

STATE OF MARYLAND
MARYLAND DEPARTMENT OF THE ENVIRONMENT
Ben Grumbles, Secretary

BILL NO: Senate Bill 18

COMMITTEE: Education, Health, and Environmental Affairs

POSITION: Support with Amendments

TITLE: Re: Senate Bill 18 - Environment - Lead Poisoning Prevention Commission

BILL ANALYSIS: The bill would amend the enabling statute for the Lead Poisoning Prevention Commission (the “Commission”). The bill would amend §6-807(b)(2)(iii) of the Environment Article to remove two vacant Commission member positions representing a premises liability coverage insurer and a financial institution that makes loans secured by rental property. Instead, the bill would add a representative from a nonprofit organization that works on lead poisoning prevention issues in the State. The bill would repeal in its entirety §6-809 of the Environment Article, which requires the Commission, in consultation with the Department of Housing and Community Development (DHCD), to make recommendations concerning a window replacement program.

The bill would also amend several study subjects under §6-810 of the Environment Article for the Commission at large and Commission appointed subcommittees. Specifically, the bill would repeal §6-810(a)(3) and (6) of the Environment Article that requires the Commission to study and collect information on subjects concerning the Reduction of Lead Risk in Housing Act’s (the “Act”) immunity provisions. The bill would also amend the Commission subcommittee study subjects under §6-810(b) of the Environment Article by replacing medical referral, worker education, and employer services with case management, lead paint abatement service provider education and training, and blood lead testing. Lastly, the bill repeals §6-810(d) of the Environment Article, which requires the Maryland Department of the Environment (MDE) to consult with the Commission on establishing optional lead-contaminated dust testing standards under §6-816 of the Environment Article and in the development of regulations.

POSITION AND RATIONALE: MDE supports the bill with amendments. The Commission houses a tremendous amount of expertise in the area of childhood lead poisoning. Established in 1994, the Commission studies and collects information on the effectiveness of the Act in protecting children from lead poisoning and lessening risks to responsible owners, as well as other aspects of lead poisoning prevention. While the Commission provides valuable insight to state agencies and other stakeholders, its membership and topics of study need to be updated in light of changes in the landscape of lead poisoning prevention in Maryland, including changes in the Act, new research and knowledge of the sources and impacts of lead poisoning, and shifts in the relevant stakeholders.

In 2011, the Act’s immunity provisions were invalidated by the Court of Appeals upon finding that they violated Article 19 of the Maryland Declaration of Rights. The immunity provisions granted an owner of a pre-1950 rental dwelling immunity from an action for damages related to a child or pregnant woman’s ingestion of lead under certain conditions, and instead allowed the owner to make a qualified offer. A qualified offer was an offer of payment made by an owner or insurer to a child or pregnant woman diagnosed with an elevated blood lead level, which could only be made if the property owner was in full compliance with the Act. In 2017, in light of 2011 court decision, the

Attorney General concluded that insurers no longer need to offer coverage for qualified offers under the law.

The Commission positions for representatives of a premises liability coverage insurer and a financial institution that makes loans secured by rental property are both vacant. The court decision and Attorney General's opinion concerning the immunity and qualified offer provisions of the Act have resulted in a lack of interest by insurance and financial institutions to participate in the Commission. Perspective on financial incentives and considerations related to lead abatement programs is offered by a Commission member representing DHCD, which implements lead hazard reduction grant and loan programs. For these reasons, the insurer and financial institution positions should be replaced with a nonprofit that works on lead poisoning prevention issues in Maryland. The Commission currently has a position for a child health or youth advocacy group but does not have a position for a nonprofit working on lead and healthy homes issues generally, despite a number of nonprofits that provide important expertise and services in this area.

The bill would enhance the mission of the Commission by shifting the Commission's study topics to better align with current priorities in lead poisoning prevention. For example, the topic of blood lead testing reflects the Maryland Department of Health's ongoing efforts to increase testing following the move to universal testing, and the topic of case management reflects the expansion of case management to children with lower levels of lead exposure under Chapter 341, Acts of 2019. The requirement for the Commission to recommend a window replacement program is no longer needed as Chapter 335, Acts of 1995 established the Lead Hazard Reduction Grant and Loan Program at the DHCD, which finances lead hazard reduction activities including window replacements.

MDE supports an amendment to Senate Bill 18 to retain the requirement for MDE to consult with the Commission on regulations implementing the Act. This requirement was inadvertently repealed while removing a requirement to consult with the Commission on the establishment of standards for optional lead-contaminated dust testing; those optional standards have since been superseded by mandatory lead-contaminated dust testing.

Thank you for your consideration. We will continue to monitor Senate Bill 18 during the Committee's deliberations, and we are available to answer any questions you may have.

FOR MORE INFORMATION,
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BY: Chair, Education, Health, and Environmental Affairs Committee

AMENDMENTS TO SENATE BILL 18
(First Reading File Bill)

AMENDMENT NO. 1

On page 5, in lines 13 and 15, strike the brackets; strike beginning with “on” in line 13 down through “and” in line 14.