



New Maryland Lead Paint Laws

presented to: Real Investors of Maryland, Inc.



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New Maryland Lead Paint Laws



DELEGATE MARVIN E. HOLMES, JR.

Environmental Matters Committee
Land Use and Ethics Subcommittee
Chair, Natural Resources Subcommittee
Chair, Democratic Party Caucus

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Current Law

- A rental house built before 1950, (if not occupied by the owner) falls under a special Maryland law that protects tenants and imposes certain duties on landlords.
- The law also limits a landlord's liability if s/he can meet certain standards.
- In addition, owners of houses built between 1950-1978 may also participate in the special liability limitation program.

House Bill 472

and

House Bill 644

- ***HB 472***
 - *Reduction of Lead Risk in Housing*
 - *Creation of Lead Poisoning Compensation Fund*

- ***HB 644***
 - *Reducing the Incidence of Lead Poisoning*

House Bill 472

Reduction of Lead Risk in Housing Creation of Lead Poisoning Compensation Fund

- **THE PURPOSE OF THE FUND IS TO PROVIDE:**
 - FOR THE PAYMENT OF COMPENSATION TO INDIVIDUALS THAT SUFFER INJURIES ARISING OUT OF LEAD POISONING
 - A MEANS FOR OWNERS OF RESIDENTIAL RENTAL PROPERTY TO OBTAIN COVERAGE FOR LIABILITY FOR INJURIES ARISING OUT OF LEAD POISONING.

WHY IS THIS NEEDED

House Bill 472

Reduction of Lead Risk in Housing Creation of Lead Poisoning Compensation Fund

IN THE COURT OF APPEALS OF MARYLAND

September Term, 2008

ZI'TASHIA JACKSON, a minor, et al.

v.

THE DACKMAN COMPANY, et al.

- The principal issues in this case concern the constitutionality of the provisions in the reduction of Lead Risk in Housing Act which grant to the owners of certain rental properties, under specified conditions, immunity from personal injury suits based upon a child's or a pregnant woman's ingestion of lead.
- We shall hold that the statute's provisions granting immunity violate Article 19 of the Maryland Declaration of Rights and are, therefore, invalid.
- *"[a]n owner of an affected property is not liable, for alleged injury or loss caused by ingestion of lead by a person at risk in the affected property."*

House Bill 472

Reduction of Lead Risk in Housing Creation of Lead Poisoning Compensation Fund

- The plaintiffs, in opposing summary judgment, argued in the Circuit Court that the Act's grant of immunity was unconstitutional on several grounds.
 - They claimed that the immunity provisions of the Act violated their rights to equal protection of the laws and due process of law guaranteed by the Fourteenth Amendment and Article 24 of the Maryland Declaration of Rights,
 - That the immunity provisions deprived them of their right to jury trial in violation of the Seventh Amendment and Articles 5 and 23 of the Maryland Declaration of Rights,
 - That the grant of immunity from suit was inconsistent with the separation of powers requirement in Article 8 of the Declaration of Rights,

***Final Results of the Courts Decision... Financial Institutions Have Notified
Maryland That Loans for Homes Built Prior to 1978 Are At Risk***

House Bill 472

Reduction of Lead Risk in Housing Creation of Lead Poisoning Compensation Fund

- ON OR AFTER JULY 1, 2013, A LEAD POISONING COMPENSATION FEE SHALL BE PAID BY EACH OWNER OF RESIDENTIAL RENTAL PROPERTY LOCATED IN THE STATE THAT WAS BUILT BEFORE 1978.
 - THE LEAD POISONING COMPENSATION FEE IS:
 - FOR AN OWNER THAT IS NOT A COMPLIANT OWNER,
 - \$500 PER RENTAL DWELLING UNIT;
 - FOR A COMPLIANT OWNER:
 - \$100 PER RENTAL DWELLING UNIT; OR
 - \$50 PER RENTAL DWELLING UNIT CERTIFIED AS LIMITED LEAD-FREE IN ACCORDANCE WITH REGULATIONS ADOPTED BY THE DEPARTMENT OF THE ENVIRONMENT.
- AN OWNER IS EXEMPT FROM PAYING THE FEE IF THE OWNER'S PROPERTY IS CERTIFIED AS LEAD-FREE IN ACCORDANCE WITH REGULATIONS ADOPTED BY THE DEPARTMENT OF THE ENVIRONMENT.

House Bill 472

Reduction of Lead Risk in Housing Creation of Lead Poisoning Compensation Fund

- THE FUND SHALL PROVIDE COVERAGE IN CASES FILED ON OR AFTER JULY 1, 2013, FOR A CLAIM ARISING OUT OF THE ALLEGED INGESTION OF LEAD IN A RENTAL DWELLING 1 UNIT ON OR AFTER OCTOBER 1, 1994, TO:
 - A CURRENT COMPLIANT OWNER, IF THE OWNER IS NOT IN DEFAULT IN PAYMENT OF THE FEE REQUIRED;
 - A FORMER COMPLIANT OWNER THAT PAYS THE FEE PRIOR TO THE FILING OF A CLAIM;
AND
 - A CURRENT OR FORMER OWNER OF RESIDENTIAL RENTAL PROPERTY THAT IS CERTIFIED LEAD-FREE IN ACCORDANCE WITH REGULATIONS ADOPTED BY THE DEPARTMENT OF THE ENVIRONMENT THAT PAYS THE FEE

House Bill 472

Reduction of Lead Risk in Housing Creation of Lead Poisoning Compensation Fund

- THE FUND MAY PROVIDE COVERAGE FOR CLAIMS ONLY IF THE CLAIM IS NOT COVERED BY ANY OTHER SOURCE OF 28 INSURANCE OR INDEMNITY.
- THE MAXIMUM AMOUNT PAYABLE BY THE FUND, EXCLUSIVE OF INTEREST AND COSTS, MAY NOT EXCEED \$200,000 TO A SINGLE CLAIMANT
- A OWNER OF RESIDENTIAL RENTAL PROPERTY THAT IS CERTIFIED LEAD-FREE IN ACCORDANCE WITH REGULATIONS ADOPTED BY THE DEPARTMENT OF THE ENVIRONMENT MAY OBTAIN COVERAGE FROM THE FUND FOR CLAIMS ARISING OUT OF THE ALLEGED INGESTION OF LEAD IN THE OWNER'S PROPERTY IF THE OWNER PAYS TO THE FUND A FEE IN THE AMOUNT OF \$50 PER DWELLING UNIT FOR EACH YEAR THAT THE OWNER OWNED THE DWELLING UNIT.

House Bill 644

Reducing the Incidence of Lead Poisoning

- THIS SECTION APPLIES TO THE SALE OF PROPERTY ON WHICH A DWELLING IS BUILT BEFORE 1978
 - AT LEAST 7 DAYS BEFORE SETTLEMENT OF A CONTRACT FOR THE SALE OF PROPERTY, A VENDOR SHALL DELIVER TO EACH PURCHASER THE RESULTS OF A LEAD-CONTAMINATED DUST TEST PERFORMED FOR THE PROPERTY IN ACCORDANCE WITH THE PROCEDURES AND STANDARDS ADOPTED UNDER THE ENVIRONMENT ARTICLE.
 - A PURCHASER MAY WAIVE IN WRITING THE RIGHT TO RECEIVE THE RESULTS OF A LEAD-CONTAMINATED DUST TEST.

House Bill 644

Reducing the Incidence of Lead Poisoning

- Following an environmental investigation in response to a report of a lead poisoned person at risk, THE DEPARTMENT OR a local jurisdiction, INCLUDING THE LOCAL HEALTH DEPARTMENT, may order an abatement, in any residential property.
- “Affected property” means:
 - A property constructed before [1950] 1978 that contains at least one rental dwelling unit;

House Bill 472

and

House Bill 644

- Status of the Bill Hearings
 - **HB 472 Hearing 3/7/2012 at 1:00 p.m. (Environmental Matters Committee; Lowe House Office Building Room 250)**
 - **HB 644 Hearing 3/7/2012 at 1:00 p.m. (Environmental Matters Committee; Lowe House Office Building Room 250)**



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