MAINE STATE LEGISLATURE

The following document is provided by the

LAW AND LEGISLATIVE DIGITAL LIBRARY

at the Maine State Law and Legislative Reference Library

http://legislature.maine.gov/lawlib



Reproduced from scanned originals with text recognition applied (searchable text may contain some errors and/or omissions)



44

46

•					
			Ī.	D.	1445

2		D.D. 1113
4	DATE: March 11, 1996	(Filing No. S-463)
4		
6	JUDICIARY	
8	Reported by: Senator MILLS of Some	rset for the Committee
10	Reproduced and distributed under the of the Senate.	direction of the Secretary
12	STATE OF MAIN	NE
14	SENATE	- T
16	117TH LEGISLAT SECOND REGULAR S	
18		
20	COMMITTEE AMENDMENT "A" to S.P. Act to Limit the Liability of Prop Nonnegligent Lead Poisoning"	
22		
24	Amend the bill by striking out e and before the statement of fact and i following:	~ -
26		
28	'Emergency preamble. Whereas, Acts become effective until 90 days after as emergencies; and	
30	•	
32	Whereas, the current cap on dam poisoning will be repealed on April taken by the Legislature; and	
34	-	
36	Whereas, there will be no cap on d poisoning if the Legislature does not to	
	-	- -
38	Whereas, the continuation of a caracatability of insurance for property of	
40		

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

Be it enacted by the People of the State of Maine as follows:

48 Sec. 1. 22 MRSA §1324-A, sub-§§3 and 4, as enacted by PL 1995, c. 453, §17, are amended to read: 50

Page 1-LR1666(2)

COMMITTEE AMENDMENT "A" to S.P. 528, L.D. 1445

٩	4	b .

		3.	Limit	atio	n on	awa	rd.	In	acti	ons	for	dama	ges,	the	claim
2	for	and	award	of	dama	ges	for	al	l lo	sses	, e:	xcept	ехр	enses	for
•	medi	cal	care a	nd '	treat	ment	, in	clud	ling	dev.	ices	and	aids	, ma	y not
4	exce	ed \$	750,000	\$60	00,00	<u>0</u> ex	cept	for	the	fol	lowi	ng cl	aims:	:	

Claims against lead abatement professionals licensed under this chapter;

8

10

12

6

B. Claims against an individual who rents or sells property to anyone with children, has knowledge of the presence of an environmental lead hazard in a dwelling or dwelling unit and deliberately fails to disclose to the prospective tenant or buyer the presence of lead paint; and

14

16

18

Claims against an individual who receives written C. notification of the presence of an environmental lead hazard or of a child-poisoning incident and who fails or refuses to take corrective measures, including interim controls, within a 60-day period from the date of notification.

20

22

- Repeal. This section is repealed April-15,-1996 October 1, 1999.
- Sec. 2. Task force established. 24 The Task Force on Lead Poisoning Liability and Insurance, referred to in this Act as the 26 "task force," is established to make recommendations to ensure the availability of insurance coverage for property owners and 28 assist property owners in reducing environmental lead hazards.
 - 1. Membership. The task force consists of the following 13 members:

32

34

30

- The Superintendent of Insurance or the superintendent's designee, who shall serve as chair;
- A representative of the Department of Human Services familiar with lead paint issues, designated Commissioner of Human Services; 38
- 40 Two Legislators, one appointed by the President of the Senate and one appointed by the Speaker of the House; and

42

44

46

- Nine public members appointed by the Governor. public members must have a demonstrated expertise or interest in lead-poisoning prevention and represent one of each of the following categories:
- 48 Multifamily property owners;
- (2) Community groups; 50

Page 2-LR1666(2)

COMMITTEE AMENDMENT "A" to S.P. 528, L.D. 1445

2	(3) Insurance agents;
4	(4) Insurance companies;
6	(5) Lead abatement and inspection professionals;
8	(6) Parents of lead-poisoned children;
10	(7) Attorneys representing lead-poisoned children;
12	(8) Local government health officials; and
14	(9) Lending institutions or banks.
16	2. Appointments. All appointments must be made no later than 60 days following the effective date of this Act. The
18	appointing authorities shall notify the Superintendent of Insurance upon making their appointments. When the appointment
20	of all members is complete, the superintendent shall call the first meeting of the task force no later than September 15, 1996.
22	3. Meetings. The task force shall meet on at least a
24	quarterly basis until its final report is submitted on November 1, 1998.
26	1, 1990.
	4. Study subject. The task force shall study the availability
28	of insurance that provides coverage for lead poisoning to property owners in this State. In conducting its work, the task
30	force shall study the following issues:
32	A. The availability of insurance coverage for property
34	owners in both the admitted market and the surplus lines market;
36	B. The effect the current liability cap has had on the
	availability of insurance;
38	C. The appropriateness of soutinging with a lightlitu can
40	C. The appropriateness of continuing with a liability cap in light of the interests of the families of lead-poisoned
	children, the property owners and the State;
42	
	D. The feasibility of mechanisms to financially assist
44	property owners in abating environmental lead, such as tax credits, loan funds, grants or other approaches; and
46	creares, roan rands, granes or other approaches; and
	E. Other viable methods to encourage and fund
48	lead-poisoning prevention programs throughout the State.

Page 3-LR1666(2)

48

COMMITTEE AMENDMENT "A" to S.P. 528, L.D. 1445



- 5. Staff assistance. The Bureau of Insurance shall provide clerical and technical assistance to the task force.
- 6. Compensation. Members of the task force serve without compensation and are not entitled to reimbursement for expenses.

6

8

10

12

2

7. Report. The task force shall submit its final report and any recommended legislation or other specific proposals to the joint standing committees of the Legislature having jurisdiction over judiciary and human resource matters and to the Executive Director of the Legislative Council by November 1, 1998. The Bureau of Insurance shall assist in preparing any legislation recommended by the task force.

14

16

- Emergency clause. In view of the emergency cited in the preamble, this Act takes effect when approved.'
- Further amend the bill by inserting at the end before the statement of fact the following:

20

22

FISCAL NOTE

The Bureau of Insurance within the Department of Professional and Financial Regulation will incur some minor additional costs to staff the Task Force on Lead Poisoning Liability and Insurance. These costs can be absorbed within the bureau's existing budgeted resources.'

30

32

34

36

38

40

42

STATEMENT OF FACT

This amendment replaces the original bill. The amendment adds an emergency preamble, lowers the current cap on lead-poisoning liability from \$750,000 to \$600,000 and changes the repeal date for the cap from April 15, 1996 to October 1, 1999. The amendment also creates a task force to study issues related to the availability of insurance for property owners, the effectiveness of the cap in protecting both property owners and the families of lead-poisoned children and mechanisms to financially assist property owners in lead abatement. The amendment also adds a fiscal note to the bill.

Page 4-LR1666(2)