

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>