

# HOUSE BILL 129

M3, N1

(PRE-FILED)

11r0900  
CF SB 70

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By: **Delegate Henson**

Requested: October 9, 2020

Introduced and read first time: January 13, 2021

Assigned to: Environment and Transportation

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## A BILL ENTITLED

1 AN ACT concerning

2 **Environment – Mold Inspections – Standards, Reporting, and Penalties**

3 FOR the purpose of requiring the Department of the Environment, in consultation with the  
4 Maryland Department of Health, the Department of Housing and Community  
5 Development, and the Department of General Services, to adopt certain regulations  
6 on or before a certain date establishing uniform standards for mold assessment and  
7 remediation; requiring the Department of the Environment to charge a certain fee  
8 for verifying a certain third-party inspector, maintain a certain registry, and develop  
9 and make available on its website and in print certain resource materials; requiring  
10 the Department of the Environment to submit a certain indoor air quality report to  
11 the Governor and the General Assembly on or before a certain date each year;  
12 establishing penalties for a violation of the regulations adopted under this Act;  
13 requiring that the penalty be assessed with consideration given to certain factors;  
14 providing that each day a violation of the regulations continues is a separate  
15 violation; authorizing a tenant to deposit the tenant's rent in an escrow account  
16 under certain circumstances; authorizing a local jurisdiction, county attorney, or  
17 municipal attorney to enforce certain provisions of this Act; prohibiting a tenant from  
18 depositing the tenant's rent in an escrow account under certain circumstances;  
19 specifying that the right of a tenant to deposit rent in an escrow account does not  
20 preclude the tenant from pursuing any other right or remedy available; specifying  
21 the conditions under which money deposited in an escrow account must be released;  
22 prohibiting a lessee from being evicted, the tenancy from being terminated, and the  
23 rent from being raised for a lessee who seeks certain remedies; specifying actions  
24 that are presumed to be retaliation for the lessee taking certain actions; providing  
25 that certain provisions of this Act preempt certain laws or ordinances; defining  
26 certain terms; and generally relating to the establishment of standards and  
27 reporting requirements for mold in rental dwelling units.

28 BY adding to

29 Article – Environment

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 Section 6–1701 and 6–1702 to be under the new subtitle “Subtitle 17. Mold”  
2 Annotated Code of Maryland  
3 (2013 Replacement Volume and 2020 Supplement)

4 BY adding to  
5 Article – Real Property  
6 Section 8–211.2  
7 Annotated Code of Maryland  
8 (2015 Replacement Volume and 2020 Supplement)

9 Preamble

10 WHEREAS, There are State laws to protect Marylanders from the impact of  
11 exposure to the environmental hazards of radon, asbestos, lead–based paint, and methane  
12 when they are found in the home, but not to protect Marylanders from the harmful effects  
13 of exposure to mold; and

14 WHEREAS, The health effects caused by exposure to mold include chronic lung  
15 disease, immune system deficiencies, increased risk of infection, skin rash, coughing,  
16 wheezing, and burning eyes; and

17 WHEREAS, Currently, at least 15 states and the District of Columbia have indoor  
18 air quality mold regulations, including states with high levels of moisture and humidity  
19 such as Florida and Louisiana; now, therefore,

20 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,  
21 That the Laws of Maryland read as follows:

22 Article – Environment

23 SUBTITLE 17. MOLD.

24 **6–1701.**

25 (A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS  
26 INDICATED.

27 (B) “DAMPNESS” MEANS ABNORMAL MOISTURE IN THE INTERIOR OF A  
28 FACILITY, INCLUDING:

29 (1) EXCESSIVE HUMIDITY LEVELS;

30 (2) LINGERING CONDENSATION;

31 (3) LEAKS;

1           (4)   WATER DAMAGE; AND

2           (5)   MUSTY OR MOLDY ODORS.

3           (C)   “HABITABLE” MEANS NOT LIKELY TO BE HARMED BY MOLD HAZARDS.

4           (D)   (1)   “MOLD” MEANS A FORM OF MULTICELLULAR FUNGI THAT LIVES:

5                   (I)   ON PLANT OR ANIMAL MATTER; OR

6                   (II)  IN AN INDOOR ENVIRONMENT.

7           (2)   “MOLD” INCLUDES:

8                   (I)   ALTERNARIA;

9                   (II)  ASPERGILLUS;

10                  (III) CLADOSPORIUM;

11                  (IV)  FUSARIUM;

12                  (V)   MEMNONIELLA;

13                  (VI)  MUCOR;

14                  (VII) PENICILLIUM;

15                  (VIII) STACHYBOTRYS CHARTARUM; AND

16                  (IX)  TRICHODERMA.

17           (E)   “MOLD HAZARD” MEANS:

18                   (1)   A CONCENTRATION OF MOLD OR MOLD SPORES THAT EXCEEDS  
19   THE STANDARDS ESTABLISHED UNDER § 6-1702(B)(1) OF THIS SUBTITLE; OR

20                   (2)   AN ADVERSE HUMAN HEALTH EFFECT ASSOCIATED WITH MOLD  
21   EXPOSURE, INCLUDING:

22                           (I)   ALLERGIC REACTIONS;

23                           (II)  ASTHMA; AND

1 (III) OTHER RESPIRATORY COMPLAINTS.

2 (F) "MOLD REMEDIATION" MEANS:

3 (1) REMOVING, CLEANING, SANITIZING, DEMOLISHING, OR ANY  
4 OTHER TREATMENT PERFORMED TO ADDRESS A MOLD HAZARD, MOLD, OR  
5 DAMPNESS; OR

6 (2) ABATEMENT OF THE UNDERLYING CAUSE OF A MOLD HAZARD,  
7 MOLD, OR DAMPNESS.

8 (G) (1) "RENTAL DWELLING UNIT" MEANS A ROOM OR GROUP OF ROOMS  
9 THAT FORM A SINGLE INDEPENDENT HABITABLE RENTAL UNIT FOR PERMANENT  
10 OCCUPATION BY ONE OR MORE INDIVIDUALS THAT HAS LIVING FACILITIES  
11 EQUIPPED WITH PERMANENT PROVISIONS FOR LIVING, SLEEPING, EATING,  
12 COOKING, AND SANITATION.

13 (2) "RENTAL DWELLING UNIT" DOES NOT INCLUDE:

14 (I) AN AREA NOT USED FOR LIVING, SLEEPING, EATING,  
15 COOKING, OR SANITATION, SUCH AS AN UNFINISHED BASEMENT;

16 (II) A UNIT WITHIN A HOTEL, MOTEL, OR SIMILAR SEASONAL OR  
17 TRANSIENT FACILITY;

18 (III) AN AREA WHICH IS SECURED AND INACCESSIBLE TO  
19 OCCUPANTS; OR

20 (IV) A UNIT WHICH IS NOT OFFERED FOR RENT.

21 6-1702.

22 (A) ON OR BEFORE JUNE 1, 2023, THE DEPARTMENT, IN CONSULTATION  
23 WITH THE MARYLAND DEPARTMENT OF HEALTH, THE DEPARTMENT OF HOUSING  
24 AND COMMUNITY DEVELOPMENT, AND THE DEPARTMENT OF GENERAL SERVICES,  
25 SHALL ADOPT REGULATIONS ESTABLISHING UNIFORM STANDARDS FOR MOLD  
26 ASSESSMENT AND REMEDIATION.

27 (B) THE REGULATIONS ADOPTED UNDER THIS SECTION SHALL:

28 (1) ESTABLISH STANDARDS FOR:

1                   **(I) HABITABLE DAMPNES;**

2                   **(II) IDENTIFYING AND EVALUATING THE PRESENCE OF MOLD,**  
3 **INCLUDING VISIBLE MOLD INSPECTION AND TESTING; AND**

4                   **(III) MOLD REMEDIATION STANDARDS THAT ARE AT LEAST AS**  
5 **STRINGENT AS THE STANDARDS IN THE U.S. ENVIRONMENTAL PROTECTION**  
6 **AGENCY’S 2008 MOLD REMEDIATION IN SCHOOLS AND COMMERCIAL BUILDINGS**  
7 **GUIDELINE AS REVISED AND UPDATED;**

8                   **(2) ESTABLISH A RISK REDUCTION STANDARD FOR MOLD HAZARDS;**

9                   **(3) REQUIRE A LOCAL JURISDICTION TO CONDUCT AN ANNUAL MOLD**  
10 **INSPECTION OF ALL RENTAL DWELLING UNITS WITHIN THE JURISDICTION;**

11                   **(4) AUTHORIZE THE MOLD INSPECTION REQUIRED UNDER ITEM (3)**  
12 **OF THIS SUBSECTION TO BE PERFORMED IN CONJUNCTION WITH ANOTHER**  
13 **INSPECTION;**

14                   **(5) ESTABLISH A PROCESS FOR A THIRD-PARTY INSPECTOR TO**  
15 **PERFORM THE INSPECTION REQUIRED UNDER ITEM (3) OF THIS SUBSECTION,**  
16 **INCLUDING PROCESSES FOR:**

17                   **(I) THE DEPARTMENT TO VERIFY THAT A THIRD-PARTY**  
18 **INSPECTOR IS QUALIFIED TO PERFORM THE MOLD INSPECTION REQUIRED UNDER**  
19 **ITEM (3) OF THIS SUBSECTION; AND**

20                   **(II) THE ESTABLISHMENT OF A REGISTRY THAT LISTS VERIFIED**  
21 **THIRD-PARTY INSPECTORS;**

22                   **(6) REQUIRE THE LANDLORD OF A RENTAL DWELLING UNIT TO:**

23                   **(I) PAY THE COST OF THE MOLD INSPECTION REQUIRED**  
24 **UNDER ITEM (3) OF THIS SUBSECTION; AND**

25                   **(II) DISCLOSE THE RESULTS OF THE MOLD INSPECTION**  
26 **REQUIRED UNDER ITEM (3) OF THIS SUBSECTION TO A TENANT OR PROSPECTIVE**  
27 **TENANT; AND**

28                   **(7) PROHIBIT A TENANT OR PROSPECTIVE TENANT OF A RENTAL**  
29 **DWELLING UNIT FROM WAIVING THE DISCLOSURE REQUIREMENT UNDER ITEM**  
30 **(6)(II) OF THIS SUBSECTION.**

1           **(C) (1) THE DEPARTMENT MAY CHARGE A FEE OF UP TO \$100 FOR**  
2 **VERIFYING A THIRD-PARTY INSPECTOR UNDER SUBSECTION (B)(5) OF THIS**  
3 **SECTION.**

4           **(2) THE DEPARTMENT SHALL MAINTAIN THE REGISTRY**  
5 **ESTABLISHED UNDER SUBSECTION (B)(5) OF THIS SECTION.**

6           **(D) THE DEPARTMENT SHALL DEVELOP AND MAKE AVAILABLE ON ITS**  
7 **WEBSITE AND IN PRINT RESOURCE MATERIALS REGARDING MOLD HAZARDS, MOLD,**  
8 **AND DAMPNES.**

9           **(E) ON OR BEFORE DECEMBER 1 EACH YEAR, BEGINNING IN 2024, THE**  
10 **DEPARTMENT SHALL SUBMIT AN ANNUAL INDOOR AIR QUALITY REPORT TO THE**  
11 **GOVERNOR AND, IN ACCORDANCE WITH § 2-1257 OF THE STATE GOVERNMENT**  
12 **ARTICLE, THE GENERAL ASSEMBLY ON INDOOR AIR QUALITY AND THE RESULTS OF**  
13 **THE MOLD INSPECTIONS REQUIRED UNDER SUBSECTION (B)(3) OF THIS SECTION.**

14           **(F) (1) (I) A PERSON WHO VIOLATES A REGULATION ADOPTED UNDER**  
15 **THIS SECTION IS SUBJECT TO A CIVIL PENALTY OF UP TO \$250 PER VIOLATION, NOT**  
16 **EXCEEDING \$10,000.**

17                           **(II) THE CIVIL PENALTY UNDER THIS PARAGRAPH SHALL BE**  
18 **ASSESSED WITH CONSIDERATION GIVEN TO:**

19   **1. THE WILLFULNESS OF THE VIOLATION AND THE**  
20 **EXTENT TO WHICH THE VIOLATION WAS KNOWN TO THE VIOLATOR BUT**  
21 **UNCORRECTED BY THE VIOLATOR;**

22   **2. THE EXTENT TO WHICH THE VIOLATION RESULTED IN**  
23 **ACTUAL HARM TO HUMAN HEALTH;**

24   **3. THE NATURE AND DEGREE OF INJURY TO OR**  
25 **INTERFERENCE WITH GENERAL WELFARE AND HEALTH; AND**

26   **4. THE EXTENT TO WHICH THE CURRENT VIOLATION IS**  
27 **PART OF A RECURRENT PATTERN OF THE SAME OR SIMILAR TYPE OF VIOLATION**  
28 **COMMITTED BY THE VIOLATOR.**

29           **(2) EACH DAY A VIOLATION CONTINUES CONSTITUTES A SEPARATE**  
30 **OFFENSE UNDER THIS SECTION.**

31           **(3) A TENANT MAY DEPOSIT THE TENANT'S RENT IN AN ESCROW**  
32 **ACCOUNT IN ACCORDANCE WITH § 8-211.2 OF THE REAL PROPERTY ARTICLE IF A**

1 LANDLORD FAILS TO COMPLY WITH:

2 (I) THE REGULATIONS ADOPTED UNDER SUBSECTION (A) OF  
3 THIS SECTION; OR

4 (II) THE DISCLOSURE REQUIREMENTS UNDER SUBSECTION  
5 (B)(6) OF THIS SECTION.

6 (4) A LOCAL JURISDICTION, COUNTY ATTORNEY, OR MUNICIPAL  
7 ATTORNEY MAY ENFORCE THE PROVISIONS OF THIS SECTION.

8 Article – Real Property

9 8–211.2.

10 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS  
11 INDICATED.

12 (2) “DAMPNESS” HAS THE MEANING STATED IN § 6–1701 OF THE  
13 ENVIRONMENT ARTICLE.

14 (3) “MOLD” HAS THE MEANING STATED IN § 6–1701 OF THE  
15 ENVIRONMENT ARTICLE.

16 (4) “RENTAL DWELLING UNIT” HAS THE MEANING STATED IN §  
17 6–1701 OF THE ENVIRONMENT ARTICLE.

18 (B) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION  
19 AND NOTWITHSTANDING ANY OTHER PROVISION OF LAW OR ANY AGREEMENT,  
20 WHETHER WRITTEN OR ORAL, IF A LANDLORD FAILS TO COMPLY WITH THE  
21 REQUIREMENTS UNDER § 6–1702 OF THE ENVIRONMENT ARTICLE, THE TENANT  
22 MAY DEPOSIT THE TENANT’S RENT IN AN ESCROW ACCOUNT WITH THE CLERK OF  
23 THE DISTRICT COURT FOR THE DISTRICT IN WHICH THE PREMISES ARE LOCATED.

24 (2) A TENANT MAY NOT DEPOSIT THE TENANT’S RENT IN AN ESCROW  
25 ACCOUNT UNDER PARAGRAPH (1) OF THIS SUBSECTION IF THE TENANT HAS NOT  
26 PROVIDED NOTICE OF A MOLD HAZARD, MOLD, OR DAMPNESS TO THE LANDLORD IN  
27 A REASONABLE MANNER.

28 (C) THE RIGHT OF A TENANT TO DEPOSIT RENT IN AN ESCROW ACCOUNT  
29 DOES NOT PRECLUDE THE TENANT FROM PURSUING ANY OTHER RIGHT OR REMEDY  
30 AVAILABLE TO THE TENANT AT LAW OR EQUITY.

1           **(D) MONEY DEPOSITED IN AN ESCROW ACCOUNT SHALL BE RELEASED**  
2 **UNDER THE FOLLOWING TERMS AND CONDITIONS:**

3           **(1) TO THE LESSOR ON COMPLIANCE BY THE LESSOR WITH THE**  
4 **DISCLOSURE REQUIREMENTS AND REGULATIONS ADOPTED UNDER § 6-1702 OF THE**  
5 **ENVIRONMENT ARTICLE; OR**

6           **(2) TO THE LESSEE OR ANY OTHER PERSON WHO HAS COMPLIED WITH**  
7 **THE DISCLOSURE REQUIREMENTS AND REGULATIONS ADOPTED UNDER § 6-1702 OF**  
8 **THE ENVIRONMENT ARTICLE ON PRESENTATION OF A BILL FOR THE REASONABLE**  
9 **COSTS OF COMPLIANCE.**

10           **(E) (1) A LESSEE MAY NOT BE EVICTED, THE TENANCY MAY NOT BE**  
11 **TERMINATED, AND THE RENT MAY NOT BE RAISED FOR A LESSEE WHO ELECTS TO**  
12 **SEEK THE REMEDIES UNDER THIS SECTION.**

13           **(2) IT SHALL BE PRESUMED THAT ANY ATTEMPT TO EVICT THE**  
14 **LESSEE, TO TERMINATE THE TENANCY, OR TO RAISE THE RENT, EXCEPT FOR**  
15 **NONPAYMENT OF RENT, WITHIN 2 MONTHS AFTER COMPLIANCE WITH THE**  
16 **REQUIREMENTS UNDER § 6-1702 OF THE ENVIRONMENT ARTICLE IS IN**  
17 **RETALIATION FOR THE LESSEE'S PROCEEDING UNDER THIS SECTION AND SHALL BE**  
18 **VOIDABLE.**

19           **(F) THIS SECTION SHALL PREEMPT ANY PUBLIC LOCAL LAW OR ORDINANCE**  
20 **CONCERNING THE DEPOSIT OF RENT INTO AN ESCROW ACCOUNT BASED ON THE**  
21 **EXISTENCE OF MOLD IN A RENTAL DWELLING UNIT IN THE STATE AND DISPOSITION**  
22 **OF THAT RENT.**

23           SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June  
24 1, 2021.