~~

~~32-202.~~

~~THE PURPOSE OF THE FUND IS TO PROVIDE:~~

~~(1) FOR THE PAYMENT OF COMPENSATION TO INDIVIDUALS THAT SUFFER INJURIES ARISING OUT OF LEAD POISONING; AND~~

~~(2) A MEANS FOR OWNERS OF RESIDENTIAL RENTAL PROPERTY TO OBTAIN COVERAGE FOR LIABILITY FOR INJURIES ARISING OUT OF LEAD POISONING.~~

~~SUBTITLE 3. ADMINISTRATION OF FUND.~~

~~32-301.~~

~~(A) THERE IS A BOARD OF TRUSTEES OF THE FUND.~~

~~(B) (1) THE BOARD OF TRUSTEES CONSISTS OF SEVEN MEMBERS.~~

~~(2) OF THE SEVEN MEMBERS:~~

~~(I) SIX SHALL BE APPOINTED BY THE GOVERNOR WITH THE ADVICE AND CONSENT OF THE SENATE; AND~~

~~(II) ONE SHALL BE THE EXECUTIVE DIRECTOR.~~

~~(3) EXCEPT AS PROVIDED IN § 32-302(A)(3) OF THIS SUBTITLE, THE EXECUTIVE DIRECTOR MAY VOTE ON ALL MATTERS BEFORE THE BOARD OF TRUSTEES.~~

~~(C) (1) A MEMBER APPOINTED BY THE GOVERNOR SERVES AT THE PLEASURE OF THE GOVERNOR.~~

~~(2) THE TERM OF A MEMBER APPOINTED BY THE GOVERNOR IS 4 YEARS AND BEGINS ON JULY 1.~~

~~(3) THE TERMS OF MEMBERS APPOINTED BY THE GOVERNOR ARE STAGGERED AS REQUIRED BY THE TERMS PROVIDED FOR MEMBERS OF THE BOARD OF TRUSTEES ON JULY 1, 2012.~~

~~(4) AT THE END OF A TERM, A MEMBER APPOINTED BY THE GOVERNOR CONTINUES TO SERVE UNTIL A SUCCESSOR IS CHOSEN AND QUALIFIES.~~

~~(5) IF A MEMBER APPOINTED BY THE GOVERNOR CEASES TO BE A MEMBER OF THE BOARD OF TRUSTEES, THE GOVERNOR SHALL APPOINT A SUCCESSOR FOR THE UNEXPIRED TERM.~~

~~(D) (1) THE BOARD OF TRUSTEES SHALL CHOOSE A CHAIR FROM AMONG ITS MEMBERS.~~

~~(2) THE EXECUTIVE DIRECTOR MAY NOT BE THE CHAIR OF THE BOARD OF TRUSTEES.~~

~~(E) EACH MEMBER OF THE BOARD OF TRUSTEES IS ENTITLED TO:~~

~~(1) PER DIEM COMPENSATION SET BY THE BOARD OF PUBLIC WORKS FOR EACH DAY ACTUALLY ENGAGED IN THE DISCHARGE OF OFFICIAL DUTIES, IF THE MEMBER IS NOT OTHERWISE AN OFFICER OR EMPLOYEE OF THE STATE; AND~~

~~(2) REIMBURSEMENT FOR EXPENSES UNDER THE STANDARD STATE TRAVEL REGULATIONS, AS PROVIDED IN THE BUDGET OF THE BOARD OF TRUSTEES.~~

~~(F) THE BOARD OF TRUSTEES SHALL FORMULATE POLICY FOR THE FUND.~~

~~32-302.~~

~~(A) (1) THE BOARD OF TRUSTEES SHALL APPOINT THE EXECUTIVE DIRECTOR OF THE FUND WITH THE APPROVAL OF THE GOVERNOR.~~

~~(2) THE EXECUTIVE DIRECTOR SERVES AT THE PLEASURE OF THE BOARD OF TRUSTEES.~~

~~(3) THE INCUMBENT EXECUTIVE DIRECTOR MAY NOT VOTE ON THE CHOICE OF A SUCCESSOR.~~

~~(4) IF THE BOARD OF TRUSTEES FAILS TO AGREE ON A SUCCESSOR, THE GOVERNOR SHALL APPOINT THE SUCCESSOR.~~

~~(B) (1) THE EXECUTIVE DIRECTOR:~~

~~(I) IS THE ADMINISTRATIVE HEAD OF THE FUND; AND~~

~~(H) SHALL EXERCISE THE POWERS AND PERFORM THE DUTIES CONFERRED ON THE FUND BY THIS TITLE, EXCEPT FOR THOSE POWERS AND DUTIES CONFERRED ON THE BOARD OF TRUSTEES.~~

~~(2) THE BOARD OF TRUSTEES SHALL ADVISE THE EXECUTIVE DIRECTOR ON THE EXERCISE OF THE POWERS AND DUTIES CONFERRED ON THE EXECUTIVE DIRECTOR BY THIS TITLE.~~

~~(C) THE BOARD OF TRUSTEES SHALL DETERMINE THE COMPENSATION OF THE EXECUTIVE DIRECTOR WITH THE APPROVAL OF THE GOVERNOR.~~

~~32-303.~~

~~(A) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION OR OTHERWISE BY LAW, THE EXECUTIVE DIRECTOR SHALL APPOINT AND REMOVE STAFF OF THE FUND IN ACCORDANCE WITH THE PROVISIONS OF THE STATE PERSONNEL AND PENSIONS ARTICLE.~~

~~(2) POSITIONS THAT THE EXECUTIVE DIRECTOR DESIGNATES WITH THE APPROVAL OF THE BOARD OF TRUSTEES AS TECHNICAL OR PROFESSIONAL POSITIONS ARE IN THE EXECUTIVE SERVICE, MANAGEMENT SERVICE, OR ARE SPECIAL APPOINTMENTS OF THE SKILLED SERVICE OR THE PROFESSIONAL SERVICE IN THE STATE PERSONNEL MANAGEMENT SYSTEM.~~

~~(3) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, THE EXECUTIVE DIRECTOR MAY APPOINT CLAIMS ADJUSTERS, ATTORNEYS, AND OTHER NECESSARY PERSONS DIRECTLY AS EMPLOYEES OR ON A CONTRACT BASIS.~~

~~(B) THE EXECUTIVE DIRECTOR SHALL DETERMINE AND ADMINISTER THE COMPENSATION OF THE PERSONNEL OF THE FUND DESIGNATED UNDER SUBSECTION (A)(2) OF THIS SECTION WITH THE APPROVAL OF THE BOARD OF TRUSTEES.~~

~~(C) EXCEPT AS OTHERWISE PROVIDED IN THIS SUBTITLE, AN EMPLOYEE OF THE FUND IS NOT SUBJECT TO ANY LAW, REGULATION, OR EXECUTIVE ORDER GOVERNING STATE EMPLOYEE COMPENSATION, INCLUDING FURLOUGHS, SALARY REDUCTIONS, AND ANY OTHER GENERAL FUND COST SAVING MEASURE.~~

~~SUBTITLE 4. FEES; MANAGEMENT OF FUND.~~

~~32-401.~~

~~(A) ON OR AFTER JULY 1, 2013, A LEAD POISONING COMPENSATION FEE SHALL BE PAID BY EACH OWNER OF RESIDENTIAL RENTAL PROPERTY LOCATED IN THE STATE THAT WAS BUILT BEFORE 1978.~~

~~(B) THE LEAD POISONING COMPENSATION FEE IS:~~

~~(1) FOR AN OWNER THAT IS NOT A COMPLIANT OWNER, \$500 PER RENTAL DWELLING UNIT;~~

~~(2) FOR A COMPLIANT OWNER:~~

~~(i) \$100 PER RENTAL DWELLING UNIT; OR~~

~~(ii) \$50 PER RENTAL DWELLING UNIT CERTIFIED AS LIMITED LEAD FREE IN ACCORDANCE WITH REGULATIONS ADOPTED BY THE DEPARTMENT OF THE ENVIRONMENT.~~

~~(3) AN OWNER IS EXEMPT FROM PAYING THE FEE IF THE OWNER'S PROPERTY IS CERTIFIED AS LEAD FREE IN ACCORDANCE WITH REGULATIONS ADOPTED BY THE DEPARTMENT OF THE ENVIRONMENT.~~

~~(C) (1) THE COUNTY IN WHICH THE PROPERTY IS LOCATED SHALL COLLECT THE FEE BY INCLUDING THE FEE ON AN OWNER'S ANNUAL OR SEMIANNUAL PROPERTY TAX BILL.~~

~~(2) THE STATE DEPARTMENT OF ASSESSMENTS AND TAXATION AND THE DEPARTMENT OF THE ENVIRONMENT SHALL COOPERATE WITH EACH COUNTY TO IDENTIFY THE PROPERTY OWNERS THAT ARE LIABLE FOR PAYMENT OF THE FEE UNDER THIS SECTION AND THE AMOUNT OF THE FEE DUE FOR EACH DWELLING UNIT.~~

~~(3) A COUNTY:~~

~~(i) MAY USE ALL OF ITS EXISTING PROCEDURES AND AUTHORITY FOR COLLECTING PROPERTY TAXES IN ORDER TO ENFORCE THE COLLECTION OF THE FEE; AND~~

~~(ii) SHALL ESTABLISH A SEGREGATED ACCOUNT FOR THE DEPOSIT OF FUNDS COLLECTED UNDER THIS SECTION.~~

~~(D) (1) A COUNTY SHALL COMPLETE AND SUBMIT UNDER OATH A RETURN AND REMIT THE FEES COLLECTED UNDER THIS SECTION TO THE COMPTROLLER ON OR BEFORE THE DATES SPECIFIED BY THE COMPTROLLER BY REGULATION.~~

~~(2) EXCEPT TO THE EXTENT OF ANY INCONSISTENCY WITH THIS SECTION, THE PROVISIONS OF TITLE 13 OF THE TAX GENERAL ARTICLE THAT ARE APPLICABLE TO THE SALES AND USE TAX SHALL GOVERN THE ADMINISTRATION, COLLECTION, AND ENFORCEMENT OF THE FEE UNDER THIS SECTION.~~

~~(3) THE COMPTROLLER MAY ADOPT REGULATIONS NECESSARY TO ADMINISTER, COLLECT, AND ENFORCE THE FEE.~~

~~(4) THE STATE CENTRAL COLLECTION UNIT MAY COLLECT DELINQUENT ACCOUNTS UNDER THIS SECTION IN ACCORDANCE WITH § 3-302 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.~~

~~32-402.~~

~~(A) THE FUND CONSISTS OF:~~

~~(1) FEES COLLECTED UNDER § 32-401 OF THIS SUBTITLE AND § 32-501(B) OF THIS TITLE;~~

~~(2) INTEREST OR OTHER INCOME EARNED ON THE INVESTMENT OF MONEY IN THE FUND; AND~~

~~(3) ANY OTHER MONEY FROM ANY OTHER SOURCE ACCEPTED FOR THE BENEFIT OF THE FUND.~~

~~(B) (1) ALL OPERATING EXPENSES OF THE FUND SHALL BE PAID FROM THE MONEY COLLECTED BY OR FOR THE FUND.~~

~~(2) (i) SUBJECT TO SUBPARAGRAPH (ii) OF THIS PARAGRAPH, MONEY AND PROPERTY AVAILABLE TO THE FUND MAY BE USED FOR THE GENERAL PURPOSES OF THE FUND.~~

~~(ii) FEES COLLECTED AND INCOME ACCRUING FROM THOSE FEES MAY BE USED ONLY FOR THE PAYMENT OF CLAIMS AND FOR THE ADMINISTRATIVE EXPENSES OF THE FUND.~~

~~32-403.~~

~~(A) THE ACCOUNT OF THE FUND IS A SPECIAL FUND ACCOUNT AND IS NOT A PART OF THE STATE TREASURY.~~

~~(B) THE DEBTS AND OBLIGATIONS OF THE FUND ARE NOT A DEBT OF THE STATE OR A PLEDGE OF THE CREDIT OF THE STATE.~~

~~32-404.~~

~~(A) (1) A FINANCIAL MANAGEMENT COMMITTEE OF THE FUND SHALL MANAGE AND INVEST ALL MONEY COLLECTED BY OR FOR THE FUND THROUGH FEES, APPROPRIATIONS, EARNINGS FROM INVESTMENTS, OR FROM OTHER SOURCES.~~

~~(2) THE FINANCIAL MANAGEMENT COMMITTEE CONSISTS OF THE EXECUTIVE DIRECTOR AND TWO MEMBERS OF THE BOARD OF TRUSTEES WHOM THE BOARD OF TRUSTEES CHOOSES.~~

~~(B) (1) WHENEVER THE AMOUNT OF MONEY IN THE FUND EXCEEDS THE AMOUNT THAT THE EXECUTIVE DIRECTOR BELIEVES IS LIKELY TO BE REQUIRED IMMEDIATELY, THE FINANCIAL MANAGEMENT COMMITTEE MAY MANAGE THE EXCESS AS THE COMMITTEE CONSIDERS APPROPRIATE AND INVEST THE EXCESS IN INVESTMENTS AUTHORIZED UNDER TITLE 5, SUBTITLE 6 OF THIS ARTICLE.~~

~~(2) IF USE OF THE EXCESS BECOMES NECESSARY OR EXPEDIENT, THE FINANCIAL MANAGEMENT COMMITTEE MAY COLLECT, SELL, OR OTHERWISE REALIZE ON THE INVESTMENT AND ANY ACCRUED INTEREST.~~

~~(C) (1) (I) CONSISTENT WITH MINORITY BUSINESS PURCHASING STANDARDS APPLICABLE TO UNITS OF STATE GOVERNMENT UNDER THE STATE FINANCE AND PROCUREMENT ARTICLE AND CONSISTENT WITH THE FIDUCIARY DUTIES OF THE FINANCIAL MANAGEMENT COMMITTEE, THE FINANCIAL MANAGEMENT COMMITTEE SHALL ATTEMPT TO USE TO THE GREATEST EXTENT FEASIBLE MINORITY BUSINESS ENTERPRISES TO PROVIDE BROKERAGE AND INVESTMENT MANAGEMENT SERVICES TO THE COMMITTEE.~~

~~(H) FOR PURPOSES OF THIS SUBSECTION, BROKERAGE AND INVESTMENT MANAGEMENT SERVICES SHALL INCLUDE SERVICES RELATING TO ALL ALLOCATED ASSET CLASSES.~~

~~(2) (I) TO ASSIST THE FINANCIAL MANAGEMENT COMMITTEE IN ACHIEVING THE GOAL DESCRIBED UNDER PARAGRAPH (1) OF THIS SUBSECTION, THE COMMITTEE SHALL UNDERTAKE MEASURES TO REMOVE ANY~~

~~BARRIERS THAT LIMIT FULL PARTICIPATION BY MINORITY BUSINESS ENTERPRISES IN BROKERAGE AND INVESTMENT MANAGEMENT SERVICES OPPORTUNITIES AFFORDED BY THE FUND.~~

~~(H) THE MEASURES UNDERTAKEN BY THE FINANCIAL MANAGEMENT COMMITTEE SHALL INCLUDE THE USE OF A WIDE VARIETY OF MEDIA, INCLUDING THE FUND'S WEB SITE, TO PROVIDE NOTICE TO A BROAD AND VARIED RANGE OF POTENTIAL PROVIDERS ABOUT THE BROKERAGE AND INVESTMENT MANAGEMENT SERVICES OPPORTUNITIES AFFORDED BY THE FUND.~~

~~(3) IN CONJUNCTION WITH THE GOVERNOR'S OFFICE OF MINORITY AFFAIRS, THE FINANCIAL MANAGEMENT COMMITTEE SHALL DEVELOP GUIDELINES TO ASSIST THE COMMITTEE IN IDENTIFYING AND EVALUATING QUALIFIED MINORITY BUSINESS ENTERPRISES IN ORDER TO HELP THE FUND ACHIEVE THE OBJECTIVE FOR GREATER USE OF MINORITY BUSINESS ENTERPRISES FOR BROKERAGE AND INVESTMENT MANAGEMENT SERVICES.~~

~~(4) ON OR BEFORE SEPTEMBER 1 OF EACH YEAR, THE FINANCIAL MANAGEMENT COMMITTEE SHALL SUBMIT A REPORT TO THE GOVERNOR'S OFFICE OF MINORITY AFFAIRS AND, SUBJECT TO § 2-1246 OF THE STATE GOVERNMENT ARTICLE, THE GENERAL ASSEMBLY ON:~~

~~(I) THE IDENTITY OF THE MINORITY BUSINESS ENTERPRISE BROKERAGE AND INVESTMENT MANAGEMENT SERVICES FIRMS USED BY THE FINANCIAL MANAGEMENT COMMITTEE IN THE IMMEDIATELY PRECEDING FISCAL YEAR;~~

~~(II) THE PERCENTAGE AND DOLLAR VALUE OF THE FUND ASSETS THAT ARE UNDER THE INVESTMENT CONTROL OF MINORITY BUSINESS ENTERPRISE BROKERAGE AND INVESTMENT MANAGEMENT SERVICES FIRMS; AND~~

~~(III) THE MEASURES THE FINANCIAL MANAGEMENT COMMITTEE UNDERTOOK IN THE IMMEDIATELY PRECEDING FISCAL YEAR IN ACCORDANCE WITH PARAGRAPH (2)(I) OF THIS SUBSECTION.~~

~~32-405.~~

~~(A) THE EXECUTIVE DIRECTOR SHALL ESTABLISH AND MAINTAIN REASONABLE AND ADEQUATE RESERVES FOR PAYMENT OF CLAIMS AGAINST THE FUND.~~

~~(B) AT LEAST ANNUALLY, THE BOARD OF TRUSTEES SHALL REVIEW THE REASONABLENESS AND ADEQUACY OF RESERVES.~~

~~32-406.~~

~~(A) THE LEGISLATIVE AUDITOR:~~

~~(1) MAY CONDUCT FISCAL AUDITS AND COMPLIANCE AUDITS OF THE ACCOUNTS AND TRANSACTIONS OF THE FUND EACH YEAR INSTEAD OF EVERY 2 YEARS; AND~~

~~(2) SHALL ADVISE OFFICIALS OF THE FUND WHETHER AUDITS WILL BE CONDUCTED EACH YEAR OR EVERY 2 YEARS.~~

~~(B) (1) IF AN INDEPENDENT AUDITOR CONDUCTS A FISCAL AUDIT OF THE FUND, THE LEGISLATIVE AUDITOR MAY NOT DUPLICATE THE FISCAL AUDIT FOR THE SAME PERIOD.~~

~~(2) IF, AT THE REQUEST OF THE FUND, THE LEGISLATIVE AUDITOR CONDUCTS THE FISCAL AUDIT INSTEAD OF AN INDEPENDENT AUDITOR, THE LEGISLATIVE AUDITOR MAY CHARGE THE FUND FOR THE COST OF THE FISCAL AUDIT.~~

~~(C) AN AUDIT CONDUCTED IN ACCORDANCE WITH THIS SECTION IS IN ADDITION TO AND NOT INSTEAD OF ANY AUDIT OR REGULATORY AUTHORITY OF THE COMMISSIONER.~~

~~SUBTITLE 5. COVERAGE.~~

~~32-501.~~

~~(A) SUBJECT TO SUBSECTION (C) OF THIS SECTION, THE FUND SHALL PROVIDE COVERAGE IN CASES FILED ON OR AFTER JULY 1, 2013, FOR A CLAIM ARISING OUT OF THE ALLEGED INGESTION OF LEAD IN A RENTAL DWELLING UNIT ON OR AFTER OCTOBER 1, 1994, TO:~~

~~(1) A CURRENT COMPLIANT OWNER, IF THE OWNER IS NOT IN DEFAULT IN PAYMENT OF THE FEE REQUIRED UNDER § 32-401 OF THIS SUBTITLE;~~

~~(2) A FORMER COMPLIANT OWNER THAT PAYS THE FEE SPECIFIED UNDER SUBSECTION (B) OF THIS SECTION PRIOR TO THE FILING OF A CLAIM; AND~~

~~(3) A CURRENT OR FORMER OWNER OF RESIDENTIAL RENTAL PROPERTY THAT IS CERTIFIED LEAD FREE IN ACCORDANCE WITH REGULATIONS ADOPTED BY THE DEPARTMENT OF THE ENVIRONMENT THAT PAYS THE FEE SPECIFIED UNDER SUBSECTION (B) OF THIS SECTION PRIOR TO THE FILING OF A CLAIM.~~

~~(B) (1) A FORMER COMPLIANT OWNER MAY OBTAIN COVERAGE FROM THE FUND FOR CLAIMS ARISING OUT OF THE ALLEGED INGESTION OF LEAD IN THE OWNER'S PROPERTY IF THE OWNER PAYS TO THE FUND A FEE IN THE APPLICABLE AMOUNT SPECIFIED UNDER § 32-401(B) OF THIS SUBTITLE PER DWELLING UNIT FOR EACH YEAR THAT THE OWNER OWNED THE DWELLING UNIT.~~

~~(2) A CURRENT OR FORMER OWNER OF RESIDENTIAL RENTAL PROPERTY THAT IS CERTIFIED LEAD FREE IN ACCORDANCE WITH REGULATIONS ADOPTED BY THE DEPARTMENT OF THE ENVIRONMENT MAY OBTAIN COVERAGE FROM THE FUND FOR CLAIMS ARISING OUT OF THE ALLEGED INGESTION OF LEAD IN THE OWNER'S PROPERTY IF THE OWNER PAYS TO THE FUND A FEE IN THE AMOUNT OF \$50 PER DWELLING UNIT FOR EACH YEAR THAT THE OWNER OWNED THE DWELLING UNIT.~~

~~(C) (1) THE FUND MAY PROVIDE COVERAGE FOR CLAIMS UNDER THIS SECTION ONLY IF THE CLAIM IS NOT COVERED BY ANY OTHER SOURCE OF INSURANCE OR INDEMNITY.~~

~~(2) THE MAXIMUM AMOUNT PAYABLE BY THE FUND, EXCLUSIVE OF INTEREST AND COSTS, MAY NOT EXCEED \$200,000 TO A SINGLE CLAIMANT.~~

~~32-502.~~

~~(A) THE EXECUTIVE DIRECTOR SHALL SETTLE, COMPROMISE, OR DEFEND CLAIMS AGAINST THE FUND.~~

~~(B) NOTWITHSTANDING § 9-602 OF THE CRIMINAL LAW ARTICLE, THE EXECUTIVE DIRECTOR MAY AUTHORIZE AN EMPLOYEE OF THE FUND TO RECORD A TELEPHONE CONVERSATION WITH A PROPERTY OWNER, A WITNESS, A CLAIMANT, AN INVESTIGATING OFFICER, OR ANY OTHER INTERESTED PARTY IF:~~

~~(1) THE CONVERSATION IS RELEVANT TO A CLAIM;~~

~~(2) THE PARTY TO BE RECORDED HAS OR MIGHT HAVE INFORMATION THAT IS RELEVANT TO THE CLAIM; AND~~

~~(3) BEFORE RECORDING, THE PARTY TO BE RECORDED IS ADVISED OF AND CONSENTS TO THE RECORDING.~~

~~Article—State Finance and Procurement~~

~~6-226.~~

~~(a) (2) (i) Notwithstanding any other provision of law, and unless inconsistent with a federal law, grant agreement, or other federal requirement or with the terms of a gift or settlement agreement, net interest on all State money allocated by the State Treasurer under this section to special funds or accounts, and otherwise entitled to receive interest earnings, as accounted for by the Comptroller, shall accrue to the General Fund of the State.~~

~~(ii) The provisions of subparagraph (i) of this paragraph do not apply to the following funds:~~

~~62. Veterans Trust Fund; [and]~~

~~63. Transportation Trust Fund; AND~~

~~64. LEAD POISONING COMPENSATION FUND.~~

~~Article—State Government~~

~~12-101.~~

~~(a) In this subtitle, unless the context clearly requires otherwise, "State personnel" means:~~

~~(1) a State employee or official who is paid in whole or in part by the Central Payroll Bureau in the Office of the Comptroller of the Treasury;~~

~~(2) an employee or official of the:~~

~~(i) Maryland Transportation Authority;~~

~~(ii) Injured Workers' Insurance Fund;~~

~~(iii) Maryland Stadium Authority;~~

~~(iv) Maryland Environmental Service;~~

~~(v) overseas programs of the University College of the University System of Maryland;~~

- ~~(vi) Maryland Economic Development Corporation;~~
- ~~(vii) Maryland Technology Development Corporation;~~
- ~~(viii) Maryland African American Museum Corporation;~~
- ~~(ix) Maryland Automobile Insurance Fund;~~
- ~~(x) Maryland Health and Higher Educational Facilities Authority;~~
- ~~(xi) Maryland Agricultural and Resource Based Industry Development Corporation;~~
- ~~(xii) Somers Cove Marina Commission;~~
- ~~(xiii) Maryland Workforce Corporation;~~
- ~~(xiv) Maryland Underground Facilities Damage Prevention Authority; [and]~~
- ~~(xv) Maryland Clean Energy Center; AND~~
- (XVI) LEAD POISONING COMPENSATION FUND;**
- ~~(3) a person who:~~
 - ~~(i) is a member of a State board, commission, or similar State entity; or~~
 - ~~(ii) 1. is providing a service to or for the State;~~
 - ~~2. is not paid in whole or in part by the State; and~~
 - ~~3. satisfies all other requirements for designation as State personnel as may be set forth in regulations adopted by the Treasurer pursuant to Title 10 of this article;~~
- ~~(4) an individual who, without compensation, exercises a part of the sovereignty of the State;~~
- ~~(5) a student enrolled in a State educational institution:~~
 - ~~(i) who is providing services to third parties in the course of participation in an approved clinical training or academic program;~~

~~(ii) who, as determined by the Treasurer, is required to have liability insurance covering claims arising from services to third parties performed by the student in the course of the approved clinical training or academic program;~~

~~(iii) who, as determined by the Treasurer, cannot obtain commercial liability insurance at an affordable cost; and~~

~~(iv) who, as determined by the Treasurer, may be required to contribute to an insurance program for claims arising from services to third parties performed by the student in the course of the approved clinical training or academic program;~~

~~(6) a sheriff or deputy sheriff of a county or Baltimore City;~~

~~(7) an employee of a county who is assigned to a local department of social services, including a Montgomery County employee who carries out State programs administered under Title 3, Subtitle 4 of the Human Services Article;~~

~~(8) a State's Attorney of a county or Baltimore City, or an employee of an office of a State's Attorney;~~

~~(9) a member of a board of license commissioners of a county or Baltimore City appointed under the provisions of Article 2B of the Code, or an employee of a board of license commissioners;~~

~~(10) a member of a local board of elections, or an employee of a local board of elections;~~

~~(11) a judge of a circuit court of a county or Baltimore City, or an employee of a circuit court;~~

~~(12) a judge of an orphans' court of a county or Baltimore City, or an employee of an orphans' court;~~

~~(13) to the extent of a nonprofit organization's activities as a third party payee, and to the extent the nonprofit organization has no other insurance for this purpose, a nonprofit organization that has been approved by the Department of Human Resources or its designee to serve as a third party payee for purposes of providing temporary cash assistance, transitional assistance, or child specific benefits to Family Investment Program recipients; or~~

~~(14) a student, faculty, or staff member of an institution of higher education who is providing a service under the Family Investment Program in accordance with § 5-305, § 5-306, or § 5-317 of the Human Services Article.~~

~~(b) In this subtitle, a unit of the State government includes the Montgomery County government to the extent that Montgomery County administers a State program under Title 3, Subtitle 4 of the Human Services Article.~~

~~SECTION 2. AND BE IT FURTHER ENACTED, That the terms of the initial appointed members of the Board of Trustees of the Lead Poisoning Compensation Fund shall expire as follows:~~

- ~~(1) two members in 2014;~~
- ~~(2) two members in 2015; and~~
- ~~(3) two members in 2016.~~

~~SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2012.~~

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That:

(a) The Maryland Insurance Commissioner shall convene a workgroup to evaluate and make recommendations relating to lead liability protection for owners of pre-1978 rental property.

(b) The workgroup required under this section shall include:

- (1) ~~one member~~ two members of the Senate of Maryland, appointed by the President of the Senate;
- (2) two members of the House of Delegates, appointed by the Speaker of the House;
- (3) the Secretary of the Environment, or the Secretary's designee;
- (4) the Secretary of Housing and Community Development, or the Secretary's designee;
- (5) the Secretary of Health and Mental Hygiene, or the Secretary's designee; and
- (6) representatives of the following:
 - (i) the Judiciary;
 - (ii) the insurance industry;

(iii) owners of pre-1978 rental property; and

(iv) childhood lead poisoning advocacy groups;

(7) representatives with expertise in legal claims arising out of lead poisoning, including ~~retired judges and~~ attorneys representing plaintiffs and defendants;

(8) representatives from academic institutions with expertise in insurance and actuarial science; and

(9) any other representative the Commissioner determines to be included in the workgroup.

(c) The workgroup shall evaluate:

(1) the feasibility of encouraging the existing insurance marketplace to provide lead liability coverage for owners of pre-1978 rental property;

(2) the feasibility of establishing other mechanisms for providing lead liability insurance coverage for owners of pre-1978 rental property;

(3) (i) the feasibility of establishing an insurance fund for lead liability insurance coverage;

(ii) the accounting and financial reporting standards that should apply to an insurance fund;

(iii) the minimum surplus requirements that should be met by an insurance fund, including appropriate amounts to maintain in relation to an insurance fund's risk;

(iv) the appropriate underwriting standards to be applied to relevant policies;

(v) the level of premiums that might be necessary to support policies in an actuarially sound manner;

(vi) whether an insurance fund should be subject to Maryland's premium tax obligations;

(vii) projected start-up and ongoing administrative costs associated with the establishment of an insurance fund; and

(viii) any other relevant *insurance-related* matters identified in the course of the study; *and*

~~(4) the feasibility of a modified qualified offer framework, arbitration, or other alternative dispute resolution mechanism;~~

~~(5) the feasibility of a compensation fund instead of an insurance fund;~~
~~and~~

~~(6) the extent to which private risk management tools such as insurance and bonds are available on the commercial market.~~

(d) On or before December 1, 2012, the Commissioner shall report the findings of the workgroup required under this section and any recommendations of the workgroup to the Governor and, in accordance with § 2-1246 of the State Government Article, the General Assembly.

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

Approved by the Governor, May 2, 2012.