



**Legal Aid Society**  
OF THE DISTRICT OF COLUMBIA

MAKING JUSTICE REAL

**Written Testimony of Beth Mellen Harrison  
Supervising Attorney, Housing Unit  
The Legal Aid Society of the District of Columbia**

**Committee on the Environment, Public Works, and Transportation  
Council of the District of Columbia**

**Hearing on B20-569, The Air Pollution Disclosure and Reduction Act of 2013  
January 2, 2014**

The Legal Aid Society of the District of Columbia<sup>1</sup> welcomes this opportunity to comment on Bill 20-569, the Air Pollution Disclosure and Reduction Act of 2013. I am a Supervising Attorney at Legal Aid. I have represented hundreds of low-income tenants in the District during the past eight years, and I have seen far too many of my clients struggling with mold in their homes. Bill 20-569 would take an important first step in addressing the problem of mold, but it does not go far enough to offer a comprehensive solution.

Many of Legal Aid's clients survive on incomes at or below the poverty line. Our clients are among the poorest and most vulnerable of the District's residents, who all too often struggle to find, let alone maintain, their housing. As a result of the District's continuing loss and lack of affordable housing, persons living in poverty often are forced to accept poor housing conditions in order to maintain their tenancies, because lower-cost units with serious housing conditions are the only units they can afford. Accordingly, the harms from serious housing code violations – including mold – disproportionately affect the most vulnerable of District residents, many of whom are elderly or have disabilities and who often struggle with lack of (or limited access to) quality, affordable health care.

Too many of these tenants report serious problems with mold growth in their homes. They are concerned about the effects of mold on their own health and the health of their families. In some cases, doctors or other health care providers have warned the tenants that the presence of mold in their homes may be causing new health problems or exacerbating pre-existing conditions such as asthma. Tenants also are frustrated because District agencies are not prepared to inspect or cite for mold, leaving them with few legal remedies to address this serious housing condition.

We have ample evidence of the need for the current Bill, including evidence of the prevalence of mold in tenants' homes and the serious health effects that may result. Bill 20-569 recognizes the problem but does not go far enough to address it. We suggest amendments to strengthen the disclosure requirements, provide further authority and funding to DDOE for inspection and citation, and ultimately, to adopt amended legislation that would comprehensively address mold in residential housing. A number of other states have adopted legislation focusing

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<sup>1</sup> The Legal Aid Society of the District of Columbia was formed in 1932 to "provide legal aid and counsel to indigent persons in civil law matters and to encourage measures by which the law may better protect and serve their needs." For more than 80 years, Legal Aid staff and volunteers have served tens of thousands of the District's neediest residents. Legal Aid currently works in the areas of housing, family law, public benefits, and consumer law.

address mold in residential housing. A number of other states have adopted legislation focusing on mold in residential housing. The District of Columbia – which prides itself on being a community at the forefront of protecting low-income and otherwise vulnerable residents – should tackle the mold issue by adopting comprehensive legislation.

**Too many tenants in the District are forced to deal with mold.**

You are hearing today from a number of housing advocates about the need for comprehensive legislation addressing mold in residential housing. Based on our collective experience representing and working with low-income tenants in the District – from the requests for help that we receive, to the clients we represent, to the homes that we inspect – we believe that mold is a serious problem in far too many tenants’ homes. Lauren Godles, our Legal Assistant in the Housing Unit at Legal Aid, is sharing stories about individual clients who have been affected by mold and her observations about the prevalence of mold in the hundreds of homes she has inspected during the past year.

In addition to this anecdotal evidence, Legal Aid has spent some time gathering hard data about the prevalence of indoor mold in residential homes in the District. Many of you already are familiar with the Housing Conditions Calendar in D.C. Superior Court, which has been in operation for nearly four years. In this Court, tenants can sue their landlords to obtain injunctive relief to address poor housing conditions. The form complaint, which I have attached to my written testimony, lists “mold or mildew” as one of the conditions that tenants can report.

Legal Aid has performed a review of all complaints filed on the Housing Conditions Calendar for a six-month period, from January 1, 2013 through June 30, 2013. We found that 48 out of 96 complaints – or 50 percent – listed mold/mildew as a problem in the tenant’s home.<sup>2</sup> These numbers are consistent with the experience of Legal Aid attorneys and other housing advocates working with low-income tenants in the District every day.

**Mold can have serious health effects, particularly for vulnerable populations.**

Other housing advocates testifying today are speaking in greater detail to the potential serious health effects that mold can cause for tenants, particularly vulnerable populations such as young children, the elderly, and those with pre-existing health conditions. Exposure to mold has been linked to upper respiratory tract symptoms, cough, and wheezing in otherwise healthy people, and to asthma symptoms in people with asthma. Individuals exposed to both mold and damp conditions may experience shortness of breath or respiratory illness and are more likely to develop asthma. Individuals with mold allergies, with compromised immune systems, and with chronic lung illnesses can have more severe reactions.<sup>3</sup> Mold presents a particular health concern for individuals already suffering from asthma. In the District – where asthma rates are

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<sup>2</sup> We recognize there are caveats to this data. Tenant self-reporting may not always be accurate, though of course the error may work in either direction: some tenants may report mold/mildew when there is not a serious problem, while others may fail to recognize a mold problem.

<sup>3</sup> See Centers for Disease Control and Prevention, “Facts About Mold and Dampness,” at [http://www.cdc.gov/mold/dampness\\_facts.htm](http://www.cdc.gov/mold/dampness_facts.htm); see also World Health Organization, *WHO Guidelines for Indoor Air Quality: Dampness and Mold* (2009).

significantly higher than national averages and highest in low-income areas – the effects of mold growth can be expected to be even more serious.<sup>4</sup>

**Bill 20-569 is an important first step to address mold in residential housing, but the proposal can and should be strengthened.**

Current laws and regulations in the District simply fail to address the issue of mold in residential housing. The District of Columbia does not have any statutes or regulations that directly address mold. In addition, there is no government agency that will inspect, test, or cite for mold – both the District Department of the Environment (DDOE) and the Department of Consumer and Regulatory Affairs (DCRA) lack funding or direct authority to address mold. Tenants are left with few legal remedies, fighting landlords who too often ignore mold growth or apply slipshod repairs that cover up the problem but do not eliminate it.

Bill 20-569 is an important first step that recognizes the problem of mold in residential housing and addresses it directly for the first time. It will require limited disclosures by landlords to tenants about mold and will give authority to DDOE to issue regulations for inspection and citation. While we welcome these steps and applaud Councilmember Cheh for introducing this important legislation, we believe the Bill does not go far enough in two respects.

First, the Bill's provisions on disclosure and rulemaking should be strengthened, specifically by expanding the definition of mold, clarifying when landlords must make disclosures and what information must be disclosed, and adding funding and enforcement provisions to ensure compliance. The attached legislative proposal – which includes a definition of mold and disclosure requirements – was drafted by housing advocates from Legal Aid, Bread for the City, the Children's Law Center, the Washington Legal Clinic for the Homeless, Housing Counseling Services, and the Latino Economic Development Corporation. Our draft is based on a review of existing law in all 50 states. We have incorporated the best elements of those laws, as well as provisions from the District's Lead Hazard Prevention and Elimination Act. Our proposal differs from Bill 20-569 in the following respects:

- ***Definition of Mold:*** We support the Bill's broad definition of mold, its focus on the substantial presence of mold as a trigger for further action, and its inclusion of a multi-pronged definition, focusing on human health, safety and sanitation in the home, and future standards adopted by DDOE. We would add a rebuttable presumption that there is a substantial presence of mold if certain conditions are met, for example if mold is present, which is capable of being smelled or seen and which,

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<sup>4</sup> It is estimated that asthma affects 9.6 percent of adults and 12.6 percent of children in the District of Columbia. See Centers for Disease Control and Prevention, National Center for Environmental Health, Division of Environmental Hazards and Health Effects, *Asthma in the District of Columbia*, available at [http://www.cdc.gov/asthma/stateprofiles/Asthma\\_in\\_DC.pdf](http://www.cdc.gov/asthma/stateprofiles/Asthma_in_DC.pdf). Over 4,000 children and 8,000 adults in the District visit emergency rooms every year for symptoms related to asthma. See Impact DC, Children's National Medical Center, *Asthma Surveillance in DC Emergency Departments*, available at <http://www.childrensnational.org/impactdc/>. These numbers are above national averages. See *id.*

if visible, covers more than 10 square feet of an interior surface or ventilation system.<sup>5</sup>

- **Required Disclosures – To Whom:** We support the Bill’s requirement of disclosures by landlords to tenants, but we believe the scope should be clarified. Disclosures should be required both to prospective tenants (before any lease or other contract to rent is executed) and to current tenants whenever the landlord increases the rent or issues a new lease.<sup>6</sup>
- **Required Disclosures - What:** We support the Bill’s requirement of disclosure by landlords to tenants of any information regarding the substantial presence of mold at the property, any testing or inspections for mold, the results of any such testing or inspection, and any mitigation measures implemented.<sup>7</sup> We recommend clarifying the language to include any information “known or reasonably known” to the landlord,<sup>8</sup> and to specify that if a landlord becomes aware of the substantial presence of mold on the property, the required disclosures must be made within 10 days.<sup>9</sup> We also would broaden the disclosure requirement to include:
  - moisture problems, dampness, leaking water, water damage, water penetration, or water intrusion in the premises within the previous 12 months, including any notices of violation issues by DCRA for these issues; and
  - any notices of violations issued by DDOE within the previous 12 months citing mold or any other pending actions ordered by a District Government agency with respect to mold.<sup>10</sup>
- **Maintenance of Records:** We recommend adding a requirement that landlords maintain all mold-related records or reports and make them available to tenants and government officials for review and photocopying.<sup>11</sup>
- **Funding & Enforcement:** Finally, any disclosure requirements must include adequate funding to DDOE and comprehensive enforcement provisions when landlords fail to comply.<sup>12</sup>

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<sup>5</sup> Landlords could rebut this presumption by obtaining professional air quality testing that shows that there is not a substantial presence of mold.

<sup>6</sup> See Lead Hazard Prevention and Elimination Act, D.C. Code § 8-231.04(a),(b), (e); Cal. Health & Safety Code §§ 26146, 26147.

<sup>7</sup> See Mont. Code Ann. § 70-16-703.

<sup>8</sup> See Cal. Health & Safety Code §§ 26146, 26147.

<sup>9</sup> See Lead Hazard Prevention and Elimination Act, D.C. Code § 8-231.04(f).

<sup>10</sup> See Lead Hazard Prevention and Elimination Act, D.C. Code § 8-231.04(a).

<sup>11</sup> See Lead Hazard Prevention and Elimination Act, D.C. Code § 8-231.04(f).

<sup>12</sup> See Lead Hazard Prevention and Elimination Act, D.C. Code § 8-231.04(f).

Second, and more important, it is the strong recommendation of Legal Aid and the other housing advocates here today that the Council adopt comprehensive legislation to address mold. More comprehensive legislation would include a broader definition of mold, stronger disclosure requirements, remediation and licensing provisions, funding and clear authority for DDOE to inspect and cite for mold, and specific enforcement provisions when a landlord fails to comply.

The District's Lead Hazard Prevention and Elimination Act – comprehensive legislation addressing lead – provides a fitting model for addressing the problem of mold. Mold, like lead, can be particularly hazardous to certain populations. In the case of lead, the effects are worst in young children; in the case of mold, young children, the elderly, and individuals with pre-existing health conditions are most at risk. Both lead and mold require experienced professionals to diagnose the problem and to take proper and safe steps to remediate it. In both cases, tenants seeking to enforce their right to remediation may face obstinate landlords unwilling to comply. Compliance and enforcement therefore is a critical piece of a comprehensive legislation solution.

Perhaps most important, successful abatement of mold, like lead, requires the involvement of a well-funded, experienced government agency dedicated to solving the problem. Families facing lead in their homes have benefited enormously from the work of DDOE, in cooperation with DCRA, in addressing this issue. We recommend that the Council adopt comprehensive legislation that includes all of the elements found in the District's Lead Hazard Prevention and Elimination Act, and that provides DDOE with sufficient resources and statutory authority to tackle the problem.

**The District should follow the lead of other states by adopting disclosure requirements for mold – and more comprehensive legislation.**

The Lead Hazard Prevention and Elimination Act is not the only successful model for dealing with hazardous conditions in residential housing. Currently, over 20 states – including our neighbors, Maryland and Virginia – have legislation or regulations addressing mold in residential housing. At least four of these states include specific requirements for disclosure from landlords to tenants. A number of other states include disclosure requirements in the purchase and sale of a residential property.<sup>13</sup> The attached proposal incorporates the best elements of these laws in other states, which are summarized briefly below.

**California:** Requires residential landlords and public entities that lease or operate a building to provide written disclosures to prospective and current tenants when the landlord knows, or has reasonable cause to believe, that mold is present that affects the unit or building, whether visible or invisible and hidden, and that mold exceeds specified exposure limits or poses a health threat according to state-established guidelines.<sup>14</sup>

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<sup>13</sup> A number of these states include questions related to moisture problems generally and mold specifically on the seller's mandatory disclosure form. For example, the Ohio disclosure form asks about water or moisture intrusion and any mold inspections. *See* [http://www.com.ohio.gov/documents/real\\_COMResidentialPropertyDisclosure\\_Form.pdf](http://www.com.ohio.gov/documents/real_COMResidentialPropertyDisclosure_Form.pdf). Other states with similar questions include Indiana, Michigan, New York, Oklahoma, Ohio, Oregon, South Carolina, South Dakota, and Tennessee.

<sup>14</sup> Cal. Health & Safety Code §§ 26146, 26147.

**Montana:** Requires that a specified mold disclosure statement be provided in writing prior to or contemporaneously with an offer for the purchase and sale, rental, or lease of inhabitable real property.<sup>15</sup> Also requires a seller or landlord, prior to or contemporaneously with entry into a contract for purchase, rent, or lease, to disclose any knowledge about the presence of the mold, that a building has been tested for mold and a copy of the results of testing if available, and evidence of any subsequent mitigation or treatment.<sup>16</sup>

**Virginia:** Requires a residential landlord to provide a written disclosure including whether there is any visible evidence of mold in areas readily accessible within the interior of the dwelling unit. If a disclosure is made, the tenant has the option to terminate the tenancy and not take possession or remain in possession of the dwelling unit. If the tenant decides to take possession, or remain in possession, the landlord must remediate the mold within five days.<sup>17</sup>

**Washington:** Requires residential landlords to provide tenants with information in writing approved by the state about the health hazards associated with exposure to mold, including how tenants can control mold growth in their units. For new tenants, the information must be provided at the time the lease or rental agreement is signed.<sup>18</sup>

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Bill 20-569 is an important step in addressing mold in residential housing in the District, but the problem of mold is widespread and requires a broader solution. The Council ultimately should join other states by adopting comprehensive mold legislation – including strengthened disclosure requirements and rulemaking authority – thereby ensuring that the District remains at the forefront in ensuring safe and sanitary housing for all tenants. This legislation should include all of the elements that are being presented by housing advocates at today’s hearing: a broad definition of mold, including rebuttable presumptions; clear responsibilities for landlords with respect to disclosure and remediation; and remedies for tenants when their landlords fail to remediate or disclose mold. In addition, we recommend that any legislation assign primary responsibility for implementation of the law to DDOE and ensure that DDOE has sufficient resources to carry out the law fully. Comprehensive legislation would go a long way toward ensuring that low-income tenants in the District are not forced to endure mold that threatens their health and the health of their families.

Thank you for this opportunity to testify before the Council.

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<sup>15</sup> The mold disclosure statement generally warns about the potential hazards of mold, particularly for vulnerable populations, and the scientific debate about permissible exposure limits. It also notes the link between mold and moisture intrusion on the property. Mont. Code Ann. § 70-16-703.

<sup>16</sup> Mont. Code Ann. § 70-16-703.

<sup>17</sup> VA Code Ann. § 55-225.7.

<sup>18</sup> Wash. Rev. Code Ann. § 59.18.060.

# Housing Conditions Calendar Form Complaint

**SUPERIOR COURT OF THE DISTRICT OF COLUMBIA CIVIL DIVISION  
CIVIL ACTIONS BRANCH**

500 Indiana Avenue, N.W., Room 5000, Washington, DC 20001 Telephone (202) 879-1133 www.dccourts.gov

Case No. CA \_\_\_\_\_

vs.

\_\_\_\_\_  
Plaintiff(s)/Tenant(s)

\_\_\_\_\_  
Defendant(s)/Landlord(s)

\_\_\_\_\_  
Address (No post office boxes)

\_\_\_\_\_  
Address

\_\_\_\_\_  
City State Zip Code

\_\_\_\_\_  
City State Zip Code

\_\_\_\_\_  
Phone Number

\_\_\_\_\_  
Phone Number (if known)

**VERIFIED COMPLAINT TO ENFORCE HOUSING CODE REGULATIONS**

**DISTRICT OF COLUMBIA, ss:**

1. I, (name, address, and phone #) \_\_\_\_\_, swear or affirm, under penalties of perjury, that I have knowledge of the facts set forth in this Complaint and that I am:  Tenant or  an attorney authorized to make this verification or  a person who has a right to demand that the Defendant/Landlord complete repairs to the rental unit because \_\_\_\_\_.
2. Upon information and belief, the Defendant/Landlord is responsible for maintaining the rental unit at (address) \_\_\_\_\_ in compliance with the Housing Code Regulations.
3. I verify that the rental unit **currently contains** housing code violations including, but not limited to those listed in the Housing Code Violations Addendum **attached to the Complaint**.
4. I believe the Defendant/Landlord is aware, or should be aware, of the violations listed in the Housing Code Violation Addendum for one or more of the following reasons (check all that apply):
  - I spoke directly with the Defendant/Landlord or his/her representative: (name of person, if known) \_\_\_\_\_.
  - I sent a letter to or left a note for the Defendant/Landlord, or his/her representative, at: (last known address) \_\_\_\_\_.
  - I left, or attempted to leave, a voicemail with the Defendant/Landlord at: (phone number) \_\_\_\_\_.
  - I sent an email to the Defendant/Landlord at: (email address) \_\_\_\_\_.
  - The Defendant/Landlord or his/her agent has personally observed the conditions or otherwise knew about the listed violations because: (explain) \_\_\_\_\_.
  - Other: (explain) \_\_\_\_\_.
5. **Optional:** The Defendant/Landlord may:
  - Enter my rental unit on any date between 9:00 a.m. and 5:00 p.m., Mon. – Fri., for the purpose of inspection and repairs.
  - Contact me at (phone #) \_\_\_\_\_ to arrange a time and date to enter my rental unit for inspection and repairs.

Therefore, Plaintiff/Tenant asks the Court for an order to repair all of the housing code violations in the unit within a time to be determined by the Court.

Subscribed & sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_

\_\_\_\_\_  
Plaintiff/Plaintiff's Attorney Date

\_\_\_\_\_  
Notary Public/Deputy Clerk

\_\_\_\_\_  
My Commission expires

**Important Note to Parties:** Court of Appeals Rule 49 and Superior Court Rule of Civil Procedure 101 prohibit the unauthorized practice of law. Any person who is not a lawyer in good standing in the District of Columbia should be aware that he or she could be engaging in the unauthorized practice of law if he or she acts on behalf of another for any purpose other than to request a continuance.

\_\_\_\_\_  
Plaintiff/Plaintiff's Attorney Unified Bar No.

\_\_\_\_\_  
Address Zip Code

\_\_\_\_\_  
Phone No. Email Address (required only for attorneys)

CLERK OF THE COURT





**HOUSING CODE VIOLATION ADDENDUM**

The Tenant/Plaintiff must complete this form and attach it to the Complaint. Please be as **accurate and specific** as possible when identifying the **location (room or common areas) and/or nature** of the problems with the rental unit.

**Heating, Lighting, Ventilation 14 D.C.M.R. § 500 et seq.**

- Inadequate heating (location) \_\_\_\_\_
- Lack of windows (location) \_\_\_\_\_
- Inadequate ventilation (location) \_\_\_\_\_
- Inadequate air conditioning (location) \_\_\_\_\_

**Plumbing, Utilities 14 D.C.M.R. § 600 et seq.**

- Plumbing (leaks from inside the unit) (location) \_\_\_\_\_
- Plumbing (leaks from outside the unit) (location) \_\_\_\_\_
- Lack of waterproof floor in the bathroom
- Broken or stopped toilet (location) \_\_\_\_\_
- Broken or not functioning shower/bath tub
- Broken or not functioning sinks (location) \_\_\_\_\_
- Inadequate or broken electrical outlets (location) \_\_\_\_\_
- Inadequate hot water (location) \_\_\_\_\_

**Construction, Maintenance, Repairs 14 D.C.M.R. § 700 et seq.**

- Walkway in disrepair (explain) \_\_\_\_\_
- Roof/chimney requires repair (explain) \_\_\_\_\_
- Gutters/drainage clogged, leaking or missing
- Cracks or holes exterior walls (location) \_\_\_\_\_
- Cracks or holes interior walls (location) \_\_\_\_\_
- Peeling paint (location) \_\_\_\_\_
- Mold or mildew (location) \_\_\_\_\_
- Broken, uneven or unrepaired floors (location) \_\_\_\_\_
- Cracks, holes or sagging ceilings (location) \_\_\_\_\_
- Broken stairways/steps/porches (location) \_\_\_\_\_
- Broken or not functioning windows (common areas) (location) \_\_\_\_\_
- Broken or not functioning windows (location) \_\_\_\_\_
- Broken doors or locks (exterior) (location) \_\_\_\_\_
- Broken doors or locks (interior) (location) \_\_\_\_\_
- Broken or not functioning kitchen appliances (stove/oven, refrigerator/freezer) (explain) \_\_\_\_\_
- Broken kitchen cabinets (explain) \_\_\_\_\_

**Cleanliness, Sanitation and Safety 14 D.C.M.R. § 800 et seq.**

- Dirt/dust/filth/garbage in common areas or for which the landlord is responsible
- Inadequate garbage storage facilities
- Rodents/mice (explain) \_\_\_\_\_
- Insect infestation (explain) \_\_\_\_\_
- Window screens (missing/holes) (location) \_\_\_\_\_
- Broken sheds and fences (explain) \_\_\_\_\_

**Safety and Fire Prevention 14 D.C.M.R. § 900 et seq.**

- Missing fire extinguisher (location) \_\_\_\_\_
- Broken or obstructed fire escapes/stairways
- Broken or missing emergency and exit lights
- Broken or missing fire alarm

**Apartments and Apartment Housing 14 D.C.M.R. § 1200 et seq.**

- Apartment unit not numbered
- Broken mail receptacle (explain) \_\_\_\_\_
- Broken/damaged elevator (explain) \_\_\_\_\_

**Other Housing Code Violations**

- Explain and provide location \_\_\_\_\_

If any of the problems listed in the Housing Code Violation Addendum constitute an emergency and pose an **immediate** threat to the health and safety of the occupants of the rental unit, you must file a motion for Temporary Restraining Order along with this Complaint in order for the Court to immediately address your emergency conditions.

**Mold Working Group  
Draft Legislative Proposal  
Definition, Disclosure, Enforcement**

**Section 1. Definitions**

(a) The owner or operator of any residential premises must take substantial steps to remediate or rebut the presumption of the substantial presence of mold in the premises according to professional standards within 30 days of when he or she knows or should have known of its presence.

(b) “Mold” means any living or dead fungi or related products or parts, including spores, hyphae, and mycotoxins.

(c) "Substantial presence of mold" means the detectable presence of mold that is growing on an interior surface or in a ventilation system, in such amounts and types as to:

(1) Be capable of adversely affecting human pulmonary, respiratory, neurological, or other major bodily systems after minimal exposure.

(2) Render the premises dangerous or unfit for human habitation, as defined in Chapter 1, Section 108.1.5(9) of the Property Maintenance Code, or otherwise raise concerns about the safety, structural integrity, or sanitary condition of the premises; or

(3) Violate regulations promulgated by D.C. Department of the Environment pursuant to subsection (f) of this section.

(d) There is a rebuttable presumption that a substantial presence of mold exists whenever:

(1) Mold is present which is capable of being smelled or seen and which, if visible, covers more than 10 square feet of an interior surface or ventilation system;

(2) More than 10 square feet of an interior surface has remained wet or damp for more than 48 hours; or

(3) A District government official or other qualified mold inspector has made a determination that a substantial presence of mold exists.

(e) An owner or operator of a residential premises may rebut a presumption that a substantial presence of mold exists by arranging, at his or her own expense, for an air quality test to be conducted by a District government official or other qualified mold inspector. To rebut the presumption, the results of that test must show that there is not a substantial presence of mold according to subsection (c) of this section.

(f) The D.C. Department of the Environment is authorized to promulgate regulations which define additional situations in which a substantial presence of mold exists or is presumed to exist. Regulations promulgated pursuant to this section will govern in the event of a conflict between those regulations and subsection (c) of this section.

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(g) The term “Department” when used in this chapter means the D.C. Department of the Environment.

(h) The term “premises” when used in this chapter shall have the same meaning as that term is defined under 12 D.C.M.R. § 200.

**Section 2. Disclosure Requirements**

(a) (1) The owner or operator of any residential premises shall disclose to any prospective tenant of the premises information known or reasonably known to the owner about the substantial presence of mold in the premises.

(2) The disclosures shall be provided on the mold disclosure form published by the Department.

(3) The disclosures shall be provided before any prospective tenant is obligated under any contract or agreement with the owner to lease any part of the premises.

(4) The disclosures shall include the following:

- (i) A Mold Warning Statement in the form published by the Department pursuant to this section;
- (ii) A Mold Information Pamphlet published by the Department pursuant to this section;
- (iii) Any information known or reasonably known to the owner or operator about the substantial presence of mold in the premises at any time, including but not limited to any conditions giving rise to a rebuttable presumption of the substantial presence of mold under subsection (d) of section 1 of this chapter;
- (iv) Any information known or reasonably known to the owner or operator about any testing or inspection for mold in the premises at any time and the results of any such testing or inspection;
- (v) Any information known or reasonably known to the owner or operator about moisture problems, dampness, leaking water, water damage, water penetration, or water intrusion in the premises within the previous 12 months;
- (vi) Any notices of violations issued by the Department within the previous 12 months citing mold in the premises;
- (vii) Any notices of violation issued by the Department of Consumer & Regulatory Affairs within the previous 12 months citing moisture problems, dampness, leaking water, water damage, water penetration, or water intrusion in the premises;
- (viii) Any pending actions that have been ordered by a District Government agency with respect to mold in the premises.

(b) The owner or operator of any residential premises shall provide its tenants with the same disclosures required by subsection (a) on the mold disclosure form provided by the Department

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whenever the tenant executes or renews a lease for the unit or whenever the owner or operator provides notice of a rent increase to the tenant.

(c) A current or prospective tenant who receives the mold disclosure statement required by subsections (a) or (b) of this section and chooses to take possession or remain in possession of any part of the premises does not thereby waive any rights or claims with respect to the substantial presence of mold in the premises.

(d) If the owner of a dwelling unit learns of the substantial presence of mold in the premises, the owner shall:

(1) Notify any tenants of the substantial presence of mold within 10 days after discovering its presence; and

(2) Provide any tenants with a Mold Warning Statement and Mold Information Pamphlet in the form published by the Department pursuant to this section; provided, that the Mold Warning Statement and Mold Information Pamphlet need not be provided if they have been provided to the tenant within the prior 12 months.

(e) The owner or operator of a residential premises shall maintain copies of all mold-related records or reports related to the premises, including any records or reports required by this section, and make the reports available to tenants, tenants' agents, and government officials for review and photocopying at reasonable hours and at a location reasonably close to the premises.

(f) (1) Within 90 days after the effective date of this chapter, the Department shall publish:

(1) the mold disclosure form to be used as the basis for the mold disclosure statement required by subsections (a) and (b) of this section;

(2) the Mold Warning Statement to be used in the mold disclosure statement required by subsections (a) and (b), which shall include warnings about the possible health risks of mold and about populations that may be particularly vulnerable to mold; and

(3) the Mold Information Pamphlet to be used in the mold disclosure statement required by subsections (a) and (b), which shall include tips on the prevention and control of mold growth and the removal of mold.

**Section 3. Civil Penalties**

(a) Any person who knowingly makes a false, fraudulent, or misleading statement in disclosures required by this chapter, or fails to disclose information known or reasonably known to that person as required by this chapter, shall be punishable by a civil penalty not to exceed \$25,000 for each day of each offense. Each separate false, fraudulent, or misleading statement or failure to disclose shall be deemed a separate offense.

(b) Civil infraction fines, penalties, and fees may be imposed as alternative sanctions for any infraction of the provisions of this chapter or the rules issued under this chapter pursuant to Chapter 18 of Title 2 [§ 2-1801 et seq.]. Adjudication of any infractions shall be pursuant to Chapter 18 of Title 2 [§ 2-1801 et seq.].

(c) The Attorney General for the District of Columbia, or any current or prospective tenant adversely affected by a violation of this chapter, may commence appropriate civil action in the Superior Court of the District of Columbia to secure a temporary restraining order, a preliminary injunction, a permanent injunction, or other appropriate relief to enforce compliance with the provisions of this chapter.

**Section 4. Criminal Penalties**

(a) Notwithstanding any other provision of this chapter, any person who knowingly or willingly violates the provisions of this chapter, or its implementing rules, shall be subject, upon conviction, to a fine of not more than \$ 25,000 for each day of each violation, imprisonment for not more than one year, or both.

(b) Falsification of information required by this chapter shall be a violation of this chapter.

(c) All prosecutions under this section shall be in the Superior Court of the District of Columbia in the name of the District of Columbia and shall be instituted by the Attorney General for the District of Columbia.