

**Department of Legislative Services**  
Maryland General Assembly  
2015 Session

**FISCAL AND POLICY NOTE**  
**Revised**

House Bill 1158 (Delegate Stein)

Environment and Transportation

Judicial Proceedings

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**Lead Risk Reduction Standards - Maintenance of Exemptions**

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This bill requires that, in order for an affected property to maintain a specified exemption from the risk reduction standards under the Reduction of Lead Risk in Housing Program, an owner submit to the Maryland Department of the Environment (MDE) every five years, and within 30 days after receiving a written notice of chipping, peeling, or flaking paint from any source on the exterior of the property (1) a certification by an accredited inspector stating that no exterior painted surface is chipping, peeling, or flaking and (2) a yearly notarized affidavit affirming that all exterior surfaces of the property remain free of chipping, peeling, or flaking paint. The bill also establishes requirements for the written notice and requires the owner to maintain a copy of each affidavit submitted to MDE for at least 10 years or the duration of ownership of the affected property, whichever is longer. On request of MDE, the owner must submit a copy of the affidavit to MDE.

The bill also specifies that specified exemptions for a multifamily rental unit expire on October 1, 2020, unless the testing for the inspection report was conducted in accordance with regulations adopted by MDE.

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**Fiscal Summary**

**State Effect:** While the bill results in some administrative efficiencies for MDE, the bill is not anticipated to materially affect State finances.

**Local Effect:** The bill does not materially affect local government operations or finances.

**Small Business Effect:** Potential meaningful.

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## Analysis

**Current Law:** All affected rental properties are required to pass an inspection for lead contaminated dust, performed by an MDE-accredited inspection contractor, prior to every change in occupancy. In order to pass the inspection, the property must be free of chipping, peeling, or flaking paint on the interior and exterior of the property.

An affected property is exempt from the risk reduction standards if the owner submits to MDE an inspection report that (1) indicates that the affected property has been tested in accordance with standards and procedures established by MDE; (2) states that all interior and exterior surfaces of the affected property are lead-free (lead-free exemption), *or* that all interior surfaces are lead-free and all exterior surfaces that were chipping, peeling, or flaking have been restored with nonlead-based paint and that no exterior painted surfaces of the affected property are chipping, peeling, or flaking (limited lead-free exemption); and (3) is verified by the MDE-accredited inspector who performed the test. In order to maintain a limited lead-free exemption, the owner must submit to MDE every two years a certification by an accredited inspector stating that no exterior painted surface of the affected property is chipping, peeling, or flaking.

Outside surfaces of an affected property, including windows, doors, trim, fences, porches, and other buildings or structures that are part of the affected property, are exempt from the risk reduction standards if all exterior surfaces of an affected property are lead-free and the owner submits to MDE an inspection report that (1) indicates that the outside surfaces have been tested for the presence of lead-based paint in accordance with standards and procedures established by MDE; (2) states that all outside surfaces of the affected property are lead-free; and (3) is verified by the MDE-accredited inspector who performed the test.

### **Background:**

#### *Reduction of Lead Risk in Housing Law*

According to MDE, lead paint dust from deteriorated lead paint or home renovation is the major source of exposure for children in Maryland. Chapter 114 of 1994 established the Lead Poisoning Prevention Program within MDE. Chapter 114 established a comprehensive plan to regulate compensation for children who are poisoned by lead paint, treat affected residential rental properties to reduce risks, and limit liability of landlords who act to reduce lead hazards in accordance with various regulatory requirements.

#### *Lead Poisoning in Children*

According to the federal Centers for Disease Control and Prevention (CDC), adverse health effects exist in children at blood lead levels less than 10 micrograms per deciliter.

Recently, CDC adopted 5 micrograms per deciliter as the reference blood lead level and is no longer using the 10 micrograms per deciliter level or referring to a “level of concern.” The new reference level represents the blood lead levels of children (ages one through five) in the highest 2.5 percentiles for blood lead levels.

According to MDE’s 2013 Childhood Lead Registry, the percentage of children with lead poisoning remained at about 0.3% statewide, the lowest percentage recorded since 1993. In 2013, 371 children had an elevated blood lead level. Statewide, 110,082 (21.2%) of 518,865 children younger than age 6 were tested. According to MDE, much of the decline in blood lead levels is the result of implementation and enforcement of Maryland’s lead law.

#### *Limited Lead-Free Certificates*

MDE reports that approximately 25,888 housing units are currently covered by limited lead-free certificates. There are approximately 330 certified third-party inspectors in the State qualified to perform inspections for the limited lead-free certificate. On average, between calendar 2011 and 2014, limited lead-free inspections were performed for 1,221 certificates per year, covering an average of 5,880 units per year.

#### *U.S. Department of Housing and Urban Development (HUD) Guidelines for Testing of Multifamily Properties*

HUD’s *Guidelines for the Evaluation and Control of Lead-Based Paint Hazards in Housing* (1997 Revision) establishes standards for the number of similar units, similar common areas, or exterior sites in a building or development that should be tested in pre-1960 buildings, or buildings developed between 1960 and 1977, based on the total number of units in a building or development. MDE advises that prior to September 29, 2003, MDE’s regulations allowed inspectors to issue lead-free or limited lead-free certificates for multiunit buildings or complexes based on a sampling of a random selection of units to be tested. Properties with fewer than 20 units were required to select 6 units for testing, while properties with more than 20 units were required to select 10 units; this was less stringent than the federal regulations. On September 29, 2003, MDE amended its regulations to be consistent with the federal regulations.

**State Expenditures:** MDE advises that extending the reinspection timeline for a limited lead-free certificate has a positive impact on its operations. MDE advises that it is difficult to perform oversight on limited lead-free certificates every two years. While the bill results in some administrative efficiencies for MDE, expenditures are not materially affected.

**Small Business Effect:** Small business rental property owners may benefit from the bill’s change to the frequency (from every two years to every five years) with which a limited

lead-free certification must be submitted to MDE. However, at least some small business providers of lead paint inspection services may incur a reduction in the demand for their services as a result of that change.

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### **Additional Information**

**Prior Introductions:** None.

**Cross File:** None.

**Information Source(s):** Montgomery County, Baltimore City, Maryland Department of the Environment, Department of Housing and Community Development, Department of Health and Mental Hygiene, Maryland Association of County Health Officers, U.S. Department of Housing and Urban Development, Department of Legislative Services

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