



Maryland

Department of the Environment

Larry Hogan, Governor
Boyd K. Rutherford, Lt. Governor

Ben Grumbles, Secretary
Horacio Tablada, Deputy Secretary

February 2, 2022

The Honorable Paul G. Pinsky, Chair
Education, Health, and Environmental Affairs Committee
Miller Senate Office Building, Suite 2W
Annapolis, Maryland 21401

Re: Senate Bill 320- Mold Inspections and Remediation - Standards, Reporting, Penalties, and Tax Credit

Dear Chair Pinsky and Members of the Committee:

The Maryland Department of the Environment (MDE or the Department) has reviewed SB 320 *Mold Inspections and Remediation - Standards, Reporting, Penalties, and Tax Credit*. The increasing presence of mold has been one of the many effects of climate change. Though the issue of addressing mold in facilities, such as rental units, is very complex, the Department has been engaged in trying to find solutions on this topic. The Department believes that the complexities of mold assessment and remediation mentioned in this bill warrant more discussion among state agencies, local governments, and other stakeholders before legislation is enacted. With that in mind, the Department would like to provide information on the current bill.

The bill requires the Department to consult with the Maryland Department of Health, the Department of Housing and Community Development, and the Department of General Services to adopt regulations, on or before June 1, 2024. These regulations, among other requirements, must do the following: establish standards for four specific processes to identify and evaluate the presence of mold and mold remediation; establish a risk reduction standard for mold hazards; require a local jurisdiction to conduct visual inspections to identify potential mold in rental dwelling units and notify the landlord of a rental dwelling unit of the landlord's duty to have a mold assessment conducted; authorize the inspection required by local jurisdictions to be performed in conjunction with another inspection; require landlords of dwelling units to pay for the cost of the mold inspections, remediate the mold identified in a mold assessment, and notify tenants or prospective tenants of the mold inspection results; require a tenant to notify the landlord as soon as the tenant detects mold; and prohibit tenant waiver of the notification requirement. The Department does not have industrial hygienists or risk assessment personnel capable of conducting the necessary analyses needed to write these regulations. MDE would have to contract out this function. The estimated cost associated with this would be - at a minimum - \$300,000.

To fulfill the other requirements of the bill, the Department would likely need to hire 10 new employees. This bill also requires MDE to issue a tax credit certificate to a taxpayer for the total costs incurred for mold remediation performed on residential rental property during the taxable year. The bill sets up certain parameters such as an individual taxpayer cap for costs incurred, a total aggregate cap of \$600,000 for certificates in a taxable year, and a requirement that MDE make 40% of the \$600,000 available for single family properties and 60% available for multi-family properties. The bill further requires the Department to approve all applications that qualify for a certificate in a timely manner, on a first-come-first-serve basis. On or before January 31 of

each taxable year, MDE is required to report to the Comptroller on the tax credit certificates issued during the prior taxable year. Additionally, MDE and the Comptroller are required to jointly report to the General Assembly on multiple issues related to the tax credit certificates.

Lastly, there are a few issues with the enforcement provisions in this bill. There are provisions within the bill that allow for an administrative penalty of up to \$250 per violation, not exceeding \$10,000. Under this bill, enforcement of the Department's regulations are the responsibility of the local jurisdiction, through county and municipal attorneys. This is an atypical and likely unworkable provision, as it means that MDE would have no authority to enforce its own regulations. Additionally, the bill does not provide the ability or any authority to issue orders or otherwise require compliance with the regulations.

Thank you for your consideration. We will continue to monitor SB 320 during the committee's deliberations, and I am available to answer any questions you may have. Please feel free to contact me at 410-260-6301 or tyler.abbott@maryland.gov.

Sincerely,

A handwritten signature in black ink, appearing to read "Tyler Abbott", with a long horizontal line extending to the left.

Tyler Abbott

cc: George "Tad" Aburn, Director, Air and Radiation Administration