



House Bill 361 – Mold Inspections and Remediation – Standards, Reporting, Penalties and Tax Credit

Position: Unfavorable

Maryland REALTORS® opposes HB 361 which, among other provisions, requires local governments to conduct inspections of residential rental units for mold.

REALTORS® have several concerns over this bill and how it would be implemented.

First, because there is no federal or state laws or regulations for what constitutes toxic mold, it is difficult to assess the impact of the legislation. Not all mold is toxic and not all mold would be actionable under the legislation. Maryland REALTORS® believe that it is premature to require inspections before a standard has even been established and the impact of those standards can be understood. While the legislation delays implementation until 2024, it would make more sense to first establish the standards and then assess what the program requirements will be.

Second, tenants have a large responsibility when managing mold in a property. In the context of single-family detached rentals, tenants must maintain dehumidifiers in basements, turn on bathroom fans, etc. to mitigate the potential of mold growing. At times, tenants have turned off dehumidifiers and fans which makes it almost impossible for a property owner to control mold. While the bill would prevent a tenant from escrowing rent if the tenant did not notify the landlord of the presence of mold, the landlord may still be responsible for thousands of dollars of repair that would have been preventable.

Third, the bill would require a rental inspection program that is significantly larger than the lead paint inspection program launched by the State in the early nineties. That program took nearly two years for the regulations to be approved and there were initial problems with finding inspectors to conduct the work throughout the state. Unlike mold inspections however, that program had a clear test for inspectors going to a property. If there was lead, the program's remediation requirements kicked in.

Finally, while we appreciate the legislation's attempt to provide a tax credit for property owners conducting mold, it would be better if the tax credit was refundable and could be carried over to other tax years. This would be more helpful to landlords faced with large mitigation costs.

For those reasons, the REALTORS® recommend an unfavorable report.

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