



HOMELESS PERSONS REPRESENTATION PROJECT, INC.

SB0320 - Mold Inspections and Remediation – Standards, Reporting, Penalties, and Tax Credit

**Hearing before the Senate
Education, Health, and Environmental Affairs Committee,
Feb. 2, 2022**

Position: SUPPORT (FAVORABLE)

The Homeless Persons Representation Project, Inc. (HPRP) is a non-profit civil legal aid organization that provides free legal representation to people who are homeless or at risk of homelessness on legal issues that will lead to an end to homelessness. HPRP regularly represents tenants in failure to pay rent cases and other landlord-tenant matters in Baltimore City.

Maryland Renters make up one-third of all households across the state and more than half of all households in cities such as Silver Spring, Hagerstown, and Baltimore City. These households are dealing with mold hazards in their homes largely without the aid of state and local agencies. Local code enforcement agencies lack standards and guidance on the inspection and remediation of mold. Furthermore, there are no black-letter legal protections for renters in mold-affected housing. As the Secretary of Housing and Urban Development said [last week in a visit to Maryland](#): “Children should never have to live in a place where they cannot breathe. When we transform houses, we transform people.”

We urgently need the General Assembly to mandate state action to address mold hazards in housing. HPRP urges the Committee’s favorable report on SB0320.

SB0320 will answer fundamental policy gaps that weaken local housing agencies’ efforts to combat mold and allow rental property owners to skimp on remediation of mold hazards. This bill provides Maryland localities the framework for ensuring the availability of healthier housing.

Lack of inspection and remediation standards hurts renters and weakens code enforcement

Under SB0320, Maryland housing agencies would have the requisite legal tools to deal with mold hazards. Presently, under local adoption of the Maryland Building Performance Standards (COMAR 09.12.51), code enforcement agencies have no definition or other criteria to use in citing evidence of mold in a property. Housing inspectors therefore describe mold inconsistently in violation reports, using phrases such as “possible mold,” “appearance of mold,” or a “dark substance.” These euphemistic descriptions are also the product of Maryland’s failure to require

mold-specific training for code enforcement inspectors. Without training, these inspectors are limited to inspecting only the visible surface of the problem. As a result of having no definitional standard and no training requirements, code inspections lead to remedial steps that, while too weak to address the actual habitability of the property, are nonetheless sufficient to abate code violations.

Unless there are visible signs of water damage or moisture, inspectors lack regulations or protocols to require a property owner to do more than cover up the mold. Literally, the accepted solution to mold hazards in Maryland rental housing is to paint over the problem. In the experience of Maryland housing advocates, including HPRP, code enforcement inspectors are more likely than not to abate a mold-related violation when the defect has been surface-cleaned or occluded by paint or some other covering.

We should not accept that mold hazards simply disappear because they are not visible. Renters expect more to be done, and their health, stability, productivity, and educational outcomes require it.

SB0320 defines “mold hazard” both in scientific terms and with due regard for occupants’ health. This bill then requires state agencies to create publish standards for inspection, testing, and remediation of mold. Under SB0320, we expect local agencies will hasten toward new measures to ensure habitability of rental housing.

Suggested revisions of rent escrow provisions in SB0320

This bill will also strengthen the position of renters who use legal actions to compel landlords to remediate mold or compensate them for hazardous living conditions and relocation. SB0320 includes rent escrow and anti-retaliation provisions specific to mold hazards. These provisions should support and bolster the existing rent escrow law in Real Property Art. § 8-211, whereby a tenant may pay some or all rent into a court account, compel repairs of the rental property, and receive an equitable distribution of escrowed funds after repairs are completed.

The existing rent escrow law is weakened by the absence of standards and enforcement regarding mold, as described above. Based on vague inspection reports and the inspecting agencies’ inability to require more than surface-level remediation, rent escrow has been a limited mechanism for renters to seek court-ordered resolutions of mold defects. These cases often fail to ensure mold remediation and fair compensation to the tenant because of the lack of standards. **For instance, courts may conclude that because a code violation was abated after the landlord painted over the mold, the tenant has no legal grounds to seek further repairs or compensation.** SB0320 would bring clarity in this area by creating the standards for mold remediation and providing a mold-specific basis for rent escrow actions.

However, the rent escrow provisions in SB0320 create a more restrictive remedy for tenants compared to the provisions of Real Property § 8-211. Furthermore, SB0320 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). Specifically, SB0320 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. 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.

HPRP recommends that procedural elements of SB0320's rent escrow provision (proposed § 8-211.2 on p. 8-9) should conform and include reference to the existing state and local rent escrow laws.

Maryland's clock is ticking when it comes to mold hazards in rental housing

The threat to tenant health and safety posed by the presence of mold in the home is clear. In the anecdotal experience of HPRP, the elderly and those with existing respiratory problems suffer the worst, and in some cases have been hospitalized as a suspected result of unmitigated mold growth. Many renter families also suspect domestic mold to be the cause of their children's asthma development. [A 2009 review of existing literature](#) on the health effects of dampness and mold by **the World Health Organization found a substantial body of evidence of an association with upper respiratory tract symptoms, coughing, wheezing, asthma development in otherwise healthy children, and exacerbation of already diagnosed asthma.** Maryland law should protect renter families from the potentially long-term adverse health outcomes resulting from negligent property management.

The standards called for in SB0320 cannot wait any longer. Throughout the COVID-19 pandemic, Maryland renters who live in mold-affected homes have faced the dual risk of coronavirus outside the home and respiratory illness inside it. They have had nowhere to turn, and, in absence of a law that prescribes how mold defects in housing should be assessed and remediated, renters had little if any recourse to compel property owners to remove mold from their units.

SB0320 is a first, crucial step toward a comprehensive solution to mold in rental housing.

HPRP is a member of the Renters United Maryland, a statewide coalition of renters, organizers, and advocates, and **we urge the Committee's report of Favorable on SB0320.**

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