

**NORTH CAROLINA GENERAL ASSEMBLY
LEGISLATIVE FISCAL NOTE**

BILL NUMBER: Senate Bill 1274 (Second Edition)

SHORT TITLE: Submerged Lands/Lead Exposure Amendments

FISCAL IMPACT					
	Yes (X)	No ()	No Estimate Available ()		
	<u>FY 1998-99</u>	<u>FY 1999-00</u>	<u>FY 2000-01</u>	<u>FY 2001-02</u>	<u>FY 2002-03</u>
REVENUES					
Submerged Land Credits	0	(\$100,000)	(\$100,000)	(\$100,000)	(\$100,000)
Departmental receipts from certificates of compliance with lead maintenance standard	\$2,300	\$4,100	\$5,900	\$7,700	\$9,500
EXPENDITURES					
Travel related to annual lead hazard monitoring inspections	\$2,243	\$3,998	\$5,753	\$7,508	\$9,263
PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: Department of Environment and Natural Resources, Division of Environmental Health; Marine Fisheries, Local Health Departments.					
EFFECTIVE DATE: When it becomes law.					

BILL SUMMARY: The second edition of Senate Bill 1274 combines the provisions of the first edition of Senate Bill 1274 (Extend Submerged Lands Claims) and the provisions of the second edition of House Bill 1438 (Childhood Lead Exposure Amendments).

Section 1 extends two deadlines related to submerged land claims. First, the bill extends until December 31, 2006, the time allowed to file a submerged land claim. Under current law that period closes on December 31, 2001. As such, the bill gives the potential plaintiff five more years to take action. Second, the bill gives the Department of Environment and Natural Resources until December 31, 2003, to establish a plan to resolve submerged land claims. Under current law, the Department's time expires on December 31, 1998.

Section 2 extends the date by which claimed marshlands must be donated to qualify for a tax credit under G.S. 105-151,12 from December 31, 1998, to December 31, 2003.

Section 3 deletes the specific provisions for what the lead poisoning prevention and control rules adopted by the Commission for Health Services (Commission) should include. Section 3 also deletes the provision stating that abatement orders must require elimination of the lead poisoning hazard and

that removal of children from a dwelling, school, or child care center shall not constitute abatement if the property continues to be used for a dwelling, school, or child care center.

Section 4 deletes the following activities from the definition of "abatement": the identification of lead-based paint, the identification or assessment of a lead-based paint hazard, inspection, and risk assessment.

Section 5 provides that compliance with the maintenance standard satisfies remediation requirements for confirmed lead poisoning cases identified on or after October 1, 1990, as long as all lead poisoning hazards identified on interior and exterior surfaces are addressed by remediation.

Continued compliance for owner-occupied residential housing units may be verified by:

- Means of an annual monitoring inspection
- Documentation that no child less than 6 years of age has resided in or regularly visited the unit within the past year
- Documentation that no child less than 6 years of age residing in or regularly visiting the unit has an elevated blood lead level

For all other properties, the Department of Environment and Natural Resources (DENR or the Department) will conduct an annual monitoring inspection to verify continued compliance.

For compliance purposes, "maintenance standard" means:

- Using safe work practices, repairing and repainting areas of deteriorated paint inside a residential housing unit and for single-family and duplex residential dwelling built prior to 1950, repairing and repainting areas of deteriorated paint on interior and exterior surfaces
- Cleaning the interior of the unit to remove dust that constitutes a lead poisoning hazard
- Adjusting doors and windows to minimize friction or impact on surfaces
- Subject to the occupant's approval, appropriately cleaning any carpets
- Taking such steps as are necessary to ensure that all interior surfaces on which dust might collect are readily cleanable
- Providing the occupant or occupants with all information required to be provided under federal law related to lead-based paint hazard reduction

Section 6 modifies the lead exposure liability statute so that any owner of a residential housing unit constructed prior to 1978 will not be deemed liable for injuries sustained by an occupant after the owner first complied with the maintenance standard, provided that the owner has repeated the maintenance annually for units in which children younger than 6 years of age have resided in or regularly visited within the past year.

Section 7 directs DENR to establish and collect a ten dollar (\$10.00) application fee for each housing unit, for certificates of compliance. These fees are to be used to support the lead poisoning in children program and may be used to provide for relocation and medical expenses incurred by children with confirmed lead poisoning.

Section 8 makes this act effective when it becomes law.¹

¹ Memo to House Committee on Environment dated September 16, 1998 from Jeff Hudson, Committee Counsel.

ASSUMPTIONS AND METHODOLOGY:

SECTIONS 1 - 2: SUBMERGED LANDS CLAIMS:

The only change in this area that may have a fiscal impact is the extension of time to claim a tax credit. Under G.S. 105-151.12(e), a person who makes a “qualified” donation of claimed marshland can take an income tax credit of up to 25% of the fair market value of the land. The credit can not exceed \$100,000. Any unused portion of the credit may be carried forward for five years. To “qualify” a donation must be accepted by the state. The tax credit for the marshland donations portion of G.S. 105-151.12(e) sunsets on December 31, 1998. Under current law, the claim to marshland must be made by that date to be eligible for a tax credit, if the land is donated. The bill extends this portion of G.S. 105-151.12(e) to December 31, 2003.

In calendar year 1996 (the most recent year for which data is available) only one organization took advantage of the submerged lands credit. That donation was of 1,143.5 acres. The donor estimated the value of the property at \$205,000. Under current law that donation would create a \$51,250.00 tax credit. (However, because the credit cap for this program was at \$25,000 in 1996, the total liability associated with this claim was \$25,000). Officials from Marine Fisheries have processed claims for approximately 11,000 acres since 1985. They processed less than one claim per year under the program. State officials are only aware on one project that is “in the pipeline” at this time, but more are possible. They do not believe last session’s action to increase the credit cap has had a significant impact on this portion of the conservation program.

Assuming one claim is filed per year, and the maximum tax credit applies, the loss is \$100,000 per year.

The Department currently absorbs the cost of the program out of existing resources, and expects to be able to continue the program without additional appropriations.

SECTIONS 3 - 7: CHILDHOOD LEAD EXPOSURE:

Under current law, if a residential housing unit is identified as containing a lead hazard, the owner of that unit must comply with one of two remediation requirements: 1) lead hazard abatement, which requires the elimination of the lead hazard, or 2) compliance with the maintenance standard, which requires that the deteriorated areas be repaired, repainted and maintained. Compliance with the maintenance standard also requires an annual on-site monitoring inspection by a certified lead inspector or risk assessor so long as children less than 6 years old reside in or regularly visit the unit.

This bill amends the current law by providing owners of owner-occupied residential housing units with two additional methods of verifying compliance with the maintenance standard. In lieu of an annual monitoring inspection, compliance with the maintenance standard can be verified by either of the following:

- 1) documentation that no child less than six years of age has resided in or regularly visited the residential housing unit within the past year, or

- 2) documentation that no child less than six years of age residing in or regularly visiting the unit has an elevated blood lead level.

For non-owner-occupied residential housing units (i.e., rental units) compliance with the maintenance standard can only be verified by means of an annual monitoring inspection.

This bill also extends the maintenance standard option as an acceptable means of remediation to residential housing units identified as containing a lead hazard on or after October 1, 1990. The bill also directs the Department to collect an application fee of \$10 for each certificate of compliance issued.

REVENUES:

The amount of revenue generated from the \$10 application fee is based on the number of housing units which choose to comply with the maintenance standard in lieu of abatement. Because the maintenance standard is not a permanent method of removing the lead hazard, the maintenance standard follows the unit indefinitely or until the unit is abated. Consequently, the number of units requiring annual reinspections is cumulative and the number of reinspections conducted by the Department will accumulate indefinitely.

“Old” Units: Of the units identified prior to October 1, 1997, the Department estimates that only 50 units statewide are still outstanding and that all of these outstanding cases will choose to comply with the maintenance standard. In addition to outstanding cases, the Department estimates that approximately 200 units identified since October 1, 1990 have been abandoned. Because these owners have chosen to abandon their unit rather than assume the cost of abatement, this note assumes that none of these owners will choose the maintenance standard due to a number of factors: 1) the owners are not willing to invest the money necessary to bring the unit into compliance with the maintenance standard, 2) the unit may be so dilapidated that it could never be made to comply with the maintenance standard, or 3) the owners of the abandoned units may be unaware of the new maintenance standard option.

“New” Units: Of the approximately 200 new cases identified annually, the Department estimates that 90 percent (or 180 units) will choose to comply with the maintenance standard and pay the \$10 application fee annually rather than comply with the more expensive option of lead hazard abatement. Based on the availability of federal funds for lead hazard abatement and number of owners who have qualified for these funds in the past, the Department estimates the remaining 10 percent (or 20 units) will choose to abate.

Owner-Occupied vs. Non-Owner Occupied Units: Of the 200 units identified annually, the Department estimates that 10 percent are owner-occupied and 90 percent are non-owner occupied units (rental units). This distinction is important because annual monitoring is required indefinitely for owners of rental units who choose to comply with the maintenance standard. Whereas, owner-occupied units can verify compliance through either of the additional two methods proposed, neither of which require the owner to pay the \$10 application fee. Thus, at a minimum, 162 units (all non-owner occupied) would require an annual monitoring inspection. If all of the owner-occupied units choose to verify compliance through an inspection, then the number of units requiring an annual inspection would rise to 180.

Units Identified Annually by Type	Maintenance Standard Option	Abatement Option	Total Units
Owner-Occupied	18	2	20
Non-Owner Occupied	162	18	180
Total	180	20	200

Although the Department anticipates that many of the owner-occupied units will be able to verify compliance through a method other than an annual monitoring inspection, an accurate estimate of this number can not be determined at this time. Thus, the fiscal impact presented below is based on a maximum number of units verifying compliance with the maintenance standard through annual reinspections and represents the upper limit on the amount of revenue to be generated from the \$10 application fee. This fee will be collected for the initial inspection and each year the annual monitoring inspection is conducted.

FY 1998 - 99	50 outstanding cases	X	\$10 application fee =	\$ 500
	<u>180 new inspections</u>	X	\$10 application fee =	<u>\$ 1,800</u>
	230 total inspections			\$ 2,300
FY 1999 - 00	230 reinspections	X	\$10 application fee =	\$ 2,300
	<u>180 new inspections</u>	X	\$10 application fee =	<u>\$ 1,800</u>
	410 total inspections			\$ 4,100
FY 2000 - 01	410 reinspections	X	\$10 application fee =	\$ 4,100
	<u>180 new inspections</u>	X	\$10 application fee =	<u>\$ 1,800</u>
	590 total inspections			\$ 5,900
FY 2001 - 02	590 reinspections	X	\$10 application fee =	\$ 5,900
	<u>180 new inspections</u>	X	\$10 application fee =	<u>\$ 1,800</u>
	770 total inspections			\$ 7,700
FY 2002 - 03	770 reinspections	X	\$10 application fee =	\$ 7,700
	<u>180 new inspections</u>	X	\$10 application fee =	<u>\$ 1,800</u>
	950 total inspections			\$ 9,500

EXPENDITURES:

According to the Department, no new positions are necessary to conduct the annual monitoring inspections required of the maintenance standard; however, these reinspections will impact the costs of the childhood lead prevention programs of the local health departments. Local environmental health specialists, who have been trained and certified as lead inspectors or risk assessors, will be responsible for conducting the annual reinspections. Each reinspection will take approximately 4 hours to complete including travel and related paperwork. The Department

estimates each monitoring inspection will require a 30 mile round-trip at \$0.325 per mile. The Department estimates that the local health departments' costs of conducting these annual reinspections is an opportunity cost of environmental health specialists not being able to complete other inspections, such as food and lodging inspections. Thus, mileage is the only net expenditure associated with the annual monitoring inspection.

FY 1998 - 99	230 cases	X	(30 miles round-trip	X	\$0.325/per mile)	=	\$ 2,243
FY 1999 - 00	410 cases	X	(30 miles round-trip	X	\$0.325/per mile)	=	\$ 3,998
FY 2000 - 01	590 cases	X	(30 miles round-trip	X	\$0.325/per mile)	=	\$ 5,753
FY 2001- 02	770 cases	X	(30 miles round-trip	X	\$0.325/per mile)	=	\$ 7,508
FY 2002 - 03	950 cases	X	(30 miles round-trip	X	\$0.325/per mile)	=	\$ 9,263

In addition to directing the Department to use receipts collected from the application fee to support program expenditures, this bill also allows the Department to use some of these receipts to pay for relocation and medical expenses of children with confirmed lead poisoning. Based on conversations with Ed Norman, Program Supervisor of the Children's Environmental Health Branch, the Department would like to use a portion of the receipts collected to develop a fund to support families in need of financial assistance with medical or relocation expenses. The need for this type of financial assistance is based on past requests made to local health departments and the experience of Maryland which has a childhood lead prevention program similar to North Carolina.

FISCAL RESEARCH DIVISION

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