



# MARYLAND DEPARTMENT OF THE ENVIRONMENT

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February 14, 2014

The Honorable Sheila E. Hixson, Chairman  
Ways and Means Committee  
Room 131, House Office Building  
6 Bladen Street  
Annapolis, MD 21401-1991

Re: House Bill 431– *Income Tax Subtraction Modification – Lead Hazard Reduction Projects*

Dear Chairman Hixson and Members of the Committee:

The Maryland Department of the Environment (MDE or “the Department”) has reviewed House Bill 431 entitled *Income Tax Subtraction Modification – Lead Hazard Reduction Projects*, and would like to provide the Committee with some information regarding this bill.

This bill would allow property owners to obtain a subtraction modification under the State income tax law for the costs incurred for approved lead hazard reduction activities in certain properties. Proposals for such projects would be submitted to the Department of Housing and Community Development (“DHCD”) for approval. Properties that would qualify for the credit include rental properties, child care centers, elderly day care centers, and owner-occupied housing. Eligibility would be contingent upon the following conditions: 1) the property must be built before 1978; 2) the property must contain lead-based paint; 3) if a dwelling, the property must have at least two bedrooms; 4) if a rental property, the property must be compliant with State lead law provisions in Title 6, Subtitle 8 of the Environment Article; 5) if a child care or elderly day care center, the property must be compliant with all applicable licensing laws and must meet all licensing and inspection requirements; and 6) a subtraction modification under this section must not have been previously granted.

This bill is substantially similar to prior year bills, most recently 2013 House Bill 389 and 2012 House Bill 554, both entitled *Lead Safe Income Tax Credit*. However, a noteworthy modification has been made in the current bill. The prior bills allowed a tax credit for lead hazard reduction activities. This year’s bill allows, rather than a credit, a subtraction from federal adjusted gross income equal to the amount determined under the proposed bill for costs incurred for an approved lead hazard reduction project. The total subtraction allowed may not exceed \$5,000 per unit or project or \$50,000 for any taxpayer.

In addition to the major revision above, the following issues mentioned in prior bill reviews are still applicable:

- On Page 2, lines 10-12 define “Lead Hazard Reduction Activity” as provided in § 7-401 of the Housing and Community Development Article; however, “Lead Hazard Reduction *Project*” is referred to elsewhere. The bill should clarify that lead hazard reduction projects involve properties that undergo lead hazard reduction activities.
- On Page 2, lines 22-26 provide that Affected Properties must be in compliance with Title 6, Subtitle 8 of the Environment Article, *notwithstanding* § 6-817. It is unknown why the drafter set apart § 6-817, which includes the 50% and 100% compliance rules. If the purpose of lines 22-26 is to ensure that



property owners are in full compliance with State law prior to application approval, then special reference to § 6-817 is superfluous.

- On Page 4, lines 18-19 state that properties must satisfy the *full* risk reduction standard under § 6-819 (A) (2) of the Environment Article. This reference is incorrect, since the full risk reduction standard is set forth in § 6-815, not § 6-819. § 6-815 was correctly referenced in prior bills. The reference appears to have been changed because lead hazard reduction treatments are no longer part of the full risk reduction standard as of 2012. If the purpose of the provision is to ensure that lead hazard reduction treatment steps are performed, then the paragraph should omit the word “full” and state that the “risk reduction treatments under § 6-819 (a)(2) of the Environment Article” must be satisfied.
- On Page 5, lines 4-8 provide that an independent inspector issue a certificate after verifying the required lead hazard reduction activities. It is unclear whether the inspector will submit a newly designed form, or complete an inspection certificate with additional verification that windows are lead-free and walk off floor mats are in place. Also unclear is whether such forms would then be submitted to MDE for tracking. Some of the units covered under this bill, such as owner occupied units or elderly day care centers, are not normally regulated by MDE.
- On Page 5, line 1 requires the processing of lead contaminated dust by a State accredited laboratory. Current MDE regulation does not require this and rather requires that the laboratory be recognized by the US Environmental Protection Agency.
- One of the bill’s criteria for qualifying properties is that they contain lead-based paint. The bill does not specify what standards are used to determine the presence of lead-based paint.

Finally, the additional responsibilities included in the bill would require that MDE hire additional inspectors. The bill covers certain qualifying properties that are not currently regulated by MDE, such as day care centers and owner-occupied housing. It is unclear whether MDE certificates will be used for the purpose of verifying compliance with the bill, and whether the certificates must be tracked by MDE. If MDE certificates are used, this will place a burden on the Department to track and provide certificates for properties that do not fall under its current regulatory obligation. There is further concern that these certificates will be submitted to MDE and combined into a database that is only intended for Affected Properties. Many internal processing changes may need to be made if certificates are issued on MDE forms and sent to MDE.

Thank you for your consideration. We will continue to monitor House Bill 431 during the Committee’s deliberations, and I am available to answer any questions you may have. Please feel free to contact me at 410-260-6301 or by e-mail at [jeffrey.fretwell@maryland.gov](mailto:jeffrey.fretwell@maryland.gov).

Sincerely,



Jeffrey Fretwell

cc: The Honorable Patrick N. Hogan  
Mr. Horacio Tablada, Director, Land Management Administration