



January 28, 2021

## Senate Bill 70

Environment — Mold Inspections — Standards, Reporting, and Penalties

Education, Health, and Environmental Affairs

### Position: Favorable

Thank you for the opportunity to provide testimony in support of Senate Bill 70, legislation that would promote the development of statewide, objective standards for air quality levels in certain properties in Maryland, including residential rental properties. Arundel Community Development Services, Inc. (ACDS) serves as Anne Arundel County's nonprofit housing and community development agency, helping Anne Arundel County residents and communities thrive through the provision of safe and affordable housing opportunities, programs to prevent and end homelessness, and community development initiatives. In fulfilling this role, ACDS administers grants to nonprofit partners, directly develops and implements programming, and advises the County on housing and community development policy initiatives.

Under current Maryland law, there are no regulations, objective standards or mandatory inspections of residential rental properties to protect Marylanders from health hazards related to mold exposure. This poses an ongoing, significant risk to the health and safety of all Maryland renters, and it poses a disproportionately high risk to low income renters because low income renters are at a significant disadvantage in their ability to realistically use the Rent Escrow process for forcing recalcitrant landlords to remediate properties with mold and unhealthy air quality conditions. This bill would protect the health and safety of all Maryland renters by putting regulations in place to ensure the air quality safety of rental properties and by providing an avenue for renters to improve conditions themselves should a landlord fail to comply with the regulations.

First, this bill **codifies that a landlord's failure to comply with the landlord's obligations under the bill results in the tenant's right to use the court's Rent Escrow process.**

Maryland's rent escrow statute currently allows a renter to place rent in escrow with the court in cases where the renter can establish serious conditions that threaten the health and safety of the tenant. The problem is that, without mold standards in place and a uniform acceptance of the health risks of mold exposure, judges in Maryland vary in their view of whether air quality/mold rises to the level of a serious condition that can sustain a Rent Escrow action. Some conclude that mold cannot be considered a health risk without expert testimony, and when they do allow it, the tenant often has to put on evidence that the mold is causing health problems. – both costly hurdles to cross. SB 70 solves this problem by clearly stating that if a

landlord fails to comply with the landlord's obligations under the legislation, then the tenant is entitled to bring a Rent Escrow action.

Second, the bill **makes a Rent Escrow action or other legal action a realistic option for low income renters**. Using a Rent Escrow action as a tool to improve conditions in a rental unit with unhealthy and/or unsafe conditions is often not a realistic option for low income renters, especially if the condition is related to mold. Low income renters generally lack the financial resources needed to obtain the documentary evidence necessary to prove the existence of mold causing a health and safety problem. While tenants can rely on City or County rental licensing reports (which they can obtain for free) as documentary proof of many health and safety problems, the same is *not* true for mold and air quality problems. Rental license inspections rarely include information related to mold or air quality issues. As a result, in order to prove a Breach of Lease or Rent Escrow action based on mold, a tenant must pay a private company to test for mold and air quality issues, and then pay for a written report and/or pay an expert to testify at court. This is an expense that many cannot bear. However, if implemented, this bill would eliminate this financial barrier to access to the legal system by ensuring that the landlord is responsible for the cost of testing for mold by an approved inspector, and by requiring that the landlord disclose the results of that inspection to the renter.

Third, if enacted, SB 70 **would result in uniform standards for habitable dampness, for identifying, evaluating and testing for mold, mold remediation, and best practices for eliminating the risk of mold hazards**. Without such standards in place, the results of Rent Escrow actions in Maryland can vary not just from jurisdiction to jurisdiction, but even from judge to judge within the same jurisdiction. Having objective, measurable standards in place provide a basis for a judge to evaluate whether a renter will or will not prevail in a rent escrow action. As importantly, having such standards may result in pre-litigation remediation of problems, or in a renter's decision not to file.

Finally, this legislation incorporates **protections for renters** who seek remedies identified in the bill and **provides meaningful penalties** for non-compliance by landlords to ensure compliance, both of which will aid in the bill's effectiveness for promoting the health and safety of Maryland renters.

**For the reasons noted above, we urge a FAVORABLE report on SB 70.**

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