

Department of Legislative Services
 Maryland General Assembly
 2012 Session

FISCAL AND POLICY NOTE

House Bill 955 (Delegates Rosenberg and Oaks)
 Environmental Matters

Lead Poisoning - Affected Property - Window Replacement

This bill requires, beginning October 1, 2012, an owner of affected property under the Reduction of Lead Risk in Housing Program that receives notice that a person at risk who resides in the property has a documented elevated blood lead level of at least *five* micrograms per deciliter to satisfy the modified risk reduction standard by (1) passing the test for lead-contaminated dust; (2) replacing all windows containing lead-based paint with new windows that are lead-free; (3) performing specified lead hazard reduction treatments; and (4) performing any other measures required by the local health department or authorized agency. An owner must satisfy the modified risk reduction standard within 30 days after receiving the notice.

Fiscal Summary

State Effect: General/special fund expenditures increase by about \$424,000 in FY 2013 for the Maryland Department of the Environment (MDE) to hire and equip six additional personnel to handle the significantly greater caseloads for persons at risk with elevated blood lead levels under the bill’s lower threshold. Revenues are not directly affected.

(in dollars)	FY 2013	FY 2014	FY 2015	FY 2016	FY 2017
Revenues	\$0	\$0	\$0	\$0	\$0
GF/SF Exp.	424,000	390,600	414,800	433,000	452,200
Net Effect	(\$424,000)	(\$390,600)	(\$414,800)	(\$433,000)	(\$452,200)

Note:() = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate effect

Local Effect: Local health department expenditures increase to handle the additional cases of persons at risk with elevated blood lead levels. The bill may impose significant additional costs on locally owned housing entities. **This bill may impose a mandate on a unit of local government.**

Small Business Effect: Meaningful.

Analysis

Current Law/Background:

Reduction of Lead Risk in Housing Law

Chapter 114 of 1994 established the Lead Paint Poisoning Prevention Program within MDE. Chapter 114 establishes 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.

If a landlord complies with the regulatory provisions, Chapter 114 provides liability protection, through a qualified offer, by limiting compensation to children who resided in the rental unit to not more than \$7,500 for all medically necessary treatments and to not more than \$9,500 for relocation benefits, for a total of \$17,000. Compliance with Chapter 114 includes having registered with MDE, having implemented all lead risk reduction treatment standards, and having provided notice to tenants about their legal rights and specified lead poisoning prevention information. The liability protection provisions of Chapter 114, however, have been rendered invalid by a recent Maryland Court of Appeals decision.

The Modified Risk Reduction Standard

The owner of an affected property must comply with a “modified risk reduction standard” if an elevated blood lead level of *10 micrograms per deciliter* or more is found in a “person at risk” who resides on the property or a defect is found in a property in which a person at risk resides. “A person at risk” is defined as a child or a pregnant woman who resides or regularly spends at least 24 hours per week in an affected property. Chapter 610 of 2011 altered the modified risk reduction standard by requiring a lead dust test *and* the performance of specified lead hazard reduction treatments; previously, an owner could satisfy the modified risk reduction standard by passing a dust test *or* performing the treatments. Chapter 610 also altered the various treatments required for a modified risk reduction standard by:

- removing the requirement to strip paint from all interior windowsills, while maintaining the requirement to repaint, replace, or encapsulate the windowsills;
- specifying that caps of vinyl, aluminum, or other materials are installed only in window wells where lead-based paint or untested paint exists; and

- specifying that, when a top sash of a window is fixed, it must be done subject to fire code standards.

Finally, Chapter 610 authorized a property owner to comply with the modified risk reduction standard by providing for the temporary relocation of tenants to either a lead-free dwelling unit or another dwelling unit that has satisfied the risk reduction standard for an affected property within 30 days after the receipt of a notice of elevated blood lead level or a notice of defect.

MDE 2011 Lead Study

Chapter 610 of 2011 required MDE to conduct a study in consultation with members of the General Assembly and representatives of several State and local agencies and organizations reflecting the interests of landlords, housing owners, lead poisoning prevention advocates, and others. The study was required to evaluate processes that reduce the incidence of lead poisoning in both affected and nonaffected properties, including rental properties built from 1950 through 1978 and owner-occupied properties. The study group met seven times between July and December of 2011 and made recommendations regarding six different issues, which are contained in a report issued on December 31, 2011.

One of the study group's recommendations was for MDE and the Department of Health and Mental Hygiene to perform a review of the impacts of lowering the blood lead level of concern from 10 micrograms per deciliter to 5 micrograms per deciliter should the federal Centers for Disease Control and Prevention (CDC) elect to adopt this lower threshold. Recently, the federal Advisory Committee on Childhood Lead Poisoning Prevention, which advises CDC, prepared a resolution that concluded that blood lead levels below 10 micrograms per deciliter may be harmful to children.

Lead Poisoning in Children

According to CDC, adverse health effects exist in children at blood lead levels less than 10 micrograms per deciliter. No treatments are known to lower the blood lead levels for children with lead levels less than 10 micrograms per deciliter. Measuring blood levels below the 10 micrograms per deciliter threshold is difficult. Therefore, although CDC warns there are no safe blood lead levels, the 10 micrograms per deciliter threshold is the standard measure at which statistics are reported.

According to the most recent data available, the number of children in Maryland with elevated blood lead levels has continued to decrease since the onset of the program. At the State level, out of the 114,829 children age six who were tested for lead in 2010, 531 (0.5%) were found to have blood lead levels greater than or equal to 10 micrograms

per deciliter. This compares with 23.9% in 1993, the first year in which these data were tracked, and is the eighteenth straight year in which the rate has dropped in Maryland. According to MDE, lead paint dust from deteriorated lead paint or home renovation is the major source of exposure for children in Maryland.

State Fiscal Effect: General/special fund expenditures increase by \$424,029 in fiscal 2013, which accounts for the bill’s October 1, 2012 effective date. This estimate reflects the cost of hiring three environmental compliance specialists, one assistant Attorney General, one office secretary, and one administrative aide to process the significant increase in the number of expected cases of elevated blood lead levels under the bill’s lower threshold. MDE advises that in 2010 there were 531 cases of elevated blood lead levels above the current standard of 10 micrograms per deciliter, but that in 2011 there were more than 2,400 children with blood lead levels of between 5 and 10 micrograms per deciliter. This estimate includes salaries, fringe benefits, an automobile and additional equipment for inspections and enforcement, other start-up costs, and ongoing operating expenses.

Positions	6
Salaries and Fringe Benefits	\$256,663
Automobile Purchase and Operations	24,347
Specialized Equipment	85,500
Other Start-up Costs and Operating Expenses	<u>57,519</u>
Total FY 2013 MDE Administrative Expenditures	\$424,029

Future year administrative expenditures reflect full salaries with annual increases and employee turnover as well as annual increases in ongoing operating expenses. The estimate assumes that special funds will be used to support these additional expenditures to the extent such funds are available, but that general funds may be needed.

In addition to the administrative expenditures identified above, MDE advises that, due to the responsibilities of local health departments associated with handling cases of persons at risk with elevated blood lead levels, it would likely increase the amount distributed to counties as grants to the extent that funding is available.

Local Fiscal Effect: Local government expenditures increase for any jurisdiction with rental properties in which a person at risk with a documented elevated blood lead level of at least five micrograms per deciliter is found. If a person at risk is documented to have a blood lead level that exceeds this lower threshold, then the local government owner of the property must take the specified actions in the bill, including passing a dust test, replacing all windows, and performing specified lead hazard reduction treatments, along with any other required measures.

Baltimore City advises that the Baltimore City Housing Authority may incur substantial additional costs to meet the bill's requirements and also to relocate tenants until all required actions have been completed, which it estimates may be from one to three months. For example, the housing authority estimates that window replacement costs may be about \$80,000 assuming there are 20 units that have windows with lead paint and that it costs about \$4,000 to replace windows in each unit. Further, the housing authority estimates that the cost to relocate tenants until the windows are replaced may total several thousand dollars more per case. In Maryland, housing authorities are public bodies corporate and politic, generally dependent on federal funds and rents collected from tenants.

In addition, local health departments are generally responsible for sending rental property owners the notice of an elevated blood lead level found in a person at risk and initiating case management interventions. Therefore, local health department expenditures increase to communicate with the significantly greater number of property owners expected to be notified under the bill and to monitor the additional caseloads expected.

As noted above, to the extent funds are available, MDE advises that it would likely increase the amount of grants provided to local health departments to support the additional caseloads anticipated under the bill.

Small Business Effect: Small business rental property owners may incur a meaningful increase in costs to comply with the bill, as additional persons at risk may be found to have an elevated blood lead level under the bill's lower threshold, which requires satisfying the modified risk reduction standard as specified in the bill, including the requirement to replace windows. Small business contractors engaged in the inspection, abatement, or renovation of properties with lead paint may realize a meaningful increase in the demand for their services.

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, U.S. Centers for Disease Control and Prevention, Department of Legislative Services

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