

HOUSE BILL 431

Q3

4lr1610

By: **Delegates Hogan, Beidle, Eckardt, Elliott, George, Hough, Jacobs, Kach, Kipke, McComas, McConkey, McMillan, Otto, B. Robinson, Rosenberg, Schulz, Stocksedale, Szeliga, F. Turner, Vitale, and Weir**

Introduced and read first time: January 24, 2014

Assigned to: Ways and Means and Environmental Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Income Tax Subtraction Modification – Lead Hazard Reduction Projects**

3 FOR the purpose of allowing a subtraction modification under the State income tax
4 under certain circumstances for certain costs incurred by an individual for an
5 approved lead hazard reduction project with respect to certain property;
6 providing for the calculation of the subtraction modification; disallowing the
7 subtraction modification for costs for which the taxpayer has received a grant or
8 loan under certain State programs; providing for the submission of proposals for
9 lead hazard reduction projects to the Department of Housing and Community
10 Development for approval; prohibiting the Department from approving lead
11 hazard reduction projects for a subtraction modification after a certain date;
12 prohibiting certain false statements; providing a certain penalty for certain
13 violations; requiring the Department to adopt certain regulations; defining
14 certain terms; providing for the application of this Act; and generally relating to
15 a subtraction modification under the State income tax for certain approved lead
16 hazard reduction projects.

17 BY adding to

18 Article – Tax – General

19 Section 10–210.2

20 Annotated Code of Maryland

21 (2010 Replacement Volume and 2013 Supplement)

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

24 **Article – Tax – General**

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 **10-210.2.**

2 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE
3 MEANINGS INDICATED.

4 (2) "DEPARTMENT" MEANS THE DEPARTMENT OF HOUSING AND
5 COMMUNITY DEVELOPMENT.

6 (3) "EXTERIOR SURFACES" HAS THE MEANING STATED IN § 6-801
7 OF THE ENVIRONMENT ARTICLE.

8 (4) "LEAD-FREE WINDOW" MEANS A WINDOW THAT IS LEAD-FREE
9 OR THAT WAS INSTALLED AFTER 1978.

10 (5) "LEAD HAZARD REDUCTION ACTIVITY" HAS THE MEANING
11 STATED IN § 4-701 OF THE HOUSING AND COMMUNITY DEVELOPMENT
12 ARTICLE.

13 (6) "QUALIFYING PROPERTY" MEANS A PROPERTY
14 CONSTRUCTED BEFORE 1978 WITH RESPECT TO WHICH A SUBTRACTION
15 MODIFICATION UNDER THIS SECTION HAS NOT PREVIOUSLY BEEN GRANTED
16 AND THAT IS:

17 (I) AN AFFECTED PROPERTY REGISTERED WITH THE
18 DEPARTMENT OF THE ENVIRONMENT UNDER § 6-811 OF THE ENVIRONMENT
19 ARTICLE THAT:

20 1. CONTAINS LEAD-BASED PAINT;

21 2. HAS AT LEAST TWO BEDROOMS; AND

22 3. NOTWITHSTANDING § 6-817 OF THE
23 ENVIRONMENT ARTICLE, AT THE TIME OF APPLICATION AND AT THE TIME OF
24 COMMENCEMENT OF AN APPROVED LEAD HAZARD REDUCTION PROJECT UNDER
25 THIS SECTION, IS IN FULL COMPLIANCE WITH THE REQUIREMENTS OF TITLE 6,
26 SUBTITLE 8 OF THE ENVIRONMENT ARTICLE;

27 (II) A CHILD CARE CENTER AS DEFINED IN § 5-570 OF THE
28 FAMILY LAW ARTICLE OR A DAY CARE CENTER FOR THE ELDERLY AS DEFINED
29 IN § 14-201 OF THE HEALTH - GENERAL ARTICLE THAT:

30 1. CONTAINS LEAD-BASED PAINT; AND

1 **2. AT THE TIME OF APPLICATION AND AT THE TIME**
2 **OF COMMENCEMENT OF AN APPROVED LEAD HAZARD REDUCTION PROJECT**
3 **UNDER THIS SECTION, IS IN FULL COMPLIANCE WITH ALL APPLICABLE**
4 **LICENSING LAWS AND HAS MET ALL INSPECTION REQUIREMENTS OF THE**
5 **SOCIAL SERVICES ADMINISTRATION OF THE DEPARTMENT OF HUMAN**
6 **RESOURCES, LOCAL PUBLIC HEALTH DEPARTMENTS, AND ANY OTHER LEGALLY**
7 **REQUIRED INSPECTIONS; OR**

8 **(III) OWNER–OCCUPIED HOUSING THAT:**

9 **1. CONTAINS LEAD–BASED PAINT; AND**

10 **2. HAS AT LEAST TWO BEDROOMS.**

11 **(B) IN ADDITION TO THE MODIFICATIONS UNDER §§ 10–204 THROUGH**
12 **10–210 OF THIS SUBTITLE, TO DETERMINE MARYLAND ADJUSTED GROSS**
13 **INCOME, AND EXCEPT AS OTHERWISE PROVIDED IN THIS SECTION, AN AMOUNT**
14 **MAY BE SUBTRACTED FROM FEDERAL ADJUSTED GROSS INCOME EQUAL TO THE**
15 **AMOUNT DETERMINED UNDER SUBSECTION (C) OF THIS SECTION FOR THE**
16 **COSTS INCURRED BY AN INDIVIDUAL FOR AN APPROVED LEAD HAZARD**
17 **REDUCTION PROJECT FOR QUALIFYING PROPERTY.**

18 **(C) SUBJECT TO THE LIMITATIONS UNDER SUBSECTION (D) OF THIS**
19 **SECTION, THE SUBTRACTION MODIFICATION ALLOWED UNDER THIS SECTION IS:**

20 **(1) FOR RENTAL PROPERTY, 90% OF THE DIRECT COSTS OF AN**
21 **APPROVED LEAD HAZARD REDUCTION PROJECT INCURRED WITH RESPECT TO A**
22 **RESIDENTIAL RENTAL UNIT;**

23 **(2) FOR A CHILD CARE CENTER OR FOR A DAY CARE CENTER FOR**
24 **THE ELDERLY, 70% OF THE DIRECT COSTS OF AN APPROVED LEAD HAZARD**
25 **REDUCTION PROJECT; AND**

26 **(3) FOR OWNER–OCCUPIED PROPERTY, 90% OF THE DIRECT**
27 **COSTS OF AN APPROVED LEAD HAZARD REDUCTION PROJECT.**

28 **(D) (1) FOR ANY TAXABLE YEAR, THE TOTAL SUBTRACTION**
29 **MODIFICATION ALLOWED UNDER THIS SECTION MAY NOT EXCEED:**

30 **(I) \$5,000 PER UNIT OR PROJECT; OR**

31 **(II) \$50,000 TOTAL FOR ANY TAXPAYER.**

1 **(2) THE TOTAL SUBTRACTION MODIFICATION ALLOWED UNDER**
2 **THIS SECTION FOR AN APPROVED LEAD HAZARD REDUCTION PROJECT MAY NOT**
3 **EXCEED THE MAXIMUM AMOUNT SPECIFIED BY THE DEPARTMENT IN ITS**
4 **APPROVAL OF THE LEAD HAZARD REDUCTION PROJECT.**

5 **(E) THE SUBTRACTION MODIFICATION UNDER THIS SECTION IS**
6 **ALLOWED FOR THE TAXABLE YEAR IN WHICH AN APPROVED LEAD HAZARD**
7 **REDUCTION PROJECT IS COMPLETED AND THE REQUIREMENTS OF SUBSECTION**
8 **(F) OF THIS SECTION ARE SATISFIED.**

9 **(F) (1) THE SUBTRACTION MODIFICATION UNDER THIS SECTION IS**
10 **ALLOWED ONLY IF:**

11 **(I) ALL LEAD HAZARD REDUCTION ACTIVITIES UNDER AN**
12 **APPROVED LEAD HAZARD REDUCTION PROJECT ARE PERFORMED IN**
13 **ACCORDANCE WITH STANDARDS AND PROCEDURES ESTABLISHED IN**
14 **REGULATIONS ADOPTED BY THE DEPARTMENT OF THE ENVIRONMENT UNDER**
15 **TITLE 6, SUBTITLES 8 AND 10 OF THE ENVIRONMENT ARTICLE; AND**

16 **(II) AT COMPLETION OF THE APPROVED LEAD HAZARD**
17 **REDUCTION PROJECT:**

18 **1. THE FULL RISK REDUCTION STANDARD UNDER §**
19 **6-819(A)(2) OF THE ENVIRONMENT ARTICLE IS SATISFIED;**

20 **2. ALL EXTERIOR ENTRYWAYS FOR THE PROPERTY**
21 **HAVE A WALK-OFF FLOOR MAT;**

22 **3. ALL EXTERIOR SURFACES ARE FREE OF CHIPPING,**
23 **PEELING, OR FLAKING PAINT;**

24 **4. ALL WINDOWS, OTHER THAN WINDOWS IN AN**
25 **UNFINISHED BASEMENT AREA NOT USED FOR COOKING, EATING, LIVING,**
26 **SANITATION, OR SLEEPING, ARE LEAD-FREE WINDOWS; AND**

27 **5. THE PROPERTY PASSES THE TEST FOR**
28 **LEAD-CONTAMINATED DUST UNDER § 6-816 OF THE ENVIRONMENT ARTICLE**
29 **AND REGULATIONS ADOPTED BY THE DEPARTMENT OF THE ENVIRONMENT.**

30 **(2) AN INDEPENDENT INSPECTOR WHO IS ACCREDITED BY THE**
31 **DEPARTMENT OF THE ENVIRONMENT AND IS NOT A RELATED PARTY AS**
32 **DEFINED IN § 6-801 OF THE ENVIRONMENT ARTICLE SHALL VERIFY THAT THE**
33 **REQUIREMENTS OF PARAGRAPH (1) OF THIS SUBSECTION HAVE BEEN**

1 SATISFIED AND A STATE-ACCREDITED LABORATORY SHALL PROCESS THE
2 LEAD-CONTAMINATED DUST TEST UNDER PARAGRAPH (1)(II)5 OF THIS
3 SUBSECTION.

4 (3) WHEN THE REQUIREMENTS OF THIS SUBSECTION HAVE BEEN
5 SATISFIED, THE INDEPENDENT INSPECTOR HIRED BY THE OWNER SHALL ISSUE
6 A CERTIFICATE INDICATING THAT THE TAXPAYER HAS MET THE REQUIREMENTS
7 FOR THE SUBTRACTION MODIFICATION UNDER PARAGRAPH (1) OF THIS
8 SUBSECTION.

9 (4) THE CERTIFICATE ISSUED UNDER PARAGRAPH (3) OF THIS
10 SUBSECTION SHALL BE PROVIDED TO THE COMPTROLLER WITH THE
11 TAXPAYER'S RETURN FOR THE TAXABLE YEAR FOR WHICH THE SUBTRACTION
12 MODIFICATION IS CLAIMED.

13 (G) THE SUBTRACTION MODIFICATION UNDER THIS SECTION MAY NOT
14 BE ALLOWED FOR ANY COSTS FOR WHICH THE TAXPAYER HAS RECEIVED A
15 GRANT OR LOAN UNDER THE LEAD HAZARD REDUCTION GRANT AND LOAN
16 PROGRAMS ESTABLISHED UNDER TITLE 4, SUBTITLE 7 OF THE HOUSING AND
17 COMMUNITY DEVELOPMENT ARTICLE.

18 (H) (1) FOR EACH FISCAL YEAR, A TAXPAYER MAY SUBMIT TO THE
19 DEPARTMENT FOR APPROVAL A PROPOSAL FOR A LEAD HAZARD REDUCTION
20 PROJECT QUALIFYING FOR THE SUBTRACTION MODIFICATION ALLOWED UNDER
21 THIS SECTION.

22 (2) A PROPOSAL FOR A LEAD HAZARD REDUCTION PROJECT
23 SHALL BE SUBMITTED IN WRITING BEFORE COMMENCEMENT OF THE PROJECT
24 AND SHALL INCLUDE:

25 (I) A DESCRIPTION OF THE PROPERTY OR PROPERTIES
26 THAT ARE THE SUBJECT OF THE PROPOSED LEAD HAZARD REDUCTION
27 PROJECT, INCLUDING THE CURRENT AND ANTICIPATED USES OF THE
28 PROPERTY;

29 (II) A DESCRIPTION OF ANY LEAD HAZARD REDUCTION
30 ACTIVITIES OF WHICH THE TAXPAYER IS AWARE THAT HAVE BEEN PERFORMED
31 ON THE PROPERTY;

32 (III) A DESCRIPTION OF THE LEAD HAZARD REDUCTION
33 ACTIVITIES THAT WILL BE PERFORMED ON THE PROPERTY UNDER THE
34 PROJECT;

1 (IV) THE ANTICIPATED DIRECT COSTS OF THE PROJECT;

2 (V) THE ANTICIPATED DATES FOR COMMENCEMENT AND
3 COMPLETION OF THE PROJECT; AND

4 (VI) ANY OTHER INFORMATION THAT THE DEPARTMENT
5 REQUIRES BY REGULATION.

6 (3) IN APPROVING OR DISAPPROVING A LEAD HAZARD
7 REDUCTION PROJECT UNDER THIS SUBTITLE, THE DEPARTMENT SHALL
8 CONSIDER ANY RELEVANT FACTORS.

9 (4) THE DEPARTMENT SHALL APPROVE OR DISAPPROVE AN
10 APPLICATION WITHIN 60 DAYS AFTER IT RECEIVES A COMPLETED APPLICATION.

11 (5) EACH APPROVAL:

12 (I) SHALL BE IN WRITING; AND

13 (II) SHALL SPECIFY THE MAXIMUM TOTAL AMOUNT OF THE
14 SUBTRACTION MODIFICATION FOR WHICH THE PROJECT IS ELIGIBLE.

15 (6) EACH DISAPPROVAL SHALL STATE IN DETAIL THE REASONS
16 FOR THE DISAPPROVAL.

17 (I) THE DEPARTMENT MAY NOT APPROVE A LEAD HAZARD REDUCTION
18 PROJECT FOR A SUBTRACTION MODIFICATION UNDER THIS SECTION AFTER
19 JUNE 30, 2017.

20 (J) (1) A PERSON MAY NOT KNOWINGLY MAKE OR CAUSE TO BE MADE
21 ANY FALSE STATEMENT OR REPORT IN ANY APPLICATION OR OTHER DOCUMENT
22 REQUIRED TO BE FURNISHED TO THE DEPARTMENT OR THE COMPTROLLER
23 RELATING TO THE SUBTRACTION MODIFICATION ALLOWED UNDER THIS
24 SECTION.

25 (2) A PERSON WHO VIOLATES PARAGRAPH (1) OF THIS
26 SUBSECTION IS GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT
27 TO A FINE NOT EXCEEDING \$50,000 OR IMPRISONMENT NOT EXCEEDING 2
28 YEARS OR BOTH.

29 (K) THE DEPARTMENT, IN COOPERATION WITH THE COMPTROLLER
30 AND THE DEPARTMENT OF THE ENVIRONMENT, SHALL ADOPT REGULATIONS TO
31 CARRY OUT THIS SECTION.

1 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
2 July 1, 2014, and shall be applicable to all taxable years beginning after December 31,
3 2013.