



# Maryland

## Department of the Environment

Larry Hogan, Governor  
Boyd K. Rutherford, Lt. Governor

Ben Grumbles, Secretary  
Horacio Tablada, Deputy Secretary

January 28, 2021

The Honorable Paul G. Pinsky, Chair  
Education, Health, and Environmental Affairs Committee  
2 West  
Miller Senate Office Building  
Annapolis, Maryland 21401

### **Re: Senate Bill 70- Environment - Mold Inspections - Standards, Reporting, and Penalties**

Dear Chair Pinsky and Members of the Committee:

The Maryland Department of the Environment (MDE or the Department) has reviewed Senate Bill 70 *Environment - Mold Inspections - Standards, Reporting, and Penalties*. Mold's increasing presence is one of the many effects of climate change. The issue of addressing mold in facilities, such as rental units, is very complex and warrants more discussion between State agencies, local governments and other stakeholders. With that in mind, the Department would like to provide information and express a few concerns with the current bill.

The bill requires the Department to consult with the Maryland Department of Health, the Department of Housing and Community Development, and the Department of General Services to adopt regulations, on or before June 1, 2023, establishing uniform standards for mold assessment and remediation. These regulations must address the following specific conditions: establish standards related to identifying the presence of mold and mold hazards, mold remediation and risk reduction; require annual mold inspections conducted by local jurisdictions; establish a certification process for third-party inspectors to become qualified to perform mold inspections and create a registry listing third-party inspectors; require landlords of dwelling units to pay for the cost of the inspections and notify tenants of the mold inspection results; and prohibit tenant waiver of the notification requirement. The Department does not have the staff, such as industrial hygienists and risk assessment personnel, required to conduct the analysis needed to write these regulations. MDE would have to contract out this duty. The estimated cost associated with this would be \$300,000.

As stated above, a process for third-party inspectors to become certified to perform mold inspections and the creation of a registry listing third-party inspectors is required. An existing database may be able to be altered to develop the registry. If not, the cost of development could easily exceed \$100,000. The Department has learned from managing other worker certification programs that such a program needs to include either an ongoing testing requirement or an audit element in order to ensure ongoing worker competency. Staff would be needed to carry out testing and audits. The bill allows the Department to charge up to \$100 dollars for the verification of third-party inspectors. Any figure related to an increase in revenues is difficult to determine, since the exact fee amount and the number of inspectors paying the fee have not been determined; however, it is anticipated that this increase will not fully offset any increase in expenditures.

The Department would also be required to ensure that the counties met their obligation to inspect each rental dwelling unit for mold and for notifying tenants of any mold found. This information would eventually be included in a database, with the information regarding inspection and notification status being generated from

Chairman Pinsky

Page 2

reports submitted by the counties. Once a database is developed and functioning, it would need to be populated with applicable data and updated as needed.

To fulfill the various requirements under this bill, the Department would need to create a new mold program within the Department. MDE evaluated the requirements in the current bill relative to the work requirements associated with two other worker certification programs - our Lead Program and our Asbestos Worker Accreditation Program. Each has duties similar to those described in the bill. Based on this comparison, the Department anticipates that a minimum of 12 additional employees would be needed to meet the requirements in this bill. This staffing number is based on the assumption that there are several hundred thousand rental units in Maryland (US Census data show that 2/3 of 2.4 million housing units in Maryland are owner-occupied).

Lastly, there are a few issues with the enforcement provisions in this bill. There are provisions within the bill that allow for an administrative penalty of up to \$250 per violation, not exceeding \$10,000. Under this bill, enforcement of the Department's regulations are the responsibility of the local jurisdiction, through county and municipal attorneys. This is an atypical provision, as it means that MDE would have no authority to enforce its regulations. Additionally, the bill does not provide the ability of any authority to issue orders or otherwise require compliance with the regulations. There is no requirement for "mold remediation" to occur in properties that fail an inspection.

Thank you for your consideration. This is an important issue that warrants more discussion. We will continue to monitor Senate Bill 70 during the Committee's deliberations, and I am available to answer any questions you may have. Please feel free to contact me at 410-260-6301 or by e-mail at [tyler.abbott@maryland.gov](mailto:tyler.abbott@maryland.gov).

Sincerely,

A handwritten signature in black ink, appearing to read "Tyler Abbott", with a horizontal line extending to the left.

Tyler Abbott

cc: George "Tad" Aburn, Director, Air and Radiation Administration