



**Statement of the Apartment and Office Building Association on Bill 26-22,
Landlord-Tenant Relations – Radon Testing and Mitigation
October 18, 2022**

The Apartment and Office Building Association of Metropolitan Washington (AOBA) is a non-profit trade association representing more than 133,000 apartment units and over 24 million square feet of office space in suburban Maryland. In Montgomery County, AOBA members own/manage over 60,000 of the [County's estimated 83,769 rental units](#) and 20,000,000 square feet of office space. AOBA submits this statement favorably with amendments to the County Council's enactment of County Bill 26-22.

As drafted, Bill 26-2022 requires housing providers to conduct radon testing in multifamily units before a tenant's occupancy for any rental housing that is a single-family home or multi-dwelling unit. At the time of lease signing, the housing provider must provide education pamphlets related to radon, testing, and mitigation as recommended by the EPA or Department of Environmental Protection (DEP). A housing provider who fails to mitigate the presence of radon may permit and trigger the option for the tenant to terminate the lease without penalty.

AOBA appreciates the bill's sponsor for addressing and listening to the industry's issues with the bill. However, there are still lingering concerns about the implementation of this legislation. Below are friendly amendments that AOBA offers to improve the overall intent of the bill.

Amendments

- Page 2, Line 28, Insert, **“(3) Buildings built before 1952 must conduct radon testing for all units on the ground level or basement unit.”**
- Page 3, Line 35, strike **“Section (1),”** Insert, **“(1) Tenants can access test results via written notice, electronically, or the main leasing office by request.”**
- Page 3, Line 47, Insert, **“Tenants can only test once for radon per lease term.”**
- Page 3, Line 53, Insert, **“(1) Every three years, landlords must conduct radon testing for 20% of units on the ground level or basement unit of a residential building for buildings built since 1952.”**
- Page 4, Line 61, Insert, **“If a tenant fails to comply reasonably with the inspection or treatment requirements described in this subtitle, then the landlord will not be held liable for testing and abatement of the unit.”**
- Page 4, Line 65, Insert, **“(4) apartments equipped with radon mitigation systems are exempted from the testing requirement and will instead disclose the presence of the system to prospective tenants.”**

- Page 4, Line 66, Insert, "**The bill will take effect on October 1, 2023.**"

AOBA members agree that testing for radon and reducing elevated levels of exposure is important. Given the cost and administrative burden of frequent testing, AOBA urges the Council to amend the legislation to be as flexible as possible. Buildings built after 1952, for example, do not require all ground-level units to be tested. Unlike buildings built prior to 1952, these newer buildings are built on a gravel foundation, which causes radon to accumulate in pockets rather than being dispersed throughout the property. Thus, AOBA believes that a random sampling of 20 percent of units every three years is sufficient for determining potential exposure.

In addition, the administrative burden of testing and notifying residents of the results before their lease signing will be significant. This issue will delay the leasing process and hinder prospective residents from moving in. AOBA recommends including a provision that allows residents to access test results electronically or hardcopy by request. This amendment will help streamline the process and lessen the paperwork for staff and new residents.

AOBA supports Greater Capital Area Association of REALTORS (GCARR) language to exempt properties with a radon mitigation system from testing. Properties that have proactively installed these systems should not be required to test more frequently, provided the systems are in good working order. The Association also is supportive of GCARR's proposal to limit the testing that residents may perform during their leasing period. This amendment will prevent the issue of tenants frequently testing for radon and complicates the process for assessment and abatement for housing providers.

The Association encourages an amendment to address residents' refusal to test and enter their dwelling units. If a resident refuses to allow the housing provider to evaluate for radon, the latter will not be subject to any penalties outlined in the bill. Lastly, AOBA recommends inserting language to include an effective date of October 1, 2023. This will give housing providers time to adequately prepare for this new testing requirement.

For these reasons, AOBA respectfully urges a favorable with amendments report on Bill-26-22. Please contact Ryan Washington, Manager of Government Affairs-Maryland, at rwashington@aoba-metro.org or (202) 770-7713 with questions or concerns.