



**SB 320: Mold Inspections and Remediation – Standards, Reporting, Penalties, and Tax Credit
HEARING BEFORE THE SENATE EDUCATION, HEALTH, AND ENVIRONMENTAL AFFAIRS COMMITTEE,
FEBRUARY 2, 2022 AT 1:00 PM
POSITION: SUPPORT**

The Pro Bono Resource Center of Maryland (“PBRC”), an independent 501(c)(3) non-profit organization, is the statewide clearinghouse for volunteer civil legal services in Maryland. As the designated pro bono arm of the Maryland State Bar Association, PBRC provides training, mentorship, and pro bono service opportunities to members of the private bar. We respond to acute legal needs identified in areas across the state by piloting innovative pro bono service projects targeting specific legal problems or populations.

In May 2017, with a grant from the Maryland Judiciary’s Access to Justice Department, PBRC launched the **Tenant Volunteer Lawyer of the Day Program (TVLD Program)** in Baltimore City Rent Court to provide day-of-court legal representation to tenants who appear unrepresented for their proceedings. Since that time we have expanded to provide day of court services in Baltimore County as well as extended representation services in both jurisdictions for clients engaged in both affirmative and defensive escrow actions. Typically among the poorest residents of Baltimore City and Baltimore County, tenants appearing in Rent Court often contend with difficult and unsafe living conditions, are nearly always unrepresented and are often unaware of the judicial process or their rights as renters. PBRC has stepped in to fill that void.

PBRC supports SB 320 because it will ensure that tenants and their children have protection from the known health hazards of mold. Under current Maryland law, there is no standard definition of “mold” for code inspectors to identify and report. SB 320 will provide a standard definition of “mold” that is in line with nationally-accepted standards of practice to identify mold hazards.

By including this standard definition, SB 320 will strengthen existing Maryland law related to rent escrow procedures as they pertain to mold. Real Property Art. § 8-211 allows tenants facing hazardous and unsafe conditions in their homes to pay their rent into an escrow account with the District Court of Maryland, request that the landlord fix the health and safety hazards and receive an equitable distribution of those funds once the necessary repairs have been completed. However, due to the lack of any standard definition of “mold,” tenants face an uphill battle demonstrating the existence of the problem to the Court or verifying whether the necessary abatement has been completed. **SB 320 will help tenants secure their right to a safe and habitable home.**

While PBRC supports SB 320, **we request technical amendments** in order to preserve the tenant protections already present in certain local laws. As written SB 320 creates a more restrictive remedy for tenants compared to the provisions of Real Property Art. § 8-211 related to rent escrow actions. Specifically, SB 320 includes preemption language that weakens the stronger provisions of Baltimore City’s rent escrow law (Public Local Law of Baltimore City § 9-9, 9-9A) and Baltimore County’s (Baltimore County Code § 35-4-101). SB 320 does not permit courts, in a mold-related action, to abate rent or to factor money damages (for example, for

loss of tenant's use of the property or cost of the tenant's temporary relocation) into the distribution of escrowed funds. Tenants can and do incur costs related to health and safety hazards in the home. This is the reason that non-mold rent escrow actions permit the recovery of actual damages, and PBRC does not support any change to that with respect to mold. Additionally, this bill specifies a presumptive retaliation period of 2 months – far shorter than the 6-month presumption in the Baltimore City and Baltimore County rent escrow laws. Again, this distinction related to mold does not conform to the existing rent escrow law and would treat mold-related actions with disfavor compared to other safety hazards. **PBRC recommends that the procedural elements of SB 320's rent escrow provision (proposed § 8-211.2 on p. 8-9) should conform to and include reference to the existing state and local rent escrow laws.**

In our clinics, PBRC Staff Attorneys frequently advise and represent tenants dealing with unsafe homes due to mold. This fact is not surprising when according to the Maryland Department of Health, 13.7% of adults and 33.3% of high school students in Baltimore City have asthma. This is compared to 9% of adults and 25.9% of high school students statewide. Since asthma can be triggered by mold, many of our clients are particularly vulnerable when faced with mold in their home. **All Maryland tenants, both children and adults, deserve the safety of a mold-free home and the right to effectively petition the District Court if the landlord fails to provide it.**

For the above reasons, **PBRC urges a FAVORABLE report on SB 320.**

Please contact Katie Davis, Director of PBRC's Courtroom Advocacy Project, with any questions.

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