

HOUSE BILL 361

M3, Q3
HB 129/21 – ENT

2lr1965
CF SB 320

By: **Delegates Henson, Bartlett, Boyce, Hill, Landis, Lehman, Patterson, Proctor, and Ruth**

Introduced and read first time: January 19, 2022

Assigned to: Environment and Transportation

A BILL ENTITLED

1 AN ACT concerning

2 **Mold Inspections and Remediation – Standards, Reporting, Penalties, and Tax**
3 **Credit**

4 FOR the purpose of requiring the Department of the Environment, in consultation with the
5 Maryland Department of Health, the Department of Housing and Community
6 Development, and the Department of General Services, to adopt certain regulations
7 on or before a certain date establishing uniform standards for mold assessment and
8 remediation; authorizing a tenant to deposit the tenant's rent in an escrow account
9 if the tenant's landlord fails to comply with the requirements of this Act; prohibiting
10 a lessee from being evicted, the tenancy from being terminated, and the rent from
11 being raised for a lessee who seeks a remedy under this Act; allowing, for certain
12 taxable years, a credit against the State income tax for taxpayers of single family
13 and multifamily residential properties who incur costs for certain mold remediation
14 performed on the property and obtain a tax credit certificate from the Department of
15 Housing and Community Development; and generally relating to the establishment
16 of standards and reporting requirements for mold in rental dwelling units and an
17 income tax credit for mold remediation.

18 BY adding to

19 Article – Environment
20 Section 6–1701 and 6–1702 to be under the new subtitle “Subtitle 17. Mold”
21 Annotated Code of Maryland
22 (2013 Replacement Volume and 2021 Supplement)

23 BY adding to

24 Article – Real Property
25 Section 8–211.2
26 Annotated Code of Maryland
27 (2015 Replacement Volume and 2021 Supplement)

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



BY adding to
Article – Tax – General
Section 10–754
Annotated Code of Maryland
(2016 Replacement Volume and 2021 Supplement)

Preamble

WHEREAS, There are State laws to protect Marylanders from the impact of exposure to the environmental hazards of radon, asbestos, lead-based paint, and methane when they are found in the home but not to protect Marylanders from the harmful effects of exposure to mold; and

WHEREAS, The health effects caused by exposure to mold include chronic lung disease, immune system deficiencies, increased risk of infection, skin rash, coughing, wheezing, and burning eyes; and

WHEREAS, Currently, at least 15 states and the District of Columbia have indoor air quality mold regulations, including states with high levels of moisture and humidity such as Florida and Louisiana; now, therefore,

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
That the Laws of Maryland read as follows:

Article – Environment

SUBTITLE 17. MOLD.

6–1701.

(A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(B) “DAMPNESS” MEANS ABNORMAL MOISTURE IN THE INTERIOR OF A FACILITY, INCLUDING:

(1) EXCESSIVE HUMIDITY LEVELS;

(2) LINGERING CONDENSATION;

(3) LEAKS;

(4) WATER DAMAGE; AND

(5) MUSTY OR MOLDY ODORS.

1 **(C) “LICENSED HOME INSPECTOR” HAS THE MEANING STATED IN § 16-101**
2 **OF THE BUSINESS OCCUPATIONS AND PROFESSIONS ARTICLE.**

3 **(D) (1) “MOLD” MEANS A FORM OF MULTICELLULAR FUNGI THAT LIVES:**

4 **(I) ON PLANT OR ANIMAL MATTER; OR**

5 **(II) IN AN INDOOR ENVIRONMENT.**

6 **(2) “MOLD” INCLUDES:**

7 **(I) ALTERNARIA;**

8 **(II) ASPERGILLUS;**

9 **(III) CLADOSPORIUM;**

10 **(IV) FUSARIUM;**

11 **(V) MEMNONIELLA;**

12 **(VI) MUCOR;**

13 **(VII) PENICILLIUM;**

14 **(VIII) STACHYBOTRYS CHARTARUM; AND**

15 **(IX) TRICHODERMA.**

16 **(E) “MOLD ASSESSMENT” MEANS:**

17 **(1) AN INSPECTION, AN INVESTIGATION, OR A SURVEY OF A**
18 **DWELLING OR OTHER STRUCTURE TO PROVIDE INFORMATION TO THE OWNER**
19 **REGARDING THE PRESENCE, IDENTIFICATION, OR EVALUATION OF MOLD;**

20 **(2) THE DEVELOPMENT OF A MOLD MANAGEMENT PLAN; OR**

21 **(3) THE COLLECTION OR ANALYSIS OF A MOLD SAMPLE.**

22 **(F) “MOLD HAZARD” MEANS AN ADVERSE HUMAN HEALTH EFFECT**
23 **ASSOCIATED WITH MOLD EXPOSURE, INCLUDING:**

(1) ALLERGIC REACTIONS;

(2) ASTHMA; AND

(3) OTHER RESPIRATORY COMPLAINTS.

(G) “MOLD REMEDIATION” MEANS:

(1) REMOVING, CLEANING, SANITIZING, DEMOLISHING, OR ANY OTHER TREATMENT PERFORMED TO ADDRESS A MOLD HAZARD, MOLD, OR DAMPNESS; OR

(2) ABATEMENT OF THE UNDERLYING CAUSE OF A MOLD HAZARD, MOLD, OR DAMPNESS.

(H) (1) “RENTAL DWELLING UNIT” MEANS A ROOM OR GROUP OF ROOMS THAT FORM A SINGLE INDEPENDENT HABITABLE RENTAL UNIT FOR PERMANENT OCCUPATION BY ONE OR MORE INDIVIDUALS THAT HAS LIVING FACILITIES EQUIPPED WITH PERMANENT PROVISIONS FOR LIVING, SLEEPING, EATING, COOKING, AND SANITATION.

(2) “RENTAL DWELLING UNIT” DOES NOT INCLUDE:

(I) AN AREA NOT USED FOR LIVING, SLEEPING, EATING, COOKING, OR SANITATION, SUCH AS AN UNFINISHED BASEMENT;

(II) A UNIT WITHIN A HOTEL, MOTEL, OR SIMILAR SEASONAL OR TRANSIENT FACILITY;

(III) AN AREA WHICH IS SECURED AND INACCESSIBLE TO OCCUPANTS; OR

(IV) A UNIT WHICH IS NOT OFFERED FOR RENT.

6–1702.

(A) ON OR BEFORE JUNE 1, 2024, THE DEPARTMENT, IN CONSULTATION WITH THE MARYLAND DEPARTMENT OF HEALTH, THE DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT, AND THE DEPARTMENT OF GENERAL SERVICES, SHALL ADOPT REGULATIONS ESTABLISHING UNIFORM STANDARDS FOR MOLD ASSESSMENT AND REMEDIATION.

(B) THE REGULATIONS ADOPTED UNDER THIS SECTION SHALL:

(1) ESTABLISH STANDARDS FOR:

(I) IDENTIFYING AND EVALUATING THE PRESENCE OF MOLD, INCLUDING VISIBLE MOLD INSPECTION AND TESTING;

(II) MOLD AIR SAMPLE ANALYSES IN ACCORDANCE WITH THE STANDARDS OF:

1. THE ENVIRONMENTAL MICROBIOLOGY LABORATORY ACCREDITATION PROGRAM AT THE AMERICAN INDUSTRIAL HYGIENE ASSOCIATION;

2. THE AMERICAN INDOOR AIR QUALITY COUNCIL; OR

3. ANY OTHER NATIONALLY RECOGNIZED ACCREDITATION ENTITY THAT OPERATES INDEPENDENTLY OF INDUSTRY TRADE ASSOCIATIONS;

(III) BULK OR SURFACE MOLD SAMPLE ANALYSES CONDUCTED IN ACCORDANCE WITH THE STANDARDS OF:

1. THE AMERICAN INDUSTRIAL HYGIENE ASSOCIATION;

2. THE AMERICAN CONFERENCE OF GOVERNMENTAL INDUSTRIAL HYGIENISTS; OR

3. A SIMILAR NATIONALLY RECOGNIZED PROFESSIONAL ORGANIZATION;

(IV) VISIBLE MOLD INSPECTIONS TO ASSESS THE PRESENCE OF ANY VISIBLE WATER DAMAGE OR DAMPNESS ON SURFACES, INCLUDING CEILING TILES AND GYPSUM WALLBOARD; AND

(V) MOLD REMEDIATION IN ACCORDANCE WITH THE U.S. ENVIRONMENTAL PROTECTION AGENCY'S 2008 MOLD REMEDIATION IN SCHOOLS AND COMMERCIAL BUILDINGS GUIDELINES AS REVISED AND UPDATED;

(2) ESTABLISH A RISK REDUCTION STANDARD FOR MOLD HAZARDS;

(3) REQUIRE A LOCAL JURISDICTION TO:

(I) CONDUCT VISUAL INSPECTIONS TO IDENTIFY POTENTIAL MOLD IN RENTAL DWELLING UNITS WITHIN THE JURISDICTION AS OFTEN AS NECESSARY TO COMPLY WITH THE MINIMUM PROPERTY MAINTENANCE STANDARDS ESTABLISHED UNDER § 12-203 OF THE PUBLIC SAFETY ARTICLE AND LOCAL BUILDING AND MAINTENANCE CODE STANDARDS; AND

(II) NOTIFY THE LANDLORD OF A RENTAL DWELLING UNIT OF THE LANDLORD'S DUTY UNDER ITEM (5) OF THIS SUBSECTION TO HAVE A MOLD ASSESSMENT CONDUCTED FOR POTENTIAL MOLD IDENTIFIED BY A LOCAL JURISDICTION;

(4) AUTHORIZE THE INSPECTION REQUIRED UNDER ITEM (3)(I) OF THIS SUBSECTION TO BE PERFORMED IN CONJUNCTION WITH ANOTHER INSPECTION;

(5) REQUIRE THE LANDLORD OF A RENTAL DWELLING UNIT TO:

(I) PAY THE COST OF THE MOLD INSPECTION REQUIRED UNDER ITEM (3)(I) OF THIS SUBSECTION;

(II) BE RESPONSIBLE FOR HAVING A MOLD ASSESSMENT CONDUCTED TO ANALYZE POTENTIAL MOLD IDENTIFIED IN A MOLD INSPECTION UNDER ITEM (3)(I) OF THIS SUBSECTION;

(III) REMEDIATE MOLD IDENTIFIED IN A MOLD ASSESSMENT REQUIRED UNDER ITEM (3)(I) OF THIS SUBSECTION; AND

(IV) DISCLOSE THE RESULTS OF THE MOLD INSPECTION REQUIRED UNDER ITEM (3)(I) OF THIS SUBSECTION TO A TENANT OR PROSPECTIVE TENANT;

(6) REQUIRE A TENANT OF A RENTAL DWELLING UNIT TO NOTIFY THE LANDLORD AS SOON AS THE TENANT DETECTS THE PRESENCE OF MOLD; AND

(7) PROHIBIT A TENANT OR PROSPECTIVE TENANT OF A RENTAL DWELLING UNIT FROM WAIVING THE DISCLOSURE REQUIREMENT UNDER ITEM (5)(IV) OF THIS SUBSECTION.

(C) A LOCAL JURISDICTION MAY AUTHORIZE THE FOLLOWING INDIVIDUALS TO PERFORM MOLD ASSESSMENTS AND INSPECTIONS UNDER THIS SECTION:

(1) A LICENSED HOME INSPECTOR;

1 **(2) AN INDUSTRIAL HYGIENIST; OR**

2 **(3) A SIMILAR PROFESSIONAL CERTIFIED TO PERFORM MOLD**
3 **ASSESSMENTS IN ACCORDANCE WITH STANDARDS ESTABLISHED BY:**

4 **(I) THE AMERICAN INDUSTRIAL HYGIENE ASSOCIATION;**

5 **(II) THE AMERICAN CONFERENCE OF GOVERNMENTAL**
6 **INDUSTRIAL HYGIENISTS; OR**

7 **(III) A SIMILAR NATIONALLY RECOGNIZED PROFESSIONAL**
8 **ORGANIZATION.**

9 **(D) THE DEPARTMENT SHALL DEVELOP AND MAKE AVAILABLE ON ITS**
10 **WEBSITE AND IN PRINT RESOURCE MATERIALS REGARDING MOLD HAZARDS AND**
11 **MOLD.**

12 **(E) (1) (I) A PERSON WHO VIOLATES A REGULATION ADOPTED UNDER**
13 **THIS SECTION IS SUBJECT TO A CIVIL PENALTY OF UP TO \$250 PER VIOLATION, NOT**
14 **EXCEEDING \$10,000.**

15 **(II) THE CIVIL PENALTY UNDER THIS PARAGRAPH SHALL BE**
16 **ASSESSED WITH CONSIDERATION GIVEN TO:**

17 **1. THE WILLFULNESS OF THE VIOLATION AND THE**
18 **EXTENT TO WHICH THE VIOLATION WAS KNOWN TO THE VIOLATOR BUT**
19 **UNCORRECTED BY THE VIOLATOR;**

20 **2. THE EXTENT TO WHICH THE VIOLATION RESULTED IN**
21 **ACTUAL HARM TO HUMAN HEALTH;**

22 **3. THE NATURE AND DEGREE OF INJURY TO OR**
23 **INTERFERENCE WITH GENERAL WELFARE AND HEALTH; AND**

24 **4. THE EXTENT TO WHICH THE CURRENT VIOLATION IS**
25 **PART OF A RECURRENT PATTERN OF THE SAME OR SIMILAR TYPE OF VIOLATION**
26 **COMMITTED BY THE VIOLATOR.**

27 **(2) EACH DAY A VIOLATION CONTINUES CONSTITUTES A SEPARATE**
28 **OFFENSE UNDER THIS SECTION.**

29 **(3) A TENANT MAY DEPOSIT THE TENANT'S RENT IN AN ESCROW**
30 **ACCOUNT IN ACCORDANCE WITH § 8-211.2 OF THE REAL PROPERTY ARTICLE IF A**

1 LANDLORD FAILS TO COMPLY WITH:

2 (I) THE REGULATIONS ADOPTED UNDER SUBSECTION (A) OF
3 THIS SECTION; OR

4 (II) THE DISCLOSURE REQUIREMENTS UNDER SUBSECTION
5 (B)(5)(IV) OF THIS SECTION.

6 (4) A LOCAL JURISDICTION, COUNTY ATTORNEY, OR MUNICIPAL
7 ATTORNEY MAY ENFORCE THE PROVISIONS OF THIS SECTION.

8 Article – Real Property

9 8–211.2.

10 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS
11 INDICATED.

12 (2) “MOLD” HAS THE MEANING STATED IN § 6–1701 OF THE
13 ENVIRONMENT ARTICLE.

14 (3) “RENTAL DWELLING UNIT” HAS THE MEANING STATED IN §
15 6–1701 OF THE ENVIRONMENT ARTICLE.

16 (B) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION
17 AND NOTWITHSTANDING ANY OTHER PROVISION OF LAW OR ANY AGREEMENT,
18 WHETHER WRITTEN OR ORAL, IF A LANDLORD FAILS TO COMPLY WITH THE
19 REQUIREMENTS UNDER § 6–1702 OF THE ENVIRONMENT ARTICLE, THE TENANT
20 MAY DEPOSIT THE TENANT’S RENT IN AN ESCROW ACCOUNT WITH THE CLERK OF
21 THE DISTRICT COURT FOR THE DISTRICT IN WHICH THE PREMISES ARE LOCATED.

22 (2) A TENANT MAY NOT DEPOSIT THE TENANT’S RENT IN AN ESCROW
23 ACCOUNT UNDER PARAGRAPH (1) OF THIS SUBSECTION IF THE TENANT HAS NOT
24 PROVIDED NOTICE OF MOLD OR A MOLD HAZARD TO THE LANDLORD IN A
25 REASONABLE MANNER.

26 (C) THE RIGHT OF A TENANT TO DEPOSIT RENT IN AN ESCROW ACCOUNT
27 DOES NOT PRECLUDE THE TENANT FROM PURSUING ANY OTHER RIGHT OR REMEDY
28 AVAILABLE TO THE TENANT AT LAW OR EQUITY.

29 (D) MONEY DEPOSITED IN AN ESCROW ACCOUNT SHALL BE RELEASED
30 UNDER THE FOLLOWING TERMS AND CONDITIONS:

(1) TO THE LESSOR ON COMPLIANCE BY THE LESSOR WITH THE DISCLOSURE REQUIREMENTS AND REGULATIONS ADOPTED UNDER § 6-1702 OF THE ENVIRONMENT ARTICLE; OR

(E) (1) A LESSEE MAY NOT BE EVICTED, THE TENANCY MAY NOT BE TERMINATED, AND THE RENT MAY NOT BE RAISED FOR A LESSEE WHO ELECTS TO SEEK THE REMEDIES UNDER THIS SECTION.

(F) THIS SECTION SHALL PREEMPT ANY PUBLIC LOCAL LAW OR ORDINANCE CONCERNING THE DEPOSIT OF RENT INTO AN ESCROW ACCOUNT BASED ON THE EXISTENCE OF MOLD IN A RENTAL DWELLING UNIT IN THE STATE AND DISPOSITION OF THAT RENT.

SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland read as follows:

10-754.

(A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(3) “MOLD REMEDIATION” HAS THE MEANING STATED IN § 6-1701 OF THE ENVIRONMENT ARTICLE.

1 **(B) SUBJECT TO THE LIMITATIONS OF THIS SECTION, A TAXPAYER WHO**
2 **RECEIVES A TAX CREDIT CERTIFICATE MAY CLAIM A CREDIT AGAINST THE STATE**
3 **INCOME TAX FOR THE TOTAL COSTS INCURRED BY THE TAXPAYER FOR MOLD**
4 **REMEDiation PERFORMED ON RESIDENTIAL RENTAL PROPERTY DURING THE**
5 **TAXABLE YEAR.**

6 **(C) ON APPLICATION BY A TAXPAYER, THE DEPARTMENT SHALL ISSUE A**
7 **TAX CREDIT CERTIFICATE THAT MAY NOT EXCEED THE LESSER OF:**

8 **(1) THE ACTUAL COSTS INCURRED; OR**

9 **(2) \$10,000.**

10 **(D) (1) THE DEPARTMENT MAY NOT ISSUE AN AGGREGATE AMOUNT OF**
11 **TAX CREDIT CERTIFICATES EXCEEDING \$600,000 FOR A TAXABLE YEAR.**

12 **(2) (I) OF THE CREDIT AMOUNT AUTHORIZED UNDER PARAGRAPH**
13 **(1) OF THIS SUBSECTION, THE DEPARTMENT SHALL MAKE:**

14 **1. 40% AVAILABLE FOR TAXPAYERS WHO OWN SINGLE**
15 **FAMILY RESIDENTIAL PROPERTIES; AND**

16 **2. 60% AVAILABLE FOR TAXPAYERS WHO OWN**
17 **MULTIFAMILY RESIDENTIAL PROPERTIES.**

18 **(II) IF THE TOTAL AMOUNT OF CREDITS APPLIED FOR BY**
19 **SINGLE FAMILY TAXPAYERS IS LESS THAN THE AMOUNT MADE AVAILABLE UNDER**
20 **SUBPARAGRAPH (I)1 OF THIS PARAGRAPH, THE DEPARTMENT SHALL MAKE**
21 **AVAILABLE THE UNUSED AMOUNT OF CREDITS FOR USE BY TAXPAYERS WHO OWN**
22 **MULTIFAMILY RESIDENTIAL PROPERTIES.**

23 **(III) IF THE TOTAL AMOUNT OF CREDITS APPLIED FOR BY**
24 **MULTIFAMILY TAXPAYERS IS LESS THAN THE AMOUNT MADE AVAILABLE UNDER**
25 **SUBPARAGRAPH (I)2 OF THIS PARAGRAPH, THE DEPARTMENT SHALL MAKE**
26 **AVAILABLE THE UNUSED AMOUNT OF CREDITS FOR USE BY TAXPAYERS WHO OWN**
27 **SINGLE FAMILY RESIDENTIAL PROPERTIES.**

28 **(E) THE DEPARTMENT SHALL APPROVE ALL APPLICATIONS THAT QUALIFY**
29 **FOR A TAX CREDIT CERTIFICATE:**

30 **(1) ON A FIRST-COME, FIRST-SERVED BASIS; AND**

1 **(2) IN A TIMELY MANNER.**

2 **(F) (1) THE TOTAL AMOUNT OF THE CREDIT ALLOWED UNDER THIS**
3 **SECTION FOR ANY TAXABLE YEAR MAY NOT EXCEED THE STATE INCOME TAX FOR**
4 **THAT TAXABLE YEAR, CALCULATED BEFORE THE APPLICATION OF THE CREDITS**
5 **UNDER THIS SECTION AND §§ 10-701 AND 10-701.1 OF THIS SUBTITLE BUT AFTER**
6 **THE APPLICATION OF OTHER CREDITS ALLOWABLE UNDER THIS SUBTITLE.**

7 **(2) THE UNUSED AMOUNT OF CREDIT FOR ANY TAXABLE YEAR MAY**
8 **NOT BE CARRIED OVER TO ANY OTHER TAXABLE YEAR.**

9 **(G) THE CREDIT UNDER THIS SECTION MAY NOT BE CLAIMED FOR MOLD**
10 **REMEDICATION ACTIVITIES PERFORMED BEFORE JANUARY 1, 2022, OR AFTER**
11 **DECEMBER 31, 2031.**

12 **(H) (1) ON OR BEFORE JANUARY 31 EACH TAXABLE YEAR, THE**
13 **DEPARTMENT SHALL REPORT TO THE COMPTROLLER ON THE TAX CREDIT**
14 **CERTIFICATES ISSUED UNDER THIS SECTION DURING THE PRIOR TAXABLE YEAR.**

15 **(2) (I) ON OR BEFORE OCTOBER 1, 2023, AND EACH YEAR**
16 **THEREAFTER, THE COMPTROLLER AND THE DEPARTMENT JOINTLY SHALL REPORT**
17 **TO THE GENERAL ASSEMBLY, IN ACCORDANCE WITH § 2-1257 OF THE STATE**
18 **GOVERNMENT ARTICLE, ON:**

19 **1. THE NUMBER OF CERTIFICATIONS AND TAXPAYERS**
20 **CLAIMING THE CREDIT UNDER THIS SECTION;**

21 **2. THE NAME AND PHYSICAL LOCATION OF EACH**
22 **TAXPAYER ISSUED AN INITIAL CREDIT CERTIFICATE;**

23 **3. THE MAXIMUM CREDIT AMOUNT APPROVED FOR EACH**
24 **TAXPAYER;**

25 **4. THE GEOGRAPHICAL DISTRIBUTION OF THE CREDITS**
26 **CLAIMED; AND**

27 **5. ANY OTHER AVAILABLE INFORMATION THE**
28 **ADMINISTRATION DETERMINES TO BE MEANINGFUL AND APPROPRIATE.**

29 **(II) THE COMPTROLLER SHALL ENSURE THAT THE**
30 **INFORMATION IS PRESENTED AND CLASSIFIED IN A MANNER CONSISTENT WITH THE**
31 **CONFIDENTIALITY OF TAX RETURN INFORMATION.**

1 **(I) THE DEPARTMENT, IN CONSULTATION WITH THE COMPTROLLER AND**
2 **THE DEPARTMENT OF THE ENVIRONMENT, SHALL ADOPT REGULATIONS TO CARRY**
3 **OUT THIS SECTION.**

4 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect July
5 1, 2022. Section 2 of this Act shall remain effective for a period of 10 years and, at the end
6 of June 30, 2032, Section 2 of this Act, with no further action required by the General
7 Assembly, shall be abrogated and of no further force and effect.