



HOMELESS PERSONS REPRESENTATION PROJECT, INC.

HB0361 - Mold Inspections and Remediation – Standards, Reporting, Penalties, and Tax Credit

**Hearing before the House Environment and Transportation Committee,
Feb. 9, 2022**

Position: SUPPORT (FAV)

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 month 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 report of Favorable on HB0361.

HB0361 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 HB0361, 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. 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 mold hazards simply because they are not visible. Renters expect more to be done, and their health, stability, productivity, and educational outcomes require it.

HB0361 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 HB0361, we expect local agencies will hasten toward new measures to ensure habitability of rental housing.

Clarifying the remedy in HB0361’s rent escrow provisions

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. HB0361 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.

However, the rent escrow provisions in HB0361 create a more restrictive remedy for tenants compared to the provisions of Real Property § 8-211. Furthermore, HB0361 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, HB0361 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 HB0361’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 HB0361 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.

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 HB0361.**