

Chapter 610

(House Bill 1033)

AN ACT concerning

Environment – Reducing Lead Risk in Housing – ~~Lead Paint Dust Testing~~ Risk Reduction Standards

FOR the purpose of altering the requirements for the owner of a certain affected property to ~~initially~~ satisfy a certain lead-risk reduction standard; altering a certain requirement relating to certain inspections of certain affected properties; altering the performance components required under a certain modified risk reduction standard; altering the information that the owner of a certain affected property is required to submit to verify satisfaction of a certain modified risk reduction standard; repealing certain requirements relating to a tenant's failure or refusal to verify the statement of work performed on a certain affected property; repealing an alternative to satisfying a certain modified risk reduction standard; altering certain provisions relating to a certain rebuttable presumption related to verification of a certain modified risk reduction standard; repealing certain requirements for a certain statement relating to work performed on an affected property; authorizing certain civil penalties for certain enforcement actions; making certain conforming changes; requiring the Department of the Environment, in consultation with certain persons, to conduct a certain study to evaluate processes that reduce the incidence of lead poisoning in certain properties and submit a certain report to the General Assembly by a certain date; requiring the Department to adopt certain regulations; providing for a delayed effective date for certain provisions of this Act; and generally relating to reducing lead risk in housing.

BY repealing and reenacting, with amendments,

Article – Environment

Section ~~6-815(a) and (b)~~ 6-815(a), (b), and (c), 6-816, ~~and~~ 6-819(a), (e), (f), and (k), and 6-850(a)

Annotated Code of Maryland

(2007 Replacement Volume and 2010 Supplement)

BY repealing and reenacting, without amendments,

Article – Environment

Section ~~6-819(c)~~ 6-819(c) and (d)

Annotated Code of Maryland

(2007 Replacement Volume and 2010 Supplement)

BY adding to

Article – Environment

Section 6-819(e)
Annotated Code of Maryland
(2007 Replacement Volume and 2010 Supplement)

BY repealing

Article – Environment
 Section 6-819(g)
 Annotated Code of Maryland
 (2007 Replacement Volume and 2010 Supplement)

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

Article – Environment

6-815.

(a) No later than the first change in occupancy in an affected property that occurs on or after February 24, 1996, before the next tenant occupies the property, an owner of an affected property shall initially satisfy the risk reduction standard established under this subtitle by:

~~(1)~~ ~~Passing~~ PASSING the test for lead-contaminated dust under § 6-816 of this subtitle provided that ~~any~~ chipping, peeling, or flaking paint has been removed or repainted on:

~~(i)~~ (1) The exterior painted surfaces of the residential building in which the rental dwelling unit is located; and

~~(ii)~~ (2) The interior painted surfaces of the rental dwelling unit; ~~or] NO INTERIOR OR EXTERIOR SURFACES OF THE AFFECTED PROPERTY HAVE CHIPPING, PEELING, OR FLAKING PAINT; AND~~

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

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

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

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

~~(iv) [Stripping and repainting] REPAINTING, replacing, or encapsulating all interior LEAD-BASED PAINT OR UNTESTED PAINTED windowsills with vinyl, metal, or any other material in a manner and under conditions approved by the Department;~~

~~[(v)] (II) [Ensure] ENSURING that caps of vinyl, aluminum, or any other material in a manner and under conditions approved by the Department, are installed in all window wells WHERE LEAD-BASED PAINT OR UNTESTED PAINT EXISTS in order to make the window wells smooth and cleanable;~~

~~[(vi)] (III) Except for a treated or replacement window that is free of lead-based paint on its friction surfaces, fixing the top sash, SUBJECT TO LOCAL FIRE CODE STANDARDS, of all windows in place in order to eliminate the friction caused by movement of the top sash;~~

~~[(vii)] (IV) Rehangng all doors necessary in order to prevent the rubbing together of a lead-painted surface with another surface;~~

~~[(viii)] (V) Making all bare floors smooth and cleanable;~~

~~[(ix)] (VI) [Ensure] ENSURING that all kitchen and bathroom floors are overlaid with a smooth, water-resistant covering; and~~

~~[(x)] (VII) HEPA vacuuming and washing of the interior of the affected property with high phosphate detergent or its equivalent, as determined by the Department.~~

(b) At each change in occupancy thereafter, before the next tenant occupies the property, the owner of an affected property shall satisfy the risk reduction standard established under this subtitle by:

~~(1) Passing PASSING the test for lead-contaminated dust under § 6-816 of this subtitle IN ACCORDANCE WITH SUBSECTION (A) OF THIS SECTION; ~~[or] AND~~~~

~~(2) (i) Repeating the lead hazard reduction treatments specified in subsection (a)(2)(i), (ii), (iii), and (x) of this section; and~~

~~(ii) Ensuring that the lead hazard reduction treatments specified in subsection (a)(2)(iv), (v), (vi), (vii), (viii), and (ix) of this section are still in effect.~~

(c) [Except for affected properties that pass a test for lead-contaminated dust under § 6-816 of this subtitle, at] AT each change in occupancy, an owner of an

affected property shall have the property inspected to verify that the risk reduction standard specified in this section has been satisfied.

6-816.

The Department shall establish procedures and standards for the [optional] lead-contaminated dust testing by regulation.

6-819.

(a) The modified risk reduction standard shall consist of performing the following [lead hazard reduction treatments]:

(1) PASSING THE TEST FOR LEAD-CONTAMINATED DUST UNDER § 6-816 OF THIS SUBTITLE; AND

(2) PERFORMING THE FOLLOWING LEAD HAZARD REDUCTION TREATMENTS:

~~(1)~~ **(I)** A visual review of all exterior and interior painted surfaces;

~~(2)~~ **(II)** The removal and repainting of chipping, peeling, or flaking paint on exterior and interior painted surfaces;

~~(3)~~ **(III)** The repair of any structural defect that is causing the paint to chip, peel, or flake, that the owner of the affected property has knowledge of or, with the exercise of reasonable care, should have knowledge of;‡

~~(4)~~ ~~(I)~~ **(IV)** [Stripping and repainting] **REPAINTING**, replacing, or encapsulating all interior **LEAD-BASED PAINT OR UNTESTED PAINTED** windowsills with vinyl, metal, or any other material in a manner and under conditions approved by the Department;

~~(5)~~ ~~(II)~~ **(V)** [Ensure] **ENSURING** that caps of vinyl, aluminum, or any other material in a manner and under conditions approved by the Department, are installed in all window wells **WHERE LEAD-BASED PAINT OR UNTESTED PAINT EXISTS** in order to make the window wells smooth and cleanable;

~~(6)~~ ~~(III)~~ **(VI)** Except for a treated or replacement window that is free of lead-based paint on its friction surfaces, fixing the top sash, **SUBJECT TO FEDERAL, STATE, OR LOCAL FIRE CODE STANDARDS**, of all windows in place in order to eliminate the friction caused by the movement of the top sash;

~~(7)~~ (VII) Rehanging all doors in order to prevent the rubbing together of a lead-painted surface with another surface;

~~(8)~~ (VIII) Ensure that all kitchen and bathroom floors are overlaid with a smooth, water-resistant covering; and

~~(9)~~ ~~(IV)~~ (IX) HEPA-vacuumping and washing with high phosphate detergent or its equivalent, as determined by the Department, any area of the affected property where repairs were made. ~~;~~ ~~AND~~

~~(3) COMPLYING WITH ALL APPLICABLE FEDERAL, STATE, AND LOCAL HOUSING LAWS.~~

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

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

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

1. A defect; and
2. The existence of a person at risk in the affected property.

(2) (i) An owner who receives multiple notices of an elevated blood level under this subsection or multiple notices of defect under subsection (d) of this section may satisfy all such notices by subsequent compliance with the risk reduction measures specified in subsection (a) of this section, as documented by satisfaction of subsection (f) or (g) of this section, if the owner complies with the risk reduction measures specified in subsection (a) of this section after the date of the test documenting the elevated blood level or after the date the notices of defect were issued.

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

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

(E) AN OWNER OF AN AFFECTED PROPERTY IS IN COMPLIANCE WITH SUBSECTION (C) OR (D) OF THIS SECTION IF, AS APPLICABLE:

(1) THE OWNER SATISFIES THE MODIFIED RISK REDUCTION WITHIN 30 DAYS AFTER RECEIVING A NOTICE OF ELEVATED BLOOD LEAD LEVEL OR A NOTICE OF DEFECT IN ACCORDANCE WITH THIS SECTION; OR

(2) THE OWNER PROVIDES FOR THE TEMPORARY RELOCATION OF TENANTS TO A ~~NONAFFECTED PROPERTY OR A COMPLIANT AFFECTED PROPERTY~~ LEAD-FREE DWELLING UNIT OR ANOTHER DWELLING UNIT THAT HAS SATISFIED THE RISK REDUCTION STANDARD IN ACCORDANCE WITH § 6-815 OF THIS SUBTITLE WITHIN 30 DAYS AFTER THE RECEIPT OF A NOTICE OF ELEVATED BLOOD LEAD LEVEL OR A NOTICE OF DEFECT.

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

~~(G)~~ **(G)** **[(1)]** An owner of an affected property shall verify satisfaction of the modified risk reduction standard by submitting a [statement of the work performed on the property, verified by the tenant and an accredited supervisor or contractor,] **REPORT FROM AN ACCREDITED INSPECTOR** to the Department ~~on or before the tenth day of the month following the month in which the work was completed.~~

[(2) (i)] If the tenant fails or refuses to verify the statement of work performed on the affected property, the owner shall within 5 business days of the failure or refusal, contact an inspector accredited under § 6-818(a) of this subtitle to inspect the affected property.

(ii) The inspector's report shall either certify that the work required to be performed under this section was satisfactorily completed or specify precisely what additional work is required.

(iii) If additional work is required:

1. The owner shall have 20 days after receipt of the inspector's report in which to perform the work, subject to a weather delay under the provisions of subsection (j) of this section; and

2. The inspector shall reinspect the affected property after the additional work is completed and:

A. Issue a report certifying that the work is complete;
and

B. Mail a copy of the report to the tenant, the owner, and the Department within 10 days after the inspection or reinspection.]

[(g) In lieu of satisfying the modified risk reduction standard, the owner of an affected property may elect to pass the test for lead-contaminated dust under § 6-816 of this subtitle provided that any chipping, peeling, or flaking paint has been removed or repainted on:

(1) The exterior painted surfaces of the residential building in which the rental dwelling unit is located; and

(2) The interior painted surfaces of the rental dwelling unit.]

(k) [(1)] The [statement verified by the owner and the tenant of work performed on the affected property in accordance with subsection (f)(1) of this section or the final] report of the inspector verifying [that work was performed on the affected property in accordance with subsection (f)(2) of this section] **COMPLIANCE WITH THIS SUBTITLE** shall create a rebuttable presumption, that may be overcome by clear and convincing evidence, that the owner is in compliance with the modified risk reduction standard for the affected property unless there is:

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

(ii) Proof that the work performed on the affected property was not performed by or under the supervision of personnel accredited under § 6-1002 of this title.

[(2) The statement verified by the owner and the tenant of work performed on the affected property in accordance with subsection (f)(1) of this section shall contain a statement:

(i) Describing the modified risk reduction standard required under this subtitle;

(ii) That execution of this statement by the tenant can affect the tenant's legal rights; and

(iii) That if the tenant is not satisfied that the modified risk reduction standard has been met, the tenant should not execute the statement and should inform the owner and that the owner will have the affected property inspected by a certified inspector at the owner's expense.]

(a) Except as provided in § 6–849 of this subtitle, in addition to any other remedies provided in this subtitle, the provisions and procedures of §§ 7–256 through 7–264 and 7–266[(b)] of this article shall be used and shall apply to enforce violations of this subtitle, provided that the penalty imposed under § 7–266(b)(2)(i) of this article may not exceed \$500 per day for any violation of this subtitle.

~~SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2011.~~

SECTION 2. AND BE IT FURTHER ENACTED, That:

(a) The Department of the Environment shall conduct a study to evaluate processes that reduce the incidence of lead poisoning in affected and nonaffected properties, including rental properties built from 1950 through 1978 and owner-occupied properties.

(b) The Department of the Environment shall conduct the study required under subsection (a) of this section in consultation with:

(1) ~~one member~~ *two members* of the Senate of Maryland, *one of whom shall be a member of the minority party*, appointed by the President of the Senate;

(2) ~~two~~ *three* members of the House of Delegates, *one of whom shall be a member of the minority party*, appointed by the Speaker of the House; and

(3) *one or two* representatives from each of the following:

(i) the Department of Health and Mental Hygiene;

(ii) the Department of Housing and Community Development;

(iii) the City of Baltimore;

(iv) the Apartment and Office Building Association;

(v) the Coalition to End Childhood Lead Poisoning;

(vi) the Maryland Association of Realtors;

(vii) the Maryland Lead Poisoning Prevention Commission;

(viii) the Maryland MultiHousing Association;

(ix) the Maryland Property Owners Association; and

(x) a lead abatement contractors association.

(c) The study shall evaluate:

(1) current lead poisoning data, including housing and population at-risk data from the United States Census, related to affected and nonaffected properties to determine the populations most at risk in the State;

(2) lead poisoning data collection methods for affected and nonaffected properties, including identification of data gaps and methods to fill them;

(3) outreach to and education of owners and tenants of nonaffected properties;

(4) potential for expanding the applicability of the current Reduction of Lead Risk in Housing law to nonaffected and noncompliant properties;

(5) long-term funding for lead poisoning prevention activities; and

(6) other issues the Department determines relevant to reducing the incidence of lead poisoning in affected and nonaffected properties.

(d) On or before December 31, 2011, the Department of the Environment shall report to the General Assembly, in accordance with § 2-1246 of the State Government Article, on the results of the study required under subsection (a) of this section.

SECTION 3. AND BE IT FURTHER ENACTED, That the Department of the Environment shall adopt regulations related to reporting requirements of dust testing laboratory results.

SECTION 4. AND BE IT FURTHER ENACTED, That Section 1 of this Act shall take effect January 1, 2012.

SECTION 5. AND BE IT FURTHER ENACTED, That, except as provided in Section 4 of this Act, this Act shall take effect July 1, 2011.

Approved by the Governor, May 19, 2011.