

**COUNCIL OF THE DISTRICT OF COLUMBIA  
COMMITTEE OF THE WHOLE  
COMMITTEE REPORT**

1350 Pennsylvania Avenue, NW, Washington, DC 20004

DRAFT

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**TO:** All Councilmembers

**FROM:** Chairman Phil Mendelson  
Committee of the Whole

**DATE:** December 1, 2020

**SUBJECT:** Report on Bill 23-132, “Residential Housing Environmental Safety Amendment Act of 2020”

The Committee of the Whole, to which Bill 23-132, the “Residential Housing Environmental Safety Amendment Act of 2020”<sup>1</sup> was referred, reports favorably thereon with amendments, and recommends approval by the Council.

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**I. BACKGROUND AND NEED**

On February 5, 2019, Bill 23-132, the “Residential Housing Environmental Safety Amendment Act of 2020” was introduced by Councilmember Allen, Bonds, Evans, Grosso, McDuffie, Nadeau, Todd, R. White, T. White, and Chairman Mendelson. Originally introduced to deal with inspection and compliance regarding mold in residential apartments, the Committee Print also amends the Lead-Hazard Prevention and Elimination Act of 2008 to modify acceptable levels of lead exposure. The bill would require the Department of Regulatory and Consumer Affairs (DCRA) to issue a notice of violation when it has been determined that indoor mold growth exceeds ten square feet, impose civil penalties on property owners who fail to remediate indoor mold and require housing inspectors employed by DCRA to obtain certification from the Department of Energy and the Environment (DOEE) to conduct indoor mold inspections. Currently only DOEE inspectors have this authority, although in the fiscal year 2021 budget DOEE has no funding or FTE’s allocated for this purpose. Additionally, the bill would adjust the threshold

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<sup>1</sup> Formerly the Indoor Mold Remediation Enforcement Amendment Act of 2019.

for elevated blood lead levels, lead content in paint products, lead-contaminated dust, lead-free properties, and lead-free units.

This bill was sequentially referred, first to the Committee on Transportation and the Environment (T&E). The Committee of the Whole Print makes minor changes to what the T&E Committee recommended pertaining to mold: clarifying certain applicability dates and strengthening penalties for mold violations. The Committee of the Whole makes no changes to what the T&E Committee recommended for revisions strengthening over lead paint law.

### ***Indoor Mold Assessment and Remediation***

We spend nearly 70% of our time in our homes.<sup>2</sup> While we often think of pollution as occurring outside of our homes, conditions within a home can contribute to the dispersion of indoor air pollutants. One of those pollutants is mold, a fungus that grows on organic matter. Mold reproduces via mold spores that are released into the air. These spores can cause allergic reactions or worse. Research has shown that the presence of indoor mold in housing units is associated with increased incidence or severity of respiratory problems such as asthma and rhinosinusitis,<sup>3</sup> gastrointestinal symptoms such as nausea, vomiting, and diarrhea,<sup>4</sup> and cognitive defects and difficulties.<sup>5</sup>

In 2014, Council adopted the Air Quality Amendment Act of 2014 (Law 20-135, 61 DCR 9968), recognizing the impact that mold can have on the health and well-being of tenants. Under the law, a tenant must notify the property owner or landlord that indoor mold or suspected indoor mold exists in the dwelling unit.<sup>6</sup> Upon receipt of the notification, the property owner has seven days to inspect the unit and 30 days to remediate the conditions. If a property owner finds that the indoor mold covers an area of ten square feet (10 ft.<sup>2</sup>) or more, then it must be assessed and remediated by a licensed mold professional.<sup>7</sup> If a property owner fails to remediate the mold, the Department of Energy and Environment (DOEE) may issue a notice of violation, or the tenant may sue the property owner in court.<sup>8</sup> Per data from DOEE's performance oversight hearing, they received 506 mold complaints.<sup>9</sup> None of these complaints resulted in a notice of violation or notice of infraction, as DOEE had yet to finalize a schedule of fines for mold.<sup>10</sup> Additionally, while the

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<sup>2</sup> Klepeis, Neil E., William C. Nelson, Wayne R. Ott, John P. Robinson, Andy M. Tsang, Paul Switzer, Joseph V. Behar, Stephen C. Hern, and William H. Engelmann. "The National Human Activity Pattern Survey (NHAPS): a resource for assessing exposure to environmental pollutants." *Journal of Exposure Science & Environmental Epidemiology* 11, no. 3 (2001): 231-252.

<sup>3</sup> Curtis, Luke, Allan Lieberman, Martha Stark, William Rea, and Marsha Vetter. "Adverse health effects of indoor molds." *Journal of Nutritional & Environmental Medicine* 14, no. 3 (2004): 261-274.

<sup>4</sup> Peraica, Maja, Božica Radić, Ana Lucić, and Mladen Pavlović. "Toxic effects of mycotoxins in humans." *Bulletin of the World Health Organization* 77, no. 9 (1999): 754.

<sup>5</sup> See, for instance, Koskinen, Outi M., Tuula M. Husman, Teija M. Meklin, and Aino I. Nevalainen. "Adverse health effects in children associated with moisture and mold observations in houses." *International Journal of Environmental Health Research* 9, no. 2 (1999): 143-156; Baldo, J. V., Ahmad, L., & Ruff, R. (2002). Neuropsychological performance of patients following mold exposure. *Applied Neuropsychology*, 9(4), 193-202.

<sup>6</sup> D.C. Official Code § 8-241.04(a).

<sup>7</sup> *Id.*

<sup>8</sup> 20 DMR § 3201.8.

<sup>9</sup> DOEE FY20 Performance Oversight Hearing, Attachment Q39 – Complaints and Inspections, Table 1.

<sup>10</sup> *Id.*

Department of Consumer and Regulatory Affairs (DCRA) can rely on a professional mold assessment to issue a notice of violation for a defective surface, they have not done so yet.<sup>11</sup> This means that the primary mechanism for enforcement is on the tenant, either via private resolution or via court. The costs of hiring a licensed mold professional or taking a landlord to court are often too much for tenants to bear, however.<sup>12</sup> This is particularly true for tenants living with significant indoor mold growth. Data from the American Housing Survey suggests that a disproportionate number of units in the District that contain mold are occupied by Black and low-income residents.<sup>13</sup>

Bill 23-132 seeks to address these limitations by requiring DCRA housing code inspectors to be certified for mold inspections and requiring DCRA to issue notices of infraction where indoor mold growth is discovered. The Committee of the Whole's Print makes minor changes to what T&E reported to provide clarity around certification requirements for DCRA housing code inspectors and to bolster enforcement mechanisms. First, rather than stating that housing code inspectors must be certified within 180 days of the effective date of the Act, the Committee Print specifies that housing code inspectors employed by DCRA as of October 1, 2021 must be certified for mold assessment by March 31, 2022, and housing code inspectors hired after October 1, 2021 must be certified within 90 days after being hired. A date certain for these requirements ensures that there is no confusion about when housing inspectors must be certified. These dates were selected to reflect the fact that these requirements will not be applicable until they are funded in the District's budget and financial plan.

Second, in the print from the Committee on Transportation and the Environment, a notice of violation would be issued if the mold growth was equal to exceeded 10 ft.<sup>2</sup> and the violation would be categorized as a class 4 infraction. The Committee of the Whole's Print makes several changes here. First, the Print changes changes "notice of violation" to "notice of infraction" because DCRA no longer issues notices of violation.<sup>14</sup> Second, the Committee Print classifies indoor mold violations as follows:

- If the indoor mold growth is less than 10 ft.<sup>2</sup>, then it is a class 4 infraction; and
- If the indoor mold growth is equal to or exceeds 10 ft.<sup>2</sup>, then it is a class 3 violation.

The Committee chose this classification scheme to ensure that indoor mold growth that is less than 10 ft.<sup>2</sup> is still treated as a violation pursuant to D.C. Official Code § 8-241.05(b), and because indoor mold growth of 10 ft.<sup>2</sup> or more is consistent with the definition of class 3 violations as "...infractions that are serious and have an immediate, substantial impact on the health, safety, or welfare of persons within the District of Columbia."<sup>15</sup>

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<sup>11</sup> D.C. Official Code § 8-241.05(b).

<sup>12</sup> D.C.'s Access to Justice Commission found that 75% of tenants in housing conditions cases and 88% of tenants in Landlord-Tenant cases did not have an attorney (D.C. Access to Justice Comm'n, *Delivering Justice: Addressing Civil Legal Needs in the District of Columbia* (Dec. 2019)).

<sup>13</sup> Author analysis of 2019 American Housing Survey data.

<sup>14</sup> "DCRA Announces Enforcement and Consumer Protection Enhancements," April 2, 2019 (<https://dcra.dc.gov/release/dcra-announces-enforcement-and-consumer-protection-enhancements>).

<sup>15</sup> 16 DCMR § 3200.1(c).

### ***Amendments to the Lead-Hazard Prevention and Elimination Act of 2008***

In their print, the Committee on Transportation and the Environment added elements of Bill 23-407, the “Lead Hazard Prevention and Elimination Amendment Act of 2019” into section 4 of the bill. This section would amend D.C. Official Code § 8-231.01 to adjust thresholds for elevated blood lead levels, lead content in paint products, lead-contaminated dust, lead-free properties, and lead-free units. The Committee of the Whole agrees with these amendments and makes no changes to them in the Committee Print.

### ***Conclusion***

Indoor mold is a threat to the health and well-being of tenants in the District, particularly tenants with asthma and other chronic respiratory conditions. This bill will strengthen the District’s enforcement of indoor air quality by requiring housing code inspectors to be certified in indoor mold assessment and establishing penalties for when property owners fail to remediate indoor mold. Given these facts, the Committee recommends approval of Bill 23-132 as amended in the Committee Print.

## **II. LEGISLATIVE CHRONOLOGY (ABBREVIATED)**

March 19, 2019	Bill 23-132, the “Indoor Mold Remediation Enforcement Amendment Act of 2019” is introduced by Councilmember Allen, Bonds, Evans, Grosso, McDuffie, Nadeau, Todd, R. White, T. White, and Chairman Mendelson.
December 9, 2019	The Committee of the Whole and the Committee on Transportation and the Environment holds a joint public hearing on Bill 23-132.
November 9, 2020	The Committee on Transportation and the Environment marks up Bill 23-132.
December 1, 2020	The Committee of the Whole marks up Bill 23-132.

## **III. SUMMARY OF TESTIMONY**

Tommy Wells, Director of the Department of Energy and Environment, testified at the Committee’s joint public hearing on December 9, 2019. Mr. Wells stated while DOEE supports the intent of the bill, he believes the bill is unnecessary and duplicative as DOEE plans to hire two indoor mold inspectors using funds from the FY 2020 budget. DCRA did not send a representative to testify, but Mr. Wells said that the agency is “greatly concerned” about additional requirements for housing code inspectors and therefore could not support the bill.

Six public witnesses testified at the Committee’s joint public hearing, including representatives from the Legal Aid Society, Children’s Law Center, and the Apartment and Office

Building Association of Metropolitan Washington. All public witnesses were supportive of the bill. Testimony from the Children’s Law Center and comments from the D.C. Tenants’ Rights Center encouraged the Council to strengthen the bill by ensuring there are penalties for indoor mold growth of less 10 ft.<sup>2</sup> and increasing penalties for indoor mold growth equal to or exceeding 10 ft.<sup>2</sup>.

#### **IV. COMMENTS OF ADVISORY NEIGHBORHOOD COMMISSIONS**

The Committee did not receive comments from any Advisory Neighborhood Commissions (ANC) regarding this bill.

#### **V. IMPACT ON EXISTING LAW**

Bill 23-132 amends the Air Quality Amendment Act of 2014, effective September 9, 2014 (D.C. Law 20-135; D.C. Official Code § 8-241.01 *et seq.*) to require DCRA or DOEE to issue a notice of infraction when they determine that a property has significant indoor mold growth. Property owners may request an extension of the timeline to remediate indoor mold where they have made good faith efforts, and remediation requires more than 30 days. The bill requires DCRA housing code inspectors to become certified to conduct mold inspections. Bill 23-132 also amends the Lead-Hazard Prevention and Elimination Act of 2008, effective March 31, 2009 (D.C. Law 17-381; D.C. Official Code § 8-231.01) to adjust thresholds for elevated blood lead levels, lead content in paint products, lead-contaminated dust, lead-free properties, and lead-free units.

#### **VI. FISCAL IMPACT**

#### **VII. SECTION-BY-SECTION ANALYSIS**

<u>Section 1</u>	States the short title of Bill 23-132.
<u>Section 2</u>	Amends D.C. Official Code § 8-241.05 to require the Department of Consumer and Regulatory Affairs or the Department of Energy and Environment to issue a notice of infraction when it is determined that a property has significant indoor mold growth.
<u>Section 3</u>	Ensures that the Office of Administrative Hearings has jurisdiction over all appeals made pursuant to D.C. Official Code § 8-241.05(c)(3)(C).
<u>Section 4</u>	Amends D.C. Official Code § 8-231.01 to change thresholds for elevated blood lead levels, lead content in paint products, lead-contaminated dust, led-free properties, and lead-free units.
<u>Section 5</u>	Applicability.

Section 6                      Fiscal impact statement.

Section 7                      This provides the standard language for 30-day Congressional Review  
before Bill 23-132 is law.

**VIII.      COMMITTEE ACTION**

**IX.      ATTACHMENTS**

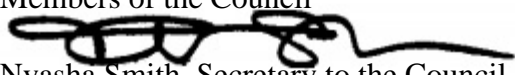
1.      Bill 23-132 as introduced.
2.      Committee on Transportation and Environment report on Bill 23-132 without  
         attachments.
3.      Fiscal Impact Statement for Bill 23-132.
4.      Legal Sufficiency Determination for Bill 23-132.
5.      Comparative Print for Bill 23-132.
6.      Committee Print for Bill 23-132.

**COUNCIL OF THE DISTRICT OF COLUMBIA**  
**1350 Pennsylvania Avenue, N.W.**  
**Washington D.C. 20004**

Memorandum

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To : Members of the Council

From :   
Nyasha Smith, Secretary to the Council

Date : February 06, 2019

Subject : Referral of Proposed Legislation

Notice is given that the attached proposed legislation was introduced in the Committee of the Whole on Tuesday, February 5, 2019. Copies are available in Room 10, the Legislative Services Division.

TITLE: "Indoor Mold Remediation Enforcement Amendment Act of 2019", B23-0132

INTRODUCED BY: Chairman Mendelson and Councilmembers R. White, Evans, McDuffie, T. White, Bonds, Nadeau, Todd, Allen, and Grosso

CO-SPONSORED BY: Councilmembers Cheh and Gray

The Chairman is referring this legislation sequentially to the Committee on Transportation and the Environment and the Committee of the Whole.


Attachment

cc: General Counsel  
Budget Director  
Legislative Services

1   
2 Councilmember Anita Bonds

  
Chairman Phil Mendelson

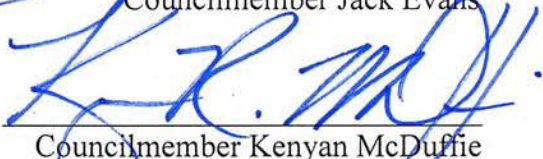
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6 Councilmember David Grosso

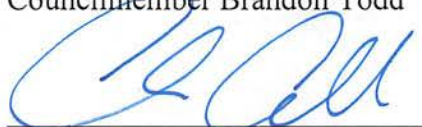
  
Councilmember Robert C. White, Jr.

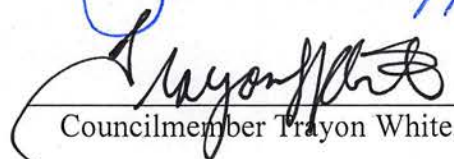
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9 Councilmember Brianne K. Nadeau

  
Councilmember Jack Evans

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12  
13 Councilmember Brandon Todd

  
Councilmember Kenyan McDuffie

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16  
17 Councilmember Charles Allen

  
Councilmember Trayon White, Sr.

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20  
21 A BILL

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23 \_\_\_\_\_  
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25 IN THE COUNCIL OF THE DISTRICT OF COLUMBIA  
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28

29 To amend the Air Quality Amendment Act of 2013 to provide for administrative enforcement of  
30 indoor mold remediation standards and procedures of the act; and to require Department  
31 of Consumer and Regulatory Affairs housing inspectors to be certified to conduct indoor  
32 mold assessment and remediation.

33 BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this  
34 act may be cited as the "Indoor Mold Remediation Enforcement Amendment Act of 2019".

35 Sec. 2. The District of Columbia Air Quality Amendment Act of 2013, effective  
36 September 9, 2014 (D.C. Law 20-135; D.C. Official Code § 8-241.01 *et seq.*) is amended as  
37 follows:

38 (a) Section 306 (D.C. Official Code § 8-241.05), is amended by adding a new subsection  
39 (c) to read as follows:



40           “(c)(1) The Department of Consumer and Regulatory Affairs or the Director shall issue a  
41 notice of violation requesting a residential property owner remediate indoor mold in accordance  
42 with section 305 if the Department of Consumer and Regulatory Affairs or Director determines  
43 that a property has ten or more square feet (10 ft.2) of indoor mold growth in an affected area.

44           “(2) The Department of Consumer and Regulatory Affairs or Director, depending  
45 upon who issued the notice of violation, shall impose a penalty on a residential property owner  
46 who fails to remediate indoor mold in accordance with section 305, which shall be a class 4  
47 infraction under the schedule of fines in Chapter 32 of Title 16 of the District of Columbia  
48 Municipal Regulations (16 DCMR Section 3200 *et seq.*)

49           “(3) A residential property owner may submit a written request to extend the  
50 timeline for indoor mold remediation to the Department of Consumer and Regulatory Affairs or  
51 Director. The Department of Consumer and Regulatory Affairs or Director may extend the  
52 timeline for remediation when:

53                       “(A) The residential property owner has made good faith efforts to  
54 remediate the mold; and

55                       “(B) Remediation of the indoor mold requires more than 30 days to  
56 complete.

57           “(4) The Department of Consumer and Regulatory Affairs or Director shall notify  
58 the residential property owner and tenant of his or her decision in writing within 10 business  
59 days after a written request from the property owner has been received.

60           “(5) A residential property owner or tenant shall have 15 days from the receipt of  
61 the Department of Consumer and Regulatory Affairs or Director’s decision to file an appeal with  
62 the Office of Administrative Hearings.”

63 (b) Section 303(b) (D.C. Official Code § 8-241.02(b)), is amended by striking the word  
64 “may” and inserting the word “shall” in its place.

65 Sec. 3. Certification of Department of Consumer and Regulatory Affairs housing  
66 inspectors.

67 Each housing inspector under the authority of the Department of Consumer and  
68 Regulatory Affairs shall obtain certification from the Department of the Energy and Environment  
69 to conduct indoor mold assessment and remediation within 180 days after the effective date of  
70 this act.

71 Sec. 4. Fiscal impact statement.

72 The Council adopts the fiscal impact statement in the committee report as the fiscal  
73 impact statement required by section 4a of the General Legislative Procedures Act of 1975,  
74 approved October 16, 2006 (12 Stat. 2038; D.C. Official Code § 1-301.47a).

75 Sec. 5. Effective date.

76 This act shall take effect following approval of the Mayor (or in the event of veto by the  
77 Mayor, action by the Council to override the veto), a 30-day period of Congressional review as  
78 provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December  
79 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(1)), and publication in the District of  
80 Columbia Register.

**Council of the District of Columbia  
Committee on Transportation and the Environment**

**Committee Report**

1350 Pennsylvania Avenue, N.W., Washington, DC 20004

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To: Members of the Council of the District of Columbia

From: Mary M. Cheh, Chairperson  
Committee on the Transportation and the Environment

Date: November 9, 2020

Subject: B23-132, the “Residential Housing Environmental Safety Amendment Act of 2020”

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The Committee on Transportation and the Environment, to which B23-132, the “Residential Housing Environmental Safety Amendment Act of 2020” was referred, reports favorably on the legislation and recommends approval by the Council of the District of Columbia.

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## **STATEMENT OF PURPOSE AND EFFECT**

Bill 23-132, the “Indoor Mold Remediation Enforcement Amendment Act of 2019” was introduced by Chairman Mendelson, and Councilmembers Robert White, Evans, McDuffie, Trayon White, Bonds, Nadeau, Todd, Allen, and Grosso on February 5, 2019; the legislation was co-sponsored by Councilmembers Cheh and Gray. The Committee held a hearing on B23-132 on December 9, 2019.

The Committee Print of B23-132 incorporates language from Bill 23-407, the “Lead Hazard Prevention and Elimination Amendment Act of 2019.” Bill 23-407 was introduced by Councilmembers Allen, Bonds, Cheh, Nadeau, Grosso, and Robert White on July 9, 2019, and the Committee held a hearing on B23-407 on November 18, 2019.

### **I. Background**

For years, the number of District residents suffering from asthma has far outpaced the national average;<sup>1</sup> as of 2018, more than one in eight District residents had been diagnosed with asthma.<sup>2</sup> And, indoor mold contamination is a direct contributor to the District’s high asthma rates.<sup>3</sup> In recognition of this fact, on June 3, 2014, the Council passed the Air Quality Amendment Act of 2014; this legislation provided the District Department of Energy and Environment (“DOEE”) with important new tools to address mold contamination at residential properties. Specifically, the legislation required DOEE to develop a mold assessment and remediation certification and licensing program for third party inspectors and established indoor mold contamination thresholds; owners of properties found to exceed any of these thresholds are required to hire an indoor mold remediation professional to remove the mold. The law also required landlords to directly clean and remove amounts of mold below the set threshold. Finally, the law updated the District’s housing laws to make it easier for tenants to bring a claim in District court for the violation of the act.

Although the 2014 law has provided important relief to tenants living in units with outstanding mold contamination, the primary method provided to residents to enforce the law was private enforcement; the legislation did not provide funding or a clear mandate for any District agency to undertake mold inspections, issue citations, or enforce mold remediation thresholds. For many residents, private enforcement is infeasible or impractical; the time commitment, cost, and procedural knowledge required is a substantial barrier. In turn, the time to resolve a claim can be quite long, and many residents may choose to simply move.

B23-132, as introduced, would require the Department of Consumer and Regulatory Affairs (“DCRA”), in addition to DOEE, to enforce the District’s indoor mold contamination laws.

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<sup>1</sup> Per the Center for Disease Control, as of 2018, 7.7% of Americans had asthma. National Data, Center for Disease Control and Prevention (available at: [https://www.cdc.gov/asthma/most\\_recent\\_national\\_asthma\\_data.htm](https://www.cdc.gov/asthma/most_recent_national_asthma_data.htm)).

<sup>2</sup> State or Territory Data, Center for Disease Control and Prevention (available at: [https://www.cdc.gov/asthma/most\\_recent\\_data\\_states.htm](https://www.cdc.gov/asthma/most_recent_data_states.htm)).

<sup>3</sup> Baskin, Morgan, “Doctors Blame D.C.’s High Asthma Rates in Part on Poor Housing,” Washington City Paer, May 22, 2019.

DCRA already is responsible for enforcement, including inspections, of a number of the District’s safe and healthy housing laws and regulations. These include requirements regarding pest abatement, fire safety, general cleanliness, heating and cooling, and electric service; however, to date, DCRA’s inspection and enforcement authority does not extend to mold contamination.

The Committee notes that, per Director Wells’ testimony at the Committee’s December 9, 2019 hearing on B23-132, DOEE has interpreted the 2014 law to provide the agency with authority to undertake agency-led mold inspection and enforcement. To date, however, the agency has not taken on that work. In late 2019, DOEE began the process to hire two mold inspectors, with plans to expand the program even further. Unfortunately, due to budget constraints stemming from the ongoing public health emergency, DOEE has put this program—and the hiring of these two FTEs—on hold. Nevertheless, the Committee notes that DOEE does not believe additional authority is need for the agency to undertake the work in the bill, as introduced.

## **II. Committee Action**

The Committee print broadly adopts B23-132, as introduced. However, the Committee print makes one change to the language governing the threshold at which DCRA and DOEE must issue a notice of violation. As introduced, the legislation set this threshold at 10 square feet or greater of indoor mold growth; this level matches the threshold for remediation under DOEE’s existing regulations. Director Wells noted for the Committee, however, that codifying that threshold would prevent the agency from updating it in the future, where best practices change. To address this concern, the Committee print sets the threshold as the square footage delineated in DOEE’s regulations, as promulgated pursuant to DC Official Code § 8-241.02. The Committee believes this change will ensure that this threshold reflects the latest research regarding lead exposure, as well as best practices for safe and healthy housing.

As noted above, the Committee print also incorporates language from B23-407, the “Lead Hazard Prevention and Elimination Amendment Act of 2019.” This language would strengthen a number of standards under the Lead-Hazard Prevention and Elimination Act of 2008; specifically, thresholds for elevated blood lead levels in children, lead-based paint, and lead-contaminated dust.<sup>4</sup> All of the updated standards adopted in the Committee print, and discussed during the hearing on B23-407, reflect best practices as laid out by relevant federal agencies and neighboring jurisdictions.

At the hearing on B23-407, the Committee received extensive testimony on the appropriate threshold for “elevated blood lead levels,” which is currently set at a maximum of 10 micrograms

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<sup>4</sup> The standard adopted in the print for lead-contaminated dust on floors and windowsills adheres to standards updated by the EPA on June 21, 2019. *See* “EPA Takes Important Step to Further Protect Children from Exposure to Lead-Contaminated Dust,” News Releases, U.S. Environmental Protection Agency, June 21, 2019. (available at: <https://www.epa.gov/newsreleases/epa-takes-important-step-further-protect-children-exposure-lead-contaminated-dust-1>). The print also updates standards for window troughs to adhere with January 31, 2017 guidance from the U.S. Department of Housing and Urban Development for properties served by HUD programs, and which set a minimum threshold for window troughs at 100 p mg<sup>t2</sup> from 400 p mg<sup>t2</sup>. “Revised Dust-Lead Action Levels for Risk Assessment and Clearance; Clearance of 40 p Floors,” Office of Lead Hazard Control and Healthy Homes, U.S. Department of Housing and Urban Development, Policy Guidance No. 2017-01, January 31, 2017 (available at: <https://www.hud.gov/sites/documents/LEADDUSTCLEARANCE.PDF>).

of lead per deciliter (“ $\mu$ /dL”). Where a child is found to have a level of lead in their blood at or above this threshold, the statute requires that the Mayor initiate a risk assessment of the child’s residence and other properties that may have contributed to the lead exposure. The print would reduce the current threshold by half, to 5  $\mu$ /dL. This change would update District law to match CDC recommendations, which state that public health action is appropriate where a child age 6 or under has a blood lead level of 5  $\mu$ /dL or greater.<sup>5</sup> That said, at the hearing, several witnesses recommended that the District lower this threshold even further; suggestions included setting a maximum elevated blood lead level of 3.5  $\mu$ /dL, or even requiring action where a test returns any presence of lead at all. Other witnesses testified against lowering the threshold below 5.0  $\mu$ /dL at this time. These witnesses noted that no other jurisdiction has set a threshold below 5.0  $\mu$ /dL, and expressed concerns about outpacing the current CDC guidance. Other witnesses shared information about the inability of labs to accurately test lead levels at these lower thresholds, raising the risk of false negatives; these witnesses noted that many tests have a minimum, but greater than zero,  $\mu$ /dL that the test can accurately identify—meaning, with current testing technology, requiring that tests be able to identify lead levels of 0.0  $\mu$ /dL is not possible. For these reasons, the Committee Print retains the 5.0  $\mu$ /dL threshold; however, the Committee will continue to track CDC guidance, the development of testing technology, and general best practices on this front to see if and when enhancing this threshold would make sense in the future legislation.

The Committee print sets the threshold for lead content in paint products at 0.7 mg/f<sup>2</sup> the standard set by the state of Maryland.<sup>6</sup> The Committee notes that some other jurisdictions set an even lower threshold, with New York City prescribing a maximum of 0.5 mg/f<sup>2</sup>; that said, testimony received at the hearing on B23-407 recommended maintain the standard as set in the bill, as introduced, to provide consistency across jurisdictions, and to reflect best practices. The print does not, however, incorporate language included in the bill, as introduced, that would require remediation for painted surfaces exceeding 0.009% lead by weight—including existing wall surfaces. This standard, set by the United States Consumer Product Safety Commission (“CPSC”), is for the sale of paint and painted products.<sup>7</sup> The EPA, on the other hand, sets a standard of 0.5%, by weight for renovations in target housing and child-occupied facilities.<sup>8</sup>

If the District were to adopt the CPSC standard for paint products at sale, all paint—newly bought or applied, and of any age—would need to comply; it is the Committee’s understanding that this would bring the vast majority of rental units built from 1979 through 2009 out of compliance. As a result, adopting the CPSC standard for sold paint products would require extensive inspections and enforcement by the District, raising costs for this bill to such a level that funding this enhancement would not likely be feasible.<sup>9</sup> With that in mind, the Committee print maintains the current standard of 0.5% by weight—which, again, is the standard used by Maryland and by the EPA. The Committee notes that the standard set by CPSC already prohibits the sale of paint products with a concentration of lead exceeding 0.009% lead by weight, meaning those products may not be sold in the District, regardless of the language in the Committee print.

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<sup>5</sup> “State Blood Lead Testing Laws Requiring 5 ug/dL & CDC Reference Rule.” Centers for Disease Control and Prevention, March 2017 (available at: <https://www.cdc.gov/phlp/docs/laws-bl1.pdf>).

<sup>6</sup> COMAR 26.16.01.02B(7), 40 CFR §745.82.

<sup>7</sup> See 16 C.F.R. § 1303.1.

<sup>8</sup> 40 C.F.R. § 745.82.

<sup>9</sup> The Committee notes that this bill was not scored, so this assessment is based on discussions with relevant agency staff regarding the impact of the legislation, including cost.

For lead-contaminated dust, the Committee print amends the statute to set a separate standard for porch surfaces, separate from concrete or other rough exterior sources; this language would bring the District in line with 2017 policy guidance from the U.S. Department of Housing and Urban Development. Porches may pose an increased risk of lead exposure due to their frequent use by residents; what's more, the HUD guidance notes that lead-contaminated dust may settle on porches during renovations or other work on the property, posing a unique risk to residents. Including a separate standard for these areas will help mitigate lead exposure in these highly trafficked areas of the home.

The Committee notes that the print does not incorporate the entirety of B23-407; first, the Committee Print does not update the standard for lead-contaminated soil set at D.C. Official Code § 8-231.01(25). Currently, the EPA sets the threshold for lead-contaminated soil at outdoor play areas at 400 ppm,<sup>10</sup> and this is also the District's current threshold. Although the Committee supports ensuring that our lead remediation thresholds are set at levels that ensure minimal lead exposure, the Committee is concerned that the standard set in the bill, as introduced—80 ppm<sup>11</sup>—is unattainable for many properties, due to the consistent, poor quality of the District's soil. At the hearing on B23-407, DOEE Director Tommy Wells raised similar concerns; where the current standard for lead-contaminated-soil is lowered significantly, a large percentage of residential properties may be unable to pass an inspection. Remediating this volume of soil may not be feasible for many building owners—especially smaller landlords—and could remove a large number of affordable properties from the market. Although the Committee is committed to reducing the risk that residents are exposed to lead, any changes must reflect best practices, and not cause larger harm to residents, through a loss of available affordable housing. The Committee underscores that the standard in effect in the District is the same standard as used by the EPA for outdoor play areas. That said, however, the Committee intends to work with DOEE, DCRA, and other relevant District agencies to identify ways to broadly and cost-effectively mitigate the poor quality of the District's soil.

Second, the legislation does not incorporate language that would establish new, proactive processes to certifying a property as lead-free. The Committee supports the intent of this language; however, given the ongoing public health emergency, and the current moratorium on residential evictions, the Committee was concerned that these new certification requirements, which could be quite expensive, could impact the availability of affordable housing. Specifically, the Committee had concerns that certain landlords could take units off the market, to avoid proactive testing and remediation costs, where they are not collecting rent. The bill, as introduced, recognized the concern that some landlords may face substantial hardship complying with these requirements, by proposing the creation of a hardship fund. With the District facing an unprecedented deficit, however, it is unclear if and when the Council would be able to identify these funds. Without a

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<sup>10</sup> 40 C.F.R. §745.65.

<sup>11</sup> The 80 ppm standard is in use by California. Advocates recommended an alternative 200 ppm standard, which is the minimum threshold use by Massachusetts. *See* "Soil Lead: Testing, Interpretation, & Recommendations," Soil and Plant Nutrient Testing Laboratory, University of Massachusetts, Amherst, March 2020 (available at: [https://ag.umass.edu/sites/ag.umass.edu/files/fact-sheets/pdf/spntl\\_5\\_soil\\_lead\\_033120.pdf](https://ag.umass.edu/sites/ag.umass.edu/files/fact-sheets/pdf/spntl_5_soil_lead_033120.pdf)). The Committee is not convinced, however, that California or Massachusetts are an appropriate benchmark for the District here, given the unique, poor state of the District's soil, and the differences between these jurisdictions: the District, a purely urban jurisdiction, and California and Massachusetts, which span rural to urban areas.

functioning hardship fund in place, the Committee worries that this new mandate would result in a loss of affordable housing at a time when many residents are struggling to find and retain safe, affordable housing.

As such, the Committee believes it makes most sense to reconsider this certification program in Council Period 24, after the public health emergency has concluded. However, the Committee wishes to underscore that the Committee print retains the language in B23-407, as introduced, strengthening minimum thresholds for lead-exposure and contamination. These new standards are no compromise, but best practices, and landlords are required to remediate lead exposure in residential spaces.

### **CHRONOLOGY OF ACTION**

- |                   |   |
|-------------------|---|
| February 5, 2019  | Introduction of Bill 23-132 by Chairman Mendelson, and Councilmembers Robert White, Evans, McDuffie, Trayon White, Bonds, Nadeau, Todd, Allen, and Grosso |
| February 5, 2019  | Referral of Bill 23-132 to the Committee on Transportation and the Environment  |
| February 15, 2019 | Notice of Intent to Act on Bill 23-132 is published in the <i>District of Columbia Register</i>   |
| November 22, 2019 | Notice of Public Hearing on B23-132 is published in the <i>District of Columbia Register</i>  |
| December 9, 2019  | Hearing on B23-132 held by the Committee on Transportation and the Environment  |
| November 9, 2020  | Consideration and vote on Bill 23-132 by Committee on Transportation and the Environment  |

### **POSITION OF DC WATER AND THE EXECUTIVE**

On December 9, 2019, Tommy Wells, Director of the Department of Energy and Environment testified before the Committee on B23-132. Director Wells testified that the agency felt B23-132 was unnecessary, and potentially duplicative. The District's existing indoor mold law already requires that DOEE license and certify indoor mold assessors and remediators, and set standards for buildings to meet; in fact, the legislation as introduced set the threshold necessitating remediation of mold at the levels set by DOEE in the agency regulations. Director Wells noted that DOEE already had the authority to do this work, and was in the process of hiring inspectors for this purpose, making the legislation duplicative of ongoing agency efforts.



In turn, Director Wells shared brief comments from the Department of Consumer and Regulatory Affairs, which did not send a representative to testify at the hearing; DCRA, according to Director Wells testimony, also opposed the legislation, believing that expanding DCRA enforcements' role to include mold would stretch their enforcement staff too thin.

Besides recommending that the Committee not move B23-132 forward, Director Wells noted that any Committee print should not include a specific threshold for enforcement, as doing so would lock the agency into a specific number, even where best practices suggested reducing or otherwise changing that threshold.

### **RECOMMENDATIONS BY ADVISORY NEIGHBORHOOD COMMISSIONS**

No ANC resolutions were submitted as to B23-132.

### **LIST OF WITNESSES AND HEARING RECORD**

On December 9, 2019, the Committee on Transportation and the Environment held a virtual public hearing on B23-132, the “Indoor Mold Remediation Enforcement Amendment Act of 2019.” A video recording of the hearing can be viewed online at [oct.dc.gov](http://oct.dc.gov). The hearing record was open until December 30, 2020. The following witnesses testified at the hearing or submitted statements outside of the hearing:

**Beth Harrison**, Supervising Attorney, Legal Aid Society of DC, testified in support the legislation. Ms. Harrison noted the consequences of extended exposure to mold, including asthma. She also advocated that the legislation maintain DCRA’s role in the inspection and enforcement process, so DCRA could function as a “one-stop shop” for environmental health hazards in residential housing. Ms. Harrison recommended expanding the bill to include lead inspections.

**Evan Cass**, Supervising Attorney, Children’s Law Center, testified in support of the bill. Mr. Cass noted that remediating mold expediently means an average of \$1,000 saved per year, per child, in lifetime healthcare costs. He noted that mold is indicative of other issues, such as leaks. He recommended that the print require DCRA to issue notice for any mold still present after 30 days, and to increase the fines laid out in the bill.

**Randi Marshall**, Apartment and Office Buildings Association of Metropolitan Washington, testified in support of the legislation, noting that AOBA supported an adjudication only approach, as a court-based approach has not been successful.

**Wes Morrison** testified in support of the legislation, sharing information regarding his person experience with mold in his home, and the failure of his building owner to appropriately remediate.

**Neta Vaught** testified in support of the legislation, sharing her experience with mold issues in Congress Park. Ms. Vaught shared information on the long-term health impact of mold, and

recounted instances in which she'd seen landlords remediate mold just by wiping it off of a surface. She recommended that the Committee increase the fines, to encourage compliance.

**Debbie Steiner** testified in support of the legislation. Ms. Steiner also shared information on her experience at Congress Park, and her service on the tenants' association. She recommended that the fine be increased to \$5,000 to \$10,000.

**Shaquita McBroom**, Chair, Congress Park Tenants Association, testified in support of the legislation. Ms. McBroom underscored the issues at Congress Park, and her unsuccessful efforts to get management of the property to meaningfully address ongoing mold issues.

**Reverend Oliver Johnson** testified in support of the legislation. Rev. Johnson expressed his impression that leaving enforcement of mold violations up to DCRA would result in a lack of enforcement.

### **ANALYSIS OF IMPACT ON EXISTING LAW**

B23-132 would amend D.C. Code § 8-231.01 to update several definitions regarding lead exposure and lead contamination, and the type of relief a landlord must provide to tenants who are relocated due to lead abatement work. The legislation also amends D.C. Code § 8-241.02 and 241.05 to provide for DCRA and DOEE to enforce the District's mold remediation laws. Finally, B23-132 amends D.C. Code § 2-1831.03 to provide that the Office of Administrative Hearings shall have authority over appeals made pursuant to section 306(c)(3)(C) of the Air Quality Amendment Act of 2014.

### **SUMMARY OF FISCAL IMPACT**

As B23-132 is sequentially referred to the Committee of the Whole, the Chief Financial Officer did not prepare a fiscal impact statement for this legislation.

### **SECTION-BY-SECTION ANALYSIS**

**Section 1** provides a short title.

**Section 2** amends the Air Quality Amendment Act of 2014 to provide for administrative enforcement of indoor mold remediation standards.

**Section 3** amends the Office of Administrative Hearings Establishment Act of 2001 to clarify that the act shall apply to appeals made pursuant to section 306(c)(3)(C) of the Air Quality Amendment Act of 2014.

**Section 4** amends the Lead-Hazard Prevention and Elimination Act of 2008 to modify acceptable levels of lead exposure.

**Section 5** contains the fiscal impact statement.

**Section 6** contains the effective date.

**COMMITTEE ACTION**

On November 9, 2020, the Committee on Transportation and the Environment held an Additional Meeting to consider Bill 23-132, the “District of Columbia Water and Sewer Authority Omnibus Amendment Act of 2020.” Present and voting were Chairperson Mary M. Cheh and Councilmembers Charles Allen and Brooke Pinto. Chairperson Cheh gave a brief opening statement that explained the bill and asked if there was further discussion. Councilmember Allen underscore the importance of expanding the authority of DOEE and DCRA housing inspectors to inspect for mold, especially during the ongoing public health emergency. He also noted the important, long-needed updates to the District’s standards for lead exposure, and the print’s language expanding what relocation expenses landlords must cover when a tenant is relocated to temporary housing. Finally, Councilmember Allen expressed his disappointment that the Committee print did not include language on proactive clearance requirements, but appreciated the Committee’s work to balance the changes adopted in the print with potential effects during the public health emergency, and supported the Committee’s commitment to revisit proactive lead clearances in the next Council Period.

Chairperson Cheh then moved for approval of the Committee print and Committee report of Bill 23-132. The Committee voted 3 - 0 to approve the Committee print and Committee report with the members voting as follows:

YES: Cheh, Allen, Pinto

NO: 0

PRESENT: 0

The meeting was adjourned at 2:33 p.m.

**ATTACHMENTS**

- (A) Bill 23-132, as introduced, with the Referral Memo
- (B) Legal Sufficiency Determination
- (C) Comparative Print of Bill 23-132
- (D) Committee Print of Bill 23-132

**D.C. OFFICIAL CODE § 8-241.02, THE AIR QUALITY AMENDMENT ACT OF 2014.**

(b) When professional indoor mold remediation is required under § 8-241.04 because a professional indoor mold assessment found indoor mold contamination at a property, the Director ~~may~~ **shall** require the property owner to provide a remediation report from an indoor mold remediation professional to the tenant and to the Department of the Environment.

\* \* \*

**D.C. OFFICIAL CODE § 8-241.05, THE AIR QUALITY AMENDMENT ACT OF 2014.**

**(c) If the Director or Department of Consumer and Regulatory Affairs (“DCRA”) determines that a property has significant indoor mold growth, the Director or DCRA shall direct the residential property owner to remediate the indoor mold in accordance with section 305(c) and issue a notice of infraction. The penalties for a notice of infraction issued pursuant to this subsection shall be as follows:**

**(1) If the indoor mold growth is in an amount equal to or exceeding the standard established pursuant to section 303(a)(1), the violation shall be a class 3 infraction under 12 DCMR § 3201.1(c).**

**(2) If the indoor mold growth is in an amount below the standard established pursuant to section 303(a)(1), the violation shall be a class 4 infraction under 12 DCMR § 3201.1(d).**

**(d)(1) A residential property owner may submit a written request to the Director or DCRA, whichever issued the notice of infraction, to extend the timeline for indoor mold remediation. The Director or DCRA may extend the timeline for remediation where:**

**(A) The residential property owner has made good faith efforts to remediate the mold; and**

**(B) Remediation of the indoor mold requires more than 30 days to complete.**

**(2) The Director or DCRA shall notify the residential property owner and tenant of its decision in writing within 10 business days after receipt of a request pursuant to paragraph (1) of this subsection.**

**(3) A residential property owner or tenant shall have 15 days from the receipt of DCRA or the Director’s decision to file an appeal with the Office of Administrative Hearings.**

**(4) DCRA and the Director shall each maintain the following information by fiscal and calendar year:**

(A) The number of notices of violation issued by the Director or DCRA pursuant to paragraph (1) of this subsection;

(B) The number of residential property owners for whom the Director or DCRA imposed a penalty pursuant to paragraph (2) of this subsection, and the average penalty imposed;

(C) The number of residential property owners for whom the Director or DCRA agreed to extend the timeline for remediation, pursuant to paragraph (3) of this subsection; and

(D) The number of residential property owners who, having received an extension, did not remediate the cause of the notice of violation by the end of the extension period.

\* \* \*

#### **D.C. OFFICIAL CODE § 8-231.01, THE LEAD-HAZARD PREVENTION AND ELIMINATION ACT OF 2008.**

(13) “Elevated blood lead level” means the concentration of lead in a sample of whole blood equal to or greater than ~~10 micrograms~~ **5 micrograms** of lead per deciliter ( $\mu\text{g}/\text{dL}$ ) of blood, or such more stringent standard as may be established by the U.S. Centers for Disease Control and Prevention as the appropriate level of concern, or adopted by the Mayor by rule.

(20) “Lead-based paint” means any paint or other surface coating containing lead or lead in its compounds in any quantity exceeding 0.5% of the total weight of the material or more than ~~one milligram per square centimeter (1.0  $\mu\text{g}/\text{cm}^2$ )~~ **0.7 milligrams per square centimeter (0.7 $\text{mg}/\text{cm}^2$ )**, or such more stringent standards as may be specified in federal law or regulations promulgated by EPA or HUD, which shall be adopted by the Mayor by rule.

(24) “Lead-contaminated dust” means surface dust based on a wipe sample that contains a mass per area concentration of lead equal to or exceeding:

(A) For dust action levels or for the purpose of clearance examination:

(i) ~~40 micrograms~~ **10 micrograms** per square foot (“ $\mu\text{g}/\text{ft}^2$ ”) on floors; or

(ii) ~~250  $\mu\text{g}/\text{ft}^2$~~  **100 p  $\text{mg}^{\text{t}2}$**  on interior windowsills;

(B) For the purpose of clearance examination:

(i) ~~400  $\mu\text{g}/\text{ft}^2$~~  **100 p  $\text{mg}^{\text{t}2}$**  on window troughs; or

(ii) 800  $\mu\text{g}/\text{ft}^2$  on concrete or other rough exterior surfaces; or

**(iii) 40 p  $\text{mg}^{\text{t}2}$  for porch floors; or**

(C) Such more stringent standards as may be:

(i)(I) Specified in federal law; or

(II) Specified in regulations promulgated by the United States

Environmental Protection Agency or the United States Department of Housing and Urban Development; or

(ii) Adopted by the Mayor by rule.

(27) “Lead-free property” means a property that contains no lead-contaminated soil, and the interior and exterior surfaces do not contain any ~~lead-based paint or other surface coatings that contain lead equal to or in excess of one milligram per square centimeter (1.0 mg/cm<sup>2</sup>)~~ **lead-contaminated dust or lead-based paint.**

(28) “Lead-free unit” means a unit for which the interior and exterior surfaces appurtenant to the unit do not contain any ~~lead-based paint or other surface coatings that contain lead equal to or in excess of one milligram per square centimeter (1.0 mg/cm<sup>2</sup>)~~ **lead-contaminated dust or lead-based paint,** and for which the approaches thereto remain lead-safe. The Mayor, by rule, may establish a method to ensure that approaches to lead-free units remain lead-safe.

(33) “Relocation expenses” means reasonable expenses directly related to relocation to temporary replacement housing that complies with the requirements of this subchapter, including:

- (A) Moving and hauling expenses;
- (B) Payment of a security deposit;
- (C) The cost of replacement housing; provided, that the tenant continues to pay the rent on the dwelling unit from which the tenant has been relocated; **and**
- (D) Installation and connection of utilities and appliances;
- (E) Per diem food expenses, where the replacement housing does not include a kitchen; and**
- (F) For the length of time that a tenant resides in temporary replacement housing, and calculated on a monthly basis, excess costs incurred by the tenant to travel to and from work, which shall be calculated by subtracting the amount the tenant paid to travel to and from their place of work during a given month from the amount the tenant paid to travel to and from work for the month immediately preceding the tenant moving into the temporary replacement housing.**

1 **DRAFT COMMITTEE PRINT**  
2 **Committee of the Whole**  
3 **December 1, 2020**

4  
5  
6 A BILL  
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9  
10 IN THE COUNCIL OF THE DISTRICT OF COLUMBIA  
11  
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13  
14 To amend the Air Quality Amendment Act of 2014 to provide for administrative enforcement of  
15 indoor mold remediation standards of the Air Quality Amendment Act of 2014; to amend  
16 the Office of Administrative Hearing Establishment Act of 2001 to extend its application  
17 to an appeal of a determination not to extend the timeline for indoor mold remediation;  
18 and to amend the Lead-Hazard Prevention and Elimination Act of 2008 to modify  
19 acceptable levels of lead exposure.

20 BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this  
21 act may be cited as the “Residential Housing Environmental Safety Amendment Act of 2020”.

22 Sec. 2. The Air Quality Amendment Act of 2014, effective September 9, 2014 (D.C. Law  
23 20-135; D.C. Official Code § 8-241.01 *et seq.*) is amended as follows:

24 (a) Section 303(b) (D.C. Official Code § 8-241.02(b)) is amended by striking the word  
25 “may” and inserting the word “shall” in its place.

26 (b) Section 304 (D.C. Official Code § 8-241.03) is amended by adding a new subsection  
27 (e) to read as follows:

28 “(e)(1) Housing inspectors employed by DCRA as of October 1, 2021 shall obtain  
29 certification from the Department of the Energy and Environment to conduct indoor mold  
30 inspections by March 31, 2022.

31 “(2) Housing inspectors hired by DCRA after October 1, 2021, shall obtain certification  
32 within 90 days after the housing inspector is hired.

33 (c) Section 306 (D.C. Official Code § 8-241.05) is amended by adding new subsections  
34 (c) and (d) to read as follows:

35 “(c) If the Director or Department of Consumer and Regulatory Affairs (“DCRA”)  
36 determines that a property has significant indoor mold growth, the Director or DCRA shall direct  
37 the residential property owner to remediate the indoor mold in accordance with section 305(c)  
38 and issue a notice of infraction. The penalties for a notice of infraction issued pursuant to this  
39 subsection shall be as follows:

40 “(1) If the indoor mold growth is in an amount equal to or exceeding the standard  
41 established pursuant to section 303(a)(1), the violation shall be a class 3 infraction under 12  
42 DCMR § 3201.1(c).

43 “(2) If the indoor mold growth is in an amount below the standard established  
44 pursuant to section 303(a)(1), the violation shall be a class 4 infraction under 12 DCMR §  
45 3201.1(d).

46 “(d)(1) A residential property owner may submit a written request to the Director or  
47 DCRA, whichever issued the notice of infraction, to extend the timeline for indoor mold  
48 remediation. The Director or DCRA may extend the timeline for remediation where:

49 “(A) The residential property owner has made good faith efforts to  
50 remediate the mold; and

51 “(B) Remediation of the indoor mold requires more than 30 days to  
52 complete.

53 “(2) The Director or DCRA shall notify the residential property owner and tenant  
54 of its decision in writing within 10 business days after receipt of a request pursuant to paragraph  
55 (1) of this subsection.



56                   “(3) A residential property owner or tenant shall have 15 days from the receipt of  
57 DCRA or the Director’s decision to file an appeal with the Office of Administrative Hearings.

58                   “(4) DCRA and the Director shall each maintain the following information by  
59 fiscal and calendar year:

60                                 “(A) The number of notices of violation issued by the Director or DCRA  
61 pursuant to paragraph (1) of this subsection;

62                                 “(B) The number of residential property owners for whom the Director or  
63 DCRA imposed a penalty pursuant to paragraph (2) of this subsection, and the average penalty  
64 imposed;

65                                 “(C) The number of residential property owners for whom the Director or  
66 DCRA agreed to extend the timeline for remediation, pursuant to paragraph (3) of this  
67 subsection; and

68                                 “(D) The number of residential property owners who, having received an  
69 extension, did not remediate the cause of the notice of violation by the end of the extension  
70 period.”.

71                   Sec. 3. Section 6 of the Office of Administrative Hearings Establishment Act of 2001,  
72 effective March 6, 2002 (D.C. Law 14-76; D.C. Official Code § 2-1831.03), is amended by  
73 adding a new subsection (b-26) to read as follows:

74                                 “(b-26) This act shall apply to all appeals made pursuant to section 306(d)(3) of the Air  
75 Quality Amendment Act of 2014, effective September 9, 2014 (D.C. Law 20-135; D.C. Official  
76 Code § 8-241.05(d)(3)).”.

77                   Sec. 4. Section 2 of the Lead-Hazard Prevention and Elimination Act of 2008, effective  
78 March 31, 2009 (D.C. Law 17-381; D.C. Official Code § 8-231.01), is amended as follows:

79 (a) Paragraph (13) is amended by striking the phrase “10 micrograms” and inserting the  
80 phrase “5 micrograms” in its place.

81 (b) Paragraph (20) is amended by striking the phrase “one milligram per square  
82 centimeter (1.0mg/cm<sup>2</sup>)” and inserting the phrase “0.7 milligrams per square centimeter  
83 (0.7mg/cm<sup>2</sup>)” in its place.

84 (c) Paragraph (24) is amended as follows:

85 (1) Subparagraph (A) is amended as follows:

86 (A) Sub-subparagraph (i) is amended by striking the phrase “40  
87 micrograms” and inserting the phrase “10 micrograms” in its place.

88 (B) Sub-subparagraph (ii) is amended by striking the phrase “250 µg/ft<sup>2</sup>”  
89 and inserting the phrase “100 µg/ft<sup>2</sup>” in its place.

90 (2) Subparagraph (B) is amended as follows:

91 (A) Sub-subparagraph (i) is amended as follows:

92 (i) Strike the phrase “400 µg/ft<sup>2</sup>” and inserting the phrase “100  
93 µg/ft<sup>2</sup>” in its place.

94 (ii) Strike the phrase “; or” and insert a semicolon in its place.

95 (B) A new sub-subparagraph (iii) is added to read as follows:

96 ”(iii) 40 µg/ft<sup>2</sup> on porch floors; or”.

97 (d) Paragraph (27) is amended by striking the phrase “lead-based paint or other surface  
98 coatings that contain lead equal to or in excess of one milligram per square centimeter (1.0  
99 mg/cm<sup>2</sup>)” and inserting the phrase “lead-contaminated dust or lead-based paint” in its place.

100 (e) Paragraph (28) is amended by striking the phrase “lead-based paint or other surface  
101 coatings that contain lead equal to or in excess of one milligram per square centimeter (1.0

102 mg/cm<sup>2</sup>)” and inserting the phrase “lead-contaminated dust or lead-based paint” in its place.

103 (f) Paragraph (33) is amended as follows:

104 (1) Subparagraph (C) is amended by striking the phrase “; and” and inserting a  
105 semicolon in its place.

106 (2) Subparagraph (D) is amended by striking the period and inserting a semicolon  
107 in its place.

108 (3) New subparagraphs (E) and (F) are added to read as follows:

109 “(E) Per diem food expenses, where the replacement housing does not  
110 include a kitchen; and

111 “(F) For the length of time that a tenant resides in temporary replacement  
112 housing, and calculated on a monthly basis, excess costs incurred by the tenant to travel to and  
113 from work, which shall be calculated by subtracting the amount the tenant paid to travel to and  
114 from their place of work during a given month from the amount the tenant paid to travel to and  
115 from work for the month immediately preceding the tenant moving into the temporary  
116 replacement housing.”.

117 Sec. 5. Applicability

118 (a) This act shall apply upon the date of inclusion of its fiscal effect in an approved  
119 budget and financial plan.

120 (b) The Chief Financial Officer shall certify the date of the inclusion of the fiscal effect in  
121 an approved budget and financial plan and provide notice to the Budget Director of the Council  
122 of the certification.

123 (c)(1) The Budget Director shall cause the notice of the certification to be published in  
124 the District of Columbia Register.

125                   (2) The date of publication of the notice of the certification shall not affect the  
126 applicability of this act.

127                   Sec. 6. Fiscal impact statement.

128                   The Council adopts the fiscal impact statement in the committee report as the fiscal  
129 impact statement required by section 4a of the General Legislative Procedures Act of 1975,  
130 approved October 16, 2006 (12 Stat. 2038; D.C. Official Code § 1-301.47a).

131                   Sec. 7. Effective date.

132                   This act shall take effect following approval of the Mayor (or in the event of veto by the  
133 Mayor, action by the Council to override the veto), a 30-day period of congressional review as  
134 provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December  
135 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(1)), and publication in the District of  
136 Columbia Register.