

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)

13
R. 0. 8

L.D. 1445

2
4
DATE: March 11, 1996

(Filing No. S-463)

6
JUDICIARY

8
Reported by: Senator MILLS of Somerset for the Committee

10
Reproduced and distributed under the direction of the Secretary
of the Senate.

12
14
16
STATE OF MAINE
SENATE
117TH LEGISLATURE
SECOND REGULAR SESSION

18
20
22
COMMITTEE AMENDMENT "A" to S.P. 528, L.D. 1445, Bill, "An
Act to Limit the Liability of Property Owners in Cases of
Nonnegligent Lead Poisoning"

24
26
Amend the bill by striking out everything after the title
and before the statement of fact and inserting in its place the
following:

28
30
'Emergency preamble. Whereas, Acts of the Legislature do not
become effective until 90 days after adjournment unless enacted
as emergencies; and

32
34
Whereas, the current cap on damages resulting from lead
poisoning will be repealed on April 15, 1996 if no action is
taken by the Legislature; and

36
Whereas, there will be no cap on damages resulting from lead
poisoning if the Legislature does not take emergency action; and

38
40
Whereas, the continuation of a cap will help ensure the
availability of insurance for property owners; and

42
44
46
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,

48
Be it enacted by the People of the State of Maine as follows:

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

COMMITTEE AMENDMENT

3. **Limitation on award.** In actions for damages, the claim for and award of damages for all losses, except expenses for medical care and treatment, including devices and aids, may not exceed \$750,000 \$600,000 except for the following claims:

A. Claims against lead abatement professionals licensed under this chapter;

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

C. Claims against an individual who receives written 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.

4. **Repeal.** This section is repealed ~~April-15,-1996~~ October 1, 1999.

Sec. 2. Task force established. The Task Force on Lead Poisoning Liability and Insurance, referred to in this Act as the "task force," is established to make recommendations to ensure the availability of insurance coverage for property owners and assist property owners in reducing environmental lead hazards.

1. Membership. The task force consists of the following 13 members:

A. The Superintendent of Insurance or the superintendent's designee, who shall serve as chair;

B. A representative of the Department of Human Services familiar with lead paint issues, designated by the Commissioner of Human Services;

C. Two Legislators, one appointed by the President of the Senate and one appointed by the Speaker of the House; and

D. Nine public members appointed by the Governor. The public members must have a demonstrated expertise or interest in lead-poisoning prevention and represent one of each of the following categories:

(1) Multifamily property owners;

(2) Community groups;

- 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
18 than 60 days following the effective date of this Act. The
20 appointing authorities shall notify the Superintendent of
22 Insurance upon making their appointments. When the appointment
of all members is complete, the superintendent shall call the
first meeting of the task force no later than September 15, 1996.

24 **3. Meetings.** The task force shall meet on at least a
26 quarterly basis until its final report is submitted on November
1, 1998.

28 **4. Study subject.** The task force shall study the availability
30 of insurance that provides coverage for lead poisoning to
property owners in this State. In conducting its work, the task
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
38 availability of insurance;

40 C. The appropriateness of continuing with a liability cap
42 in light of the interests of the families of lead-poisoned
children, the property owners and the State;

44 D. The feasibility of mechanisms to financially assist
46 property owners in abating environmental lead, such as tax
credits, loan funds, grants or other approaches; and

48 E. Other viable methods to encourage and fund
lead-poisoning prevention programs throughout the State.

