

LEAD-SAFE HOUSING FOR KIDS ACT OF 2008

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JULY 29, 2008.—Committed to the Committee of the Whole House on the State of
the Union and ordered to be printed
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Mr. FRANK of Massachusetts, from the Committee on Financial
Services, submitted the following

R E P O R T

[To accompany H.R. 6309]

[Including cost estimate of the Congressional Budget Office]

The Committee on Financial Services, to whom was referred the bill (H.R. 6309) to amend the Residential Lead-Based Paint Hazard Reduction Act of 1992 to define environmental intervention blood lead level and establish additional requirements for certain lead hazard screens, and for other purposes, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

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AMENDMENT

The amendment is as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the “Lead-Safe Housing for Kids Act of 2008”.

SEC. 2. AMENDMENTS TO RESIDENTIAL LEAD-BASED PAINT HAZARD REDUCTION ACT OF 1992.

(a) AMENDMENTS.—Section 1017 of the Residential Lead-Based Paint Hazard Reduction Act of 1992 (42 U.S.C. 4852c) is amended—

(1) by striking “Not later than” and inserting “(a) IN GENERAL.—Not later than”; and—

(2) by adding at the end the following new subsection:

“(b) ENVIRONMENTAL INTERVENTION BLOOD LEAD LEVEL AND LEAD HAZARD SCREENS.—For purposes of this title and title III of the Lead-Based Paint Poisoning Prevention Act, and any regulations issued under this title or such title III—

“(1) an environmental intervention blood lead level shall be defined as the lower of—

“(A) the elevated blood lead level of concern for a child under six years of age that has been established by the Centers for Disease Control and Prevention; or

“(B) a confirmed concentration of lead in whole blood equal to or greater than 10 ug/dL (micrograms of lead per deciliter); and

“(2) a lead hazard screen conducted as a result of a reported environmental intervention blood lead level, as established in paragraph (1), for any housing may include an examination of toys and materials in the child’s environment that are likely to contain lead, except that such examination shall be conducted by an appropriate agency determined by the Secretary to have the ability to test such toys and materials.”.

(b) REGULATIONS.—Not later than the expiration of the 90-day period beginning on the date of the enactment of this Act, the Secretary of Housing and Urban Development shall amend the regulations of such Department to comply with the amendments made by subsection (a).

SEC. 3. REPORT TO CONGRESS ON PREVIOUS LEAD HAZARD INSPECTION PROGRAMS.

Not later than the expiration of the 90-day period beginning on the date of the enactment of this Act, the Secretary of Housing and Urban Development shall submit a report to the Congress on the status of the program of the Department of Housing and Urban Development known as the Big Buy program and any other voluntary programs the Secretary has implemented, or has planned to implement, through which the Secretary has conducted, or planned to conduct, lead evaluations of housing covered by section 35.715 of the Secretary’s regulations (24 C.F.R. 35.715; Lead Safe Housing Rule for pre-1978 assisted housing). Such report shall include the following information:

(1) A description of the purpose of such programs implemented or planned to be implemented.

(2) A statement of the amounts allocated for each of such programs.

(3) Identification of the sources of the funding for each of such programs.

(4) A statement of the amount expended to each of such programs, as of the date of the submission of the report.

(5) A statement of the number of properties and the number of dwelling units intended to be covered by each of such programs.

(6) A statement of the number of properties and the number of dwelling units actually assisted by each of such programs.

(7) A description of the status of each of such programs, as of the date of the submission of the report.

(8) An explanation as to why each of such programs have not been completed.

(9) A description of any enforcement actions taken against owners of such housing who were to have been held harmless with respect to any noncompliance with section 1018 of the Residential Lead-Based Paint Hazard Reduction Act of 1992 (42 U.S.C. 4852d), or with any rules implementing such section, during implementation of such programs.

(10) A timeline for completion of the remaining properties and units covered by each of such programs.

SEC. 4. AUTHORIZATION OF APPROPRIATIONS.

(a) **IN GENERAL.**—There is authorized to be appropriated to carry out this Act and the amendments made by this Act such sums as may be appropriated for fiscal year 2009.

(b) **COSTS OF COMPLIANCE.**—This Act and the amendments made by this Act shall not create any obligation or requirement on the part of any owner of housing, public housing agency, or other party (other than the Secretary of Housing and Urban Development) to comply with any new obligations established by or pursuant to this Act or such amendments, except to the extent that the Secretary of Housing and Urban Development makes amounts available to such owner, agency, or party for the costs of such compliance.

PURPOSE AND SUMMARY

H.R. 6309, the Lead-Safe Housing for Kids Act of 2008, was introduced by Representative Ellison on June 19, 2008. The purpose of H.R. 6309 is to require the Department of Housing and Urban Development (HUD) to update its blood lead intervention regulations to reflect the level used by the Centers for Disease Control and Prevention (CDC).

H.R. 6309 is an expanded version of H.R. 3397, the Lead-Safe Housing for Kids Act of 2007, also introduced by Representative Ellison. H.R. 3397 was marked up by the Subcommittee on Housing and Community Opportunity on May 14, 2008. It was passed out of the Subcommittee on a voice vote and was reported to the Financial Services Committee with a favorable recommendation. H.R. 6309 was introduced to address a concern raised at markup about identified sources of lead contaminants other than paint. Language was added to address this concern. In addition, the new bill also authorizes such sums as may be necessary to implement the Act and requires a study of HUD's progress in implementing its "Big Buy" program to fund the evaluation of lead-based paint hazards in pre-1978 assisted housing.

At the markup of the Financial Services Committee, an amendment was adopted to address the possible new costs that may be associated with additional risk assessments triggered by lowering the environmental intervention blood lead level. The Committee believes that, in the event funding is not made available, housing providers subject to the Act are still required to perform risk assessments and meet any other requirements that would have been triggered at the environmental intervention blood lead level in effect prior to enactment of this Act.

BACKGROUND AND NEED FOR LEGISLATION

According to the CDC's national surveillance data, in 2006, 1.2 percent of children living in the United States between the ages of one and six years had an unacceptably high level of lead in their blood, i.e. a level higher than 10 micrograms of lead per deciliter of blood. However, the percentage of children affected has declined from 4.4 percent in 1991–1994 to its current level.

Elevated blood lead levels have been proven to result in learning disabilities and reduced intellectual ability. In addition, some studies have shown a correlation between exposure to lead and increased aggression, delinquent behaviors, and crime.

The damage lead inflicts upon the developing brain of a child is irreversible. Once lead enters a child's bloodstream, it is stored in the bones for a minimum of 20 years. Lead can have long-term ef-

fects on a child's brain and nervous system, even after these systems have reached maturity. For example, a child's IQ can continue to fall as a result of lead poisoning even after the child's blood lead level has declined.

Residential house paint is the most common high-dose source of lead in children's environments. Paints that were sold in the 1920s and 1930s contained as much as 50 percent lead by dry weight. Lead paint can be found in most housing built before 1950 and in many houses built between 1950 and 1978. When this paint peels or is disturbed during renovation, it contaminates house dust and soil and is ingested by young children during normal hand-to-mouth activities. Houses built after 1978 did not use lead-based paint because the lead content of interior paint was restricted in that year.

Children do not have to eat paint chips laced with lead-based paint in order to be exposed to lead. Normal hand-to-mouth behavior in a lead-contaminated home can deliver enough lead into a child's system to seriously damage a child's developing nervous system. Malnourished children are especially at risk for blood lead poisoning because inadequate nutrition increases lead absorption by the body.

Lead is also a pervasive environmental contaminant found in air, water, food, and consumer products, usually at concentrations lower than the levels found in house paint. Because children do not excrete lead from their bodies very well, lead from all of these sources accumulates and causes adverse health effects.

At least 86 percent of lead-based paint is found in homes constructed before 1960. About 24 million homes were constructed during this time period; 20 percent of these homes are occupied by low-income households.

In 2001, HUD began to implement its Big Buy program, designed for HUD—rather than the owners—to fund evaluations for lead-based paint and lead-based paint hazards in pre-1978 assisted housing. According to HUD, as of March 2006, 1,316 out of 3,703 eligible properties were scheduled for evaluation. Of the properties scheduled for evaluation, 1,023 reports were accepted with 932 provided to property owners. However, with approximately \$57 million spent, the program has not been completed. Properties enrolled in the program are held harmless from compliance with the lead disclosure rule, which requires disclosure of the owner's knowledge of lead-based paint and lead-based paint hazards to tenants and owners at the time of lease or sale.

In 1991, the CDC determined that a blood lead level of 10 micrograms per deciliter is the threshold for potential damage in children. The CDC has made reducing lead exposure one of the National Health Objectives for 2010.

In 1992, the Residential Lead-Based Paint Hazard Reduction Act of 1992 (P.L. 102-550) was signed into law. The Act directed the Department of Housing and Urban Development (HUD) to establish regulations for the evaluation of lead hazards. In its regulations—referred to as the Lead Safe Housing Rule (LSHR)—HUD established an environmental intervention blood lead level (EIBLL) of 20 micrograms per deciliter for a single test or 15-19 micrograms per deciliter for two tests taken at least 3 months apart.

From 1991–1994, about 16 percent of low-income children living in homes built before 1946 had blood lead levels of 10 micrograms per deciliter or greater. The risk for elevated blood lead levels among these children was roughly 30 times greater than that of middle-income and upper-income children living in homes built after lead was removed from house paint. National data show that the risk for elevated blood lead levels among African-American children is nearly five times greater than the risk for this condition among white children. The risk is nearly two times higher than for white children among children of Hispanic ethnicity.

There is no safe level of lead for children. Adverse effects can still be found at blood lead levels less than 10 micrograms per deciliter. However, according to the CDC, it has not lowered the blood level further because (1) no effective clinical interventions are known to lower the blood lead levels for children with levels less than 10 micrograms per deciliter or to reduce the risk for adverse developmental effects; (2) children cannot be accurately classified as having blood lead levels above or below a value less than 10 micrograms per deciliter because of the inaccuracy inherent in laboratory testing; and (3) there is no evidence of a threshold below which adverse effects are not experienced meaning that any decision to establish a new level of concern would be arbitrary and provide uncertain benefits.

HEARINGS

No hearings were held in connection with this legislation.

COMMITTEE CONSIDERATION

The Committee on Financial Services met in open session on June 24, 2008, and ordered reported H.R. 6309, Lead-Safe Housing for Kids Act, as amended, to the House with a favorable recommendation by a voice vote.

COMMITTEE VOTES

Clause 3(b) of rule XIII of the Rules of the House of Representatives requires the Committee to list the record votes on the motion to report legislation and amendments thereto. No record votes were taken in conjunction with the consideration of this legislation. A motion by Mr. Frank to report the bill, as amended, to the House with a favorable recommendation was agreed to by a voice vote. During the consideration of the bill, the following amendments were considered:

An amendment by Mr. Ellison, no. 1, a manager’s amendment, was agreed to by a voice vote.

An amendment by Mrs. Capito, no. 2, regarding limitations on the cost of compliance, was agreed to by a voice vote.

COMMITTEE OVERSIGHT FINDINGS

Pursuant to clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee has held hearings and made findings that are reflected in this report.

PERFORMANCE GOALS AND OBJECTIVES

Pursuant to clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, the Committee establishes the following performance related goals and objectives for this legislation:

The objective of H.R. 6309 is to require the Department of Housing and Urban Development (HUD) to update its blood lead intervention regulations to reflect the level used by the Centers for Disease Control and Prevention (CDC).

NEW BUDGET AUTHORITY, ENTITLEMENT AUTHORITY, AND TAX EXPENDITURES

In compliance with clause 3(c)(2) of rule XIII of the Rules of the House of Representatives, the Committee adopts as its own the estimate of new budget authority, entitlement authority, or tax expenditures or revenues contained in the cost estimate prepared by the Director of the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974.

COMMITTEE COST ESTIMATE

The Committee adopts as its own the cost estimate prepared by the Director of the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974.

CONGRESSIONAL BUDGET OFFICE ESTIMATE

Pursuant to clause 3(c)(3) of rule XIII of the Rules of the House of Representatives, the following is the cost estimate provided by the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, July 16, 2008.

Hon. BARNEY FRANK,
*Chairman, Committee on Financial Services,
House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 6309, the Lead-Safe Housing for Kids Act of 2008.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contacts are Alexis Miller and Chad Chirico.

Sincerely,

ROBERT A. SUNSHINE
(For Peter R. Orszag, Director).

Enclosure.

H.R. 6309—Lead-Safe Housing for Kids Act of 2008

CBO estimates that implementing H.R. 6309 would cost \$21 million over the 2009–2013 period, assuming appropriation of the necessary amounts. Enacting the bill would not affect direct spending or revenues. The costs of this legislation fall within budget function 600 (income security). The estimated budgetary impact of H.R. 6309 is shown in the following table.

	By fiscal year, in millions of dollars—					
	2009	2010	2011	2012	2013	2009–2013
CHANGES IN SPENDING SUBJECT TO APPROPRIATION						
Estimated Authorization Level	5	5	4	4	4	22
Estimated Outlays	4	5	4	4	4	21

H.R. 6309 would set the environmental intervention blood lead level (EIBLL) for a confirmed concentration of lead in a child under six years of age equal to or greater than 10 micrograms of lead per deciliter. (Currently a child is considered to have an EIBLL if a single blood test measures at least 20 micrograms of lead per deciliter or two consecutive tests measure 15–19 micrograms of lead per deciliter.)

Under current law, public housing authorities (PHAs) must conduct risk assessments of residences when children residing in federally supported housing are identified as having an EIBLL. Based on data from the Department of Housing and Urban Development (HUD) and the Centers for Disease Control and Prevention (CDC), CBO estimates that under H.R. 6309 the number of public housing and voucher-assisted households with children designated as having an EIBLL would increase by an average of 1,200 a year over the 2009–2013 period. Based on data from HUD, CBO estimates the average cost of conducting a risk assessment per additional household would be \$800. Thus, CBO estimates that conducting the risk assessments would cost approximately \$1 million a year over the 2009–2013 period.

If the risk assessment identifies lead hazards in the home, landlords must put in place interim controls to mitigate those hazards, such as dust removal and repainting. PHAs are responsible for the cost of the interim controls if lead hazards are identified in public housing, and those costs are subsidized by HUD. Private landlords are responsible for the cost of the interim controls for lead hazards identified in units subsidized with rental vouchers.

Based on information from HUD, CBO estimates that 75 percent of risk assessments find lead hazards in the home and the average cost of implementing interim controls would be \$12,000 in 2009. Based on data from HUD and CDC, CBO estimates that an additional 300 public housing households per year would need to use interim controls. Thus, CBO estimates that applying interim controls would cost \$16 million over the 2009–2013 period.

H.R. 6309 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would impose no costs on state, local, or tribal governments. Any costs to private landlords participating in the federal voucher program would be incurred voluntarily.

The CBO staff contacts for this estimate are Alexis Miller and Chad Chirico, who can be reached at 226–2820. This estimate was approved by Keith Fontenot, Deputy Assistant Director for Health and Human Resources, Budget Analysis Division.

FEDERAL MANDATES STATEMENT

The Committee adopts as its own the estimate of Federal mandates prepared by the Director of the Congressional Budget Office pursuant to section 423 of the Unfunded Mandates Reform Act.

ADVISORY COMMITTEE STATEMENT

No advisory committees within the meaning of section 5(b) of the Federal Advisory Committee Act were created by this legislation.

CONSTITUTIONAL AUTHORITY STATEMENT

Pursuant to clause 3(d)(1) of rule XIII of the Rules of the House of Representatives, the Committee finds that the Constitutional Authority of Congress to enact this legislation is provided by Article 1, section 8, clause 1 (relating to the general welfare of the United States) and clause 3 (relating to the power to regulate interstate commerce).

APPLICABILITY TO LEGISLATIVE BRANCH

The Committee finds that the legislation does not relate to the terms and conditions of employment or access to public services or accommodations within the meaning of section 102(b)(3) of the Congressional Accountability Act.

EARMARK IDENTIFICATION

H.R. 6309 does not contain any congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9 of rule XXI.

SECTION-BY-SECTION ANALYSIS OF THE LEGISLATION

Section 1. Short title

Short title identifying the bill as the “Lead Safe Housing for Kids Act of 2008.”

Section 2. Amendments to Residential Lead-Based Paint Hazard Reduction Act of 1992

Amends section 1017 of Residential Lead-Based Paint Hazard Reduction Act of 1992 (42 U.S.C. 4852c) by requiring the Department of Housing and Urban Development to establish an environmental intervention blood lead level of the lower of (1) an elevated blood lead level equal to or greater than 10 micrograms per deciliter, or; an elevated blood lead level of concern for a child under six years of age as established by the Centers for Disease Control and Prevention.

States that the lead hazard screen may also include an examination, to be conducted by an appropriate agency as determined by the Secretary, of toys and materials in the child’s environment that are likely to contain lead.

Requires the Secretary of the Department of Housing and Urban Development to issue regulations within 90 days following the date of enactment.

Section 3. Report to Congress on previous lead hazard inspection programs

Directs the Secretary to report, within 90 days of enactment, to the Congress on the status of the program known as the Big Buy and any other voluntary programs the Secretary has implemented

or plans to implement to conduct lead evaluations of housing covered by section 35.715 of the Secretary's regulations.

Section 4. Authorization of appropriations

Authorizes such sums as may be appropriated for fiscal year 2009 to carry out the provisions of this Act. Provides that owners, agencies, or other parties—excluding the Secretary—shall only comply with Section 2 to the extent that the Secretary makes funding available to the owner, agency, or other party.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (new matter is printed in italic and existing law in which no change is proposed is shown in roman):

SECTION 1017 OF THE RESIDENTIAL LEAD-BASED PAINT HAZARD REDUCTION ACT OF 1992

SEC. 1017. GUIDELINES FOR LEAD-BASED PAINT HAZARD EVALUATION AND REDUCTION ACTIVITIES.

(a) *IN GENERAL.*—Not later than 12 months after the date of enactment of this Act, the Secretary, in consultation with the Administrator of the Environmental Protection Agency, the Secretary of Labor, and the Secretary of Health and Human Services (acting through the Director of the Centers for Disease Control), shall issue guidelines for the conduct of federally supported work involving risk assessments, inspections, interim controls, and abatement of lead-based paint hazards. Such guidelines shall be based upon criteria that measure the condition of the housing (and the presence of children under age 6 for the purposes of risk assessments) and shall not be based upon criteria that measure the health of the residents of the housing.

(b) *ENVIRONMENTAL INTERVENTION BLOOD LEAD LEVEL AND LEAD HAZARD SCREENS.*—*For purposes of this title and title III of the Lead-Based Paint Poisoning Prevention Act, and any regulations issued under this title or such title III—*

(1) *an environmental intervention blood lead level shall be defined as the lower of—*

(A) *the elevated blood lead level of concern for a child under six years of age that has been established by the Centers for Disease Control and Prevention; or*

(B) *a confirmed concentration of lead in whole blood equal to or greater than 10 ug/dL (micrograms of lead per deciliter); and*

(2) *a lead hazard screen conducted as a result of a reported environmental intervention blood lead level, as established in paragraph (1), for any housing may include an examination of toys and materials in the child's environment that are likely to contain lead, except that such examination shall be conducted by an appropriate agency determined by the Secretary to have the ability to test such toys and materials.*