

House Bill 0129 as amended by HB0129/713827/1 (02/10/21 at 12:20 p.m.)

MLIS "Instant Reprint" System (version 5.0) - NOTE: This is not an official copy of the bill

UNOFFICIAL COPY OF HOUSE BILL 129

HOUSE BILL 129

M3, N1

11r0900

(PRE-FILED)

CF SB 70

By: **Delegate Henson**

Requested: October 9, 2020

Introduced and read first time: January 13, 2021

Assigned to: Environment and Transportation

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

2 **UNOFFICIAL COPY OF HOUSE BILL 129**

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;**

Bill Page 3 of 8

3 **UNOFFICIAL COPY OF HOUSE BILL 129**

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**

Bill Page 4 of 8

4 UNOFFICIAL COPY OF HOUSE BILL 129

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:**

Bill Page 5 of 8

5 UNOFFICIAL COPY OF HOUSE BILL 129

1 **(i) Habitable dampness;**

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;~~ ESTABLISH A PROCESS FOR QUALIFIED MOLD INSPECTIONS; AND

14 (5) Establish a process for a ~~third-party~~ **QUALIFIED** inspector to

15 perform qualified mold inspections. ~~the inspection required under item (3) of this~~
~~subsection.~~

16 including processes for:

17 (i) The Department to verify that a ~~third-party~~

18 **QUALIFIED** inspector is qualified to perform the mold inspections ~~required under~~
~~item (3) of this subsection;~~ and

20 (ii) The establishment of a registry that lists ~~verified~~

21 **QUALIFIED** ~~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 §12-203 F(5) of the Public Safety Article ~~item (3) of this subsection;~~

Commented [1]: To departmental standards

Commented [2]: To departmental standards

(ii) Test mold and potential mold identified in a mold inspection under §12-203 F(5) of the Public Safety Article item (3) of this subsection; and

25 **(#) (iii) Disclose the results of the mold inspection**
26 **required under §12-203 F(5) of the Public Safety Article item (3) of this subsection to**
27 **a tenant or prospective**
28 **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)(#)(iii) of this subsection.**

Bill Page 6 of 8

6 UNOFFICIAL COPY OF HOUSE BILL 129

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 dampness.

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**

Bill Page 7 of 8

7 **UNOFFICIAL COPY OF HOUSE BILL 129**

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.

Bill Page 8 of 8

8 UNOFFICIAL COPY OF HOUSE BILL 129

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.**

Article - Public Safety

§ 12-203.

(f) (1) The political subdivision in which the housing is located shall enforce the Minimum Livability Code.

(2) Unless alternative housing is provided, an individual may not be displaced by enforcement of the Minimum Livability Code.

(3) (i) This paragraph does not apply in Baltimore City.

(ii) A political subdivision shall require an inspection of each multifamily dwelling in the political subdivision in which a unit in the multifamily dwelling has balcony railings that are primarily constructed of wood at least once every 5 years, beginning no later than 10 years after the balcony is constructed, to ensure that the balcony railings meet the requirements of the applicable local housing code or the Minimum Livability Code.

(iii) A political subdivision may:

1. conduct inspections required under subparagraph (ii) of this paragraph;

2. authorize a third party to conduct inspections required under subparagraph (ii) of this paragraph on behalf of the political subdivision; or

3. require an inspection required under subparagraph (ii) of this paragraph to be conducted and certified to the political subdivision by a professional inspector hired by the owner of the multifamily dwelling.

(iv) A certification made by a professional inspector under subparagraph (iii)3 of this paragraph shall:

1. be made in the form required by the applicable political subdivision; and

2. include:

A. a statement that the balcony railings have been inspected;

B. the name of the owner of the multifamily dwelling;

C. the address of the multifamily dwelling;

D. the name of the inspector;

E. the date the multifamily dwelling was inspected;

F. the results of the inspection; and

G. any other information required by the political subdivision.

(v) A political subdivision shall:

1. provide notice to the owner of a multifamily dwelling at least 10 days before any inspection of the dwelling conducted under subparagraph (iii)1 or 2 of this paragraph; or

2. A. notify the owner of a multifamily dwelling of the need to have a professional inspector complete an inspection under subparagraph (iii)3 of this paragraph; and

B. allow the owner of the multifamily dwelling a reasonable period of time to have the inspection completed.

(vi) A political subdivision that otherwise inspects multifamily dwelling units at least once every 5 years may include the inspection required under subparagraph (ii) of this paragraph as part of that inspection.

(4) (i) In this paragraph, “multiple–family dwelling” has the meaning stated in Article 13, § 5–1 of the Baltimore City Code.

(ii) This paragraph applies only in Baltimore City.

(iii) Baltimore City may not issue or renew a multiple–family dwelling license unless the applicant demonstrates that a professional inspector has completed an inspection of the multiple–family dwelling to ensure that each balcony railing in the multiple–family dwelling meets the requirements of the Building, Fire, and Related Codes of Baltimore City.

(iv) Beginning in October 2015, and every 5 years thereafter, at the time that Baltimore City sends a renewal notice to a holder of a multiple–family dwelling license, Baltimore City shall notify the license holder of the inspection requirement under subparagraph (iii) of this paragraph.

(5) A political subdivision must require a landlord of a rental dwelling unit to have any mold or potential mold identified in carrying out this section to have the unit inspected by a qualified inspector as described under §6-1702 B(5) of the Environment Article.

~~(5)~~**(6)** A political subdivision may charge a property owner a fee for:

(i) an inspection made to enforce the Minimum Livability Code; and

(ii) a periodic inspection made under paragraph (3) or (4) of this subsection.

Commented [3]: Trigger by Minimum Livability Code, further inspections as a result by a qualified professional.