What are a landlord’s legal responsibilities to new tenants regarding lead in rental property?

Because of the health problems caused by lead poisoning, the Residential Lead-Based Paint Hazard Reduction Act was enacted in 1992. This law is commonly known as Title X (ten). Environmental Protection Agency (EPA) regulations implementing Title X apply to rental property built before 1978.

Under Title X, before signing or renewing a lease or rental agreement, a landlord must give every tenant the EPA pamphlet, “Protect Your Family from Lead in Your Home,” or a state-approved version of this pamphlet. Both the landlord and tenant must sign an EPA-approved disclosure form to prove that the landlord told the tenants about any known lead-based paint or hazards on the premises. Property owners must keep this disclosure form as part of their records for three years from the date that the tenancy begins.

A landlord who fails to comply with EPA regulations faces penalties of up to $10,000 for each violation. And a landlord who is found liable for tenant injuries from lead may have to pay three times what the tenant suffered in damages.

Are there any rental properties exempt from Title X regulations?

These properties are not covered by Title X:

- housing for which a construction permit was obtained, or on which construction was started, after January 1, 1978
- housing certified as lead-free by a state-accredited lead inspector
- lofts, efficiencies and studio apartments
- short-term vacation rentals of 100 days or less
- a single room rented in a residential dwelling
housing designed for persons with disabilities, unless any child
less than six years old lives there or is expected to live there
Retirement communities (housing designed for seniors, where
one or more tenants is at least 62 years old), unless children
under the age of six are present or expected to live there

Are any lead disclosures required before a landlord renovates rental
property?

When a landlord renovates occupied rental units or common areas in
buildings constructed before 1978, EPA regulations also require that
current tenants receive lead hazard information at least 60 days
before the renovation begins. (EPA regulations define “renovation” as
any change that disturbs painted surfaces, with some exceptions such
as minor repairs and emergency renovations.) These regulations were
developed under the federal Toxic Substances Control Act and
became effective in June 1999.

If the renovation is taking place in an occupied rental unit, the
renovator (landlord or outside contractor) must give tenants in the unit
a copy of the EPA pamphlet “Protect Your Family from Lead in Your
Home.” If common areas will be affected, the renovator must distribute
a notice to every rental unit in the building describing the nature and
location of the renovation work and the dates work is expected to
begin and end.

In addition to lead, property owners may be liable for tenant health
problems caused by exposure to other environmental hazards, such
as asbestos. Regulations issued by the Occupational Safety and
Health Administration (OSHA) set strict standards for the testing,
maintenance and disclosure of asbestos in buildings constructed
before 1981. For information visit OSHA’s website at
http://www.osha.gov