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Sec. 204. Rules; fees

(a) The Mayor, pursuant to the District of Columbia Administrative Procedure Act, approved October 21, 1968 (82 Stat. 1204; D.C. Official Code § 2-501 *et seq.*), may issue rules to implement the provisions of this title, including establishing permit fees and other fees necessary to support the implementation of this title.

(b) The Mayor may require reimbursement of costs for services, including inspections, sample collection, document review, or other reasonable costs or fees incurred in implementing this title or a regulation promulgated pursuant to this title.

TITLE III. INDOOR AIR QUALITY.

SUBTITLE A. INDOOR MOLD DISCLOSURE AMENDMENT.

Sec. 301. The Rental Housing Act of 1985, effective July 17, 1985 (D.C. Law 6-10; D.C. Official Code § 42-3501.01 *et seq.*), is amended as follows:

(a) Section 222(b)(1) (D.C. Official Code § 42-3502.22(b)(1)) is amended as follows:

(1) Subparagraph (F) is amended by striking the phrase “housing code” and inserting the phrase “housing code and property maintenance code” in its place.

(2) Subparagraph (J) is amended by striking the period and inserting the phrase “; and” in its place.

(3) A new subparagraph (K) is added to read as follows:

“(K) Information known or that should have been known about the presence of indoor mold contamination as defined in section 302(5) of the Air Quality Amendment Act of 2014, passed on 2nd reading on June 3, 2014 (Enrolled version of Bill 20-368), in the rental unit or common areas in the previous 3 years, unless the mold has been remediated by an indoor mold remediation professional certified and licensed by the District.”.

SUBTITLE B. RESIDENTIAL INDOOR MOLD ASSESSMENT AND REMEDIATION.

Sec. 302. Definitions.

For the purposes of this subtitle, the term:

(1) “Director” means the Director of the District Department of the Environment.

(2) “Dwelling unit” means a building or structure used or designed to be used, in whole or in part, as a living or sleeping place for one or more persons.

(3) “Indoor mold assessment professional” means an indoor mold assessor certified and licensed by the District in accordance with section 304.

(4) “Indoor mold” means living or dead fungi or related products or parts, including spores hyphae, and mycotoxins, on an interior surface of a building, including common spaces, utility spaces, HVAC, or other systems.

(5) “Indoor mold contamination” means indoor mold at or above the threshold established under section 303(a)(1).

(6) “Indoor mold remediation professional” means an indoor mold remediator certified and licensed by the District in accordance with section 304.

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(7) "Professional indoor mold assessment" means an indoor mold assessment conducted by an indoor mold assessment professional.

(8) "Professional indoor mold remediation" means an indoor mold remediation conducted by an indoor mold remediation professional.

Sec. 303. Indoor mold assessment and remediation standards.

(a) Consistent with applicable U.S. Environmental Protection Agency or U.S. Department of Labor, Occupational Safety and Health Administration guidelines and regulations relating to the assessment and remediation of mold, the Director shall:

(1) Set a threshold level of indoor mold contamination that requires professional indoor mold remediation at residential properties;

(2) Establish scientific and objective methods to be used by individuals certified by the District when conducting an indoor mold assessment;

(3) Establish minimum performance standards and work practices for conducting professional indoor mold remediation in the District; and

(4) Establish guidelines for the removal of indoor mold below the threshold set by paragraph (1) of this subsection.

(b) When professional indoor mold remediation is required under section 305 because a professional indoor mold assessment found indoor mold contamination at a property, the Director may 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.

Sec. 304. Certification of mold assessment and remediation professionals.

(a)(1) The Director shall issue licenses and may issue certifications for conducting indoor mold assessment and remediation in the District.

(2) In licensing a person to conduct indoor mold assessment or remediation, the Director may recognize certification programs of other states or independent bodies that the Director determines to be sufficient to ensure professional conduct of indoor mold assessment or remediation.

(b) No person shall engage in the business of residential indoor mold assessment or remediation unless the person is certified and licensed in accordance with requirements promulgated by the Director.

(c) The Director shall maintain a publicly available list of all certified indoor mold assessment and remediation professionals in the District.

(d) The Director shall establish reasonable and necessary fees to administer this section, including fees for certifications and licenses. The fees shall be set, at a minimum, in an amount sufficient to recover the costs of administering this section. All fees collected under this subsection shall be deposited into the Indoor Mold Assessment and Remediation Fund established under section 308.

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Sec. 305. Indoor mold remediation obligations at residential properties.

(a) A residential property owner who receives written or electronic notice from a tenant that indoor mold or suspected indoor mold exists in the dwelling unit or in a common area of the property shall inspect the property within 7 days and remediate the condition in accordance with subsections (b) and (c) of this section within 30 days of the inspection unless a shorter timeframe is ordered by a court or the Mayor.

(b) Where professional indoor mold remediation is not required under subsection (c) of this section, a residential property owner notified of indoor mold by a tenant in accordance with subsection (a) shall clean and remove the indoor mold from the contaminated surface in accordance with the guidelines established under section 303(a)(4). Failure of the Director to issue guidelines under section 303(a)(4) shall not excuse the residential property owner from the obligation to clean and remove visible indoor mold from the contaminated surface.

(c) If a residential property owner knows or has reason to know that indoor mold contamination exists in a tenant's dwelling unit or in a common area of the property, the residential property owner shall cause the mold to be remediated by an indoor mold remediation professional.

(d) The provisions of this section may be enforced pursuant to section 306.

Sec. 306. Violations.

(a) In a private cause of action, claim, or defense by a tenant against a residential property owner for a violation of Title 12G of the District of Columbia Municipal Regulations (12G DCMR § 101G *et seq.*) ("Property Maintenance Code") or Title 14 of the District of Columbia Municipal Regulations (14 DCMR § 100 *et seq.*) ("Housing Code"):

(1) A professional indoor mold assessment finding indoor mold contamination in a tenant's dwelling unit or a common area of the property shall create a rebuttable presumption of a violation of the property owner's obligation to maintain the property free from defective surface conditions as required by the Property Maintenance Code and the Housing Code. To establish the presumption, the tenant must demonstrate that the property owner received a professional indoor mold assessment in written or electronic form that determined that indoor mold contamination existed in the tenant's dwelling unit.

(2) When ruling in favor of a tenant with respect to a Property Maintenance Code or Housing Code violation based on a professional mold assessment, the court shall have discretion to reimburse indoor mold assessment costs and award attorney fees and court costs to the tenant. The court may award treble damages to a tenant when:

- (A) The tenant discovered the indoor mold;
- (B) A professional indoor mold assessment determined that indoor mold contamination existed in the tenant's dwelling unit;
- (C) The residential property owner received the indoor mold assessment in written or electronic form;
- (D) The residential property owner did not remediate the indoor mold within 60 days; and

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(E) The court finds that the residential property owner acted in bad faith.

(b) In issuing a notice of violation to a property owner for failure to maintain the property free from defective surface conditions as required by the Property Maintenance Code and the Housing Code, the Mayor shall have discretion to rely upon a professional indoor mold assessment.

Sec. 307. No private right of action against the District.

Nothing in this subtitle is intended to, or does, create a private right of action against the government of the District of Columbia and its officers, employees, agents, representatives, contractors, successors, and assigns based upon compliance or noncompliance with its provisions. No person or entity may assert any claim or right as a beneficiary or protected class under this act in any civil, criminal, or administrative action against the District of Columbia.

Sec. 308. Indoor Mold Assessment and Remediation Fund.

(a) There is established a special fund the Indoor Mold Assessment Fund, which shall be administered by the District Department of the Environment in accordance with subsection (c) of this section.

(b) The Fund shall consist of the revenue from the fees collected in accordance with section 304 and any other money accepted for the benefit of the Fund. The Fund may be supplemented by other District funds at the Mayor's discretion or by an act of the Council.

(c)(1) The Fund shall be used to administer the certification and licensing programs established under section 304 and may be used to administer grants issued under paragraph (2) of this subsection.

(2) Where there are funds in excess of the amount needed to administer the certification and licensing programs under section 304, those funds shall be used to provide financial assistance grants to:

(A) Low-income District residents for the purpose of having a professional mold assessment conducted in their premises, in the event that the owner of the resident's property fails to comply with the requirements in section 305; and

(B) Residential property owners without financial means, as determined by the Mayor, to comply with section 305.

(d)(1) The money deposited into the Fund, and any interest earned, shall not revert to the unrestricted fund balance of the General Fund of the District of Columbia at the end of a fiscal year, or at any other time.

(2) Subject to authorization in an approved budget and financial plan, any funds appropriated in the Fund shall be continually available without regard to fiscal year limitation.

Sec. 309. Common law unaffected.

The remedies under this subtitle do not supplant rights and remedies that may be available against property owners and other liable parties under the common law.

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Sec. 310. Rules.

The Mayor, pursuant to the District of Columbia Administrative Procedure Act, approved October 21, 1968 (82 Stat. 1204; D.C. Official Code § 2-501 *et seq.*), may issue rules to implement the provisions of this subtitle, including civil penalties or fines to enforce this subtitle.

TITLE IV. REPEALER.

Sec. 401. Section 4 of the District of Columbia Air Pollution Control Act of 1984, effective March 15, 1985 (D.C. Law 5-165; D.C. Official Code § 8-101.04), is repealed.

TITLE V. FISCAL IMPACT AND EFFECTIVE DATE.

Sec. 501. Fiscal impact statement.

The Council adopts the June 3, 2014 fiscal impact statement of the Chief Financial Officer as the fiscal impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(3)).

Sec. 502. Effective date.

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

Chairman
Council of the District of Columbia

Mayor
District of Columbia
APPROVED
June 23, 2014

