

Federal Lead Hazard Disclosure Requirements for Rental Property Owners and Managers

Many older properties contain lead-based paint, and deteriorated lead-based paint and lead-contaminated dust are serious health hazards. Most children are poisoned by ingesting lead dust from deteriorating lead-based paint. Children exposed to even very low levels of lead experience reduced IQ and attention span, impaired growth, reading and learning disabilities, behavior problems, and hearing loss. These effects can be irreversible.

The federal lead hazard disclosure law is designed to provide families with the information they need to make informed housing choices and protect their families from lead poisoning. This fact sheet outlines the responsibilities of rental property owners and their agents under the law.

Summary of the Disclosure Law

The federal Residential Lead-Based Paint Hazard Reduction Act, 42 U.S.C. 4852d, requires landlords of most residential housing built before 1978 to disclose all available records and reports concerning lead-based paint and/or lead-based paint hazards to tenants at the time of lease or upon lease renewal. In addition, landlords must furnish a lead warning statement and a copy of the brochure *Protect Your Family from Lead in Your Home*. (Additional requirements apply to property sale transactions.) Failure to disclose is a violation of the U.S. Department of Housing and Urban Development and the U.S. Environmental Protection Agency regulations at 24 CFR Part 35 and 40 CFR Part 745 and can result in a fine of up to \$11,000 per violation.

Housing Covered under the Law:

The law applies to most housing constructed before 1978, with the following exceptions:

- Housing for the elderly or disabled (unless children under age six reside or are expected to reside there).
- Zero-bedroom dwellings (e.g., studio and efficiency apartments).
- Housing found to be lead-based paint free, as determined by a certified lead inspector.
- Short-term leases (100 days or less, with no renewals or extensions), such as vacation rentals.

Who Must Disclose to Tenants:

- Property owners.
- Their agents, including property management agents. Agents must ensure that the owner has disclosed all necessary information, or personally ensure compliance with disclosure requirements themselves.

What Must Be Disclosed to Tenants:

- EPA's lead hazard information pamphlet, *Protect Your Family from Lead in Your Home*.
- Any information about lead-based paint and/or lead-based paint hazards in the property, including the basis for the determination that lead-based paint or hazards exist, the location of lead-based paint or hazards, and the condition of painted surfaces.
- Any available lead-based paint or lead hazard evaluation reports, including:
 - Reports on units in the building other than the unit being leased if the information stems from an effort to evaluate the building as a whole.
 - Reports relating to common areas.

To certify that Disclosure has occurred, each lease must include, in the language of the agreement, either within the lease or as an attachment, the following acknowledgment statements. These statements must be signed and dated by the owner, tenant, and agent certifying the accuracy of their content.

1. Lead Warning Statement (text of statement specified in HUD and EPA regulations).
2. Statement by the owner disclosing known lead-based paint or lead hazards, or indicating a lack of knowledge. If lead-based paint or hazards exist, the basis for the determination must be included, and the location and condition of painted surfaces.
3. A list of available reports pertaining to lead-based paint or hazards that have been provided to the tenant, or a statement that no reports are available.
4. A statement by the tenant affirming receipt of the EPA pamphlet, the information on known hazards, and the available reports.
5. A statement by the agent that she has informed the owner of his disclosure obligations and that she understands her own obligations to ensure compliance.

What Must Be Disclosed to Agents:

- Any information on known lead-based paint and/or lead-based paint hazards, including the basis for the determination that lead-based paint or hazards exist, the location of lead-based paint or hazards, and the condition of painted surfaces.
- The existence of any available lead-based paint or lead hazard evaluation reports.

When to Disclose to Tenants:

- Prior to tenant becoming obligated under the lease. Disclosure must occur before a tenant is obligated under a new lease. If a substantial non-refundable deposit is required before that time, disclosure should occur before payment of the non-refundable deposit.

- Upon lease renewal, if new information on lead-based paint or lead hazards has become available since prior disclosure. Disclosure must occur even if the status changes from a formal lease to a month-to-month agreement. In cases where an open-ended month-to-month agreement is already in place, disclosure must occur when there is a significant change in the agreement, such as a rent increase.

Record-Keeping Requirements:

Property owners and agents must retain the certification and acknowledgement for three (3) years.

Penalties for Non-Compliance

- HUD and EPA can seek up to \$11,000 per violation in civil money penalties.
- Criminal penalties are authorized for egregious violators.
- Tenants can sue owners and agents who knowingly violate the law to recover three (3) times the amount of actual damages incurred, plus attorney's fees, expert witness fees, and costs.

For More Information

For information on lead poisoning, lead safe work practices, and lead hazard control, call the National Lead Information Center at 1-800-424-LEAD.

*** This information is provided with the permission of the Alliance for Healthy Homes, a national nonprofit public interest organization committed to protecting children from lead and other environmental health hazards.**