



Rental Housing in Vermont:

An Overview of Resources, Laws & Tips for Vermont Renters

VERMONT ATTORNEY GENERAL'S OFFICE

ENVIRONMENTAL PROTECTION DIVISION

JUNE 15, 2017

Renting in Vermont

Resources:

www.rentalcodes.org

Champlain Valley Office of Economic Opportunity –
VERMONT TENANTS:

- ▶ CVOEO guide to Renting in Vermont
- ▶ CVOEO renting website

Vermont Legal Aid

Southeastern Vermont Community Action

The Upper Valley Haven

Vermont Attorney General's Lead in Housing Page



VERMONT RENTAL HOUSING CODES

A housing resource for Vermont town officials,
landlords and tenants

Who are you?

Areas of interest

Resources

About this site

News

WHO ARE YOU?

Not sure what you're looking for? Tell us who you are:

MUNICIPALITIES

[Officials and town health officers]

LANDLORDS

[Property owners]

TENANTS

[Residents]

AREAS OF INTEREST

Looking for answers within a specific topic? Pick it:

Sanitation facilities

Building systems

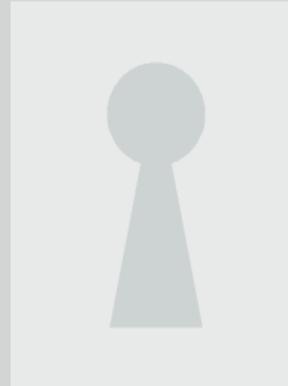
Structural elements

Lead paint

Life safety

Mobile homes

Other health and
safety concerns





THE DEFINITIVE GUIDE TO RENTING IN VERMONT

PRODUCED COOPERATIVELY BY



Renting in Vermont

BEFORE MOVING IN

Rental Applications

- Landlord CAN check past landlords, references, credit reports, background checks
- No legal restrictions on what a landlord may ask for – can ask for social security & bank account numbers
- Can also ask for marital status, family composition, source of income, etc. – BUT CANNOT use this information to discriminate
- CANNOT charge an application fee, however, CAN charge for the actual cost of background and credit reports
- Vermont's Fair Housing Law

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Vermont's Fair Housing Law – Title 9, Chapter 139

What is fair housing?

a person's right to choose where he or she lives and the right to rent or buy a dwelling free from discrimination

Fair Housing is the right to an equal opportunity in housing

“Protected Class”

categories of people that fair housing applies to

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Vermont's Fair Housing Law

The 12 Protected Classes

Federal Protections:

Race

Color

Religion

National Origin

Familial Status (presence of minor children)

Disability

Gender

Additional Vermont Protections:

Age (18+)

Marital Status

Sexual Orientation

Receipt of Public Assistance

Gender Identity

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Housing Discrimination

Housing Discrimination is any of the following based on membership in a protected class:

- Refusal to Rent, Sell or Finance Housing;
- Setting different terms, conditions, or privileges or providing different housing services or facilities;
- Make, print or publish any notice statement or advertisement that indicates any preference, limitation or discrimination;
- To make false representations regarding availability for sale, inspection or rental;
- Denying access to facility or service related to sale or rental of housing;
- Coercing, intimidating, threatening or interfering with any person in housing or for filing or supporting a discrimination charge

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Housing Discrimination – is the property covered?

Race, Color & National Origin – always covered – even in owner occupied buildings

Fair Housing Law applies to residential dwellings and not commercial properties and offices (those covered by Public Accommodation Law)

Vermont has limited exemptions

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Housing Discrimination – is the property covered?

Vermont's Limited Exemptions:

- Houses with 3 or fewer apts. not covered IF the owner or a member of the owner's immediate family lives in a unit – still subj. to race, color & national origin prohibitions
- No exemptions in advertising
- Refusing to rent to tenant under age 18 is allowed
- Religious preference given to tenants of same religion as religious association which provides or rents room for no profit is acceptable
- Elderly units – may discriminate vs. families with children if housing is occupied only by people over 62 y.o. or if at least 1 person over age 55 resides in each unit and complex provides significant facilities for the elderly
- Renting units that would be too small for the family desiring to live there (based on occupancy standards) is illegal

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Housing Discrimination

Discrimination vs. Illegal Discrimination

Refusing to rent to tenant because tenant has tattoos, piercing or criminal history – could be discrimination, but not illegal discrimination (not protected classes)

Bad credit or poor references – not illegal discrimination

setting different rules or policies because of your behavior is not discrimination as long as the behavior is not a part of a disability

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Rental Agreements/Rental Leases

Legally, do not need to be in writing; better to have in writing - oral or written, equally binding

Rental agreement – “all agreements, written or oral, embodying terms and conditions, concerning the use and occupancy of a dwelling and premises”

9 V.S.A. § 4551

No written rental agreement can contain language that circumvents Vermont law – such terms are unenforceable even if the lease is signed by both parties

An unenforceable clause does not invalidate the entire lease; similarly one party breaking a clause in the lease does not invalidate the entire lease

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Rental Leases - Tips

- Don't sign until you read & understand all terms
- Lease becomes legal when you sign it – not when you move in
- Keep a copy of lease in safe place
- Request a copy from landlord if you are not given one – request in writing to document
- Can have lease reviewed – lawyer, Vermont Tenants (CVOEO)

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Some examples of unenforceable lease terms:

Late Fees – may request documentation from landlord that the fee is related to costs imposed on them as a result of the late rent payment

Repairs – clauses that make tenant responsible for repairs is not enforceable

Guests – owners cannot interfere with renter's right to have guests of their choosing

If a person staying with you has a permanent residence = guest

if your unit is primary residence = guest is living with you

could jeopardize status as renter by allowing someone not on rental agreement live with you – grounds to terminate tenancy

As a Renter

Under Vermont Law:

"Tenant" means a person entitled under a rental agreement to occupy a residential dwelling (9 V.S.A. § 4451(10))

"Landlord" means the owner, lessor, or where applicable, the sublessor of a residential dwelling unit or the building of which it is a part. (9 V.S.A. § 4551(4))

"Dwelling unit" means a building or the part of a building that is used as a home, residence, or sleeping place by one or more persons who maintain a household. (9 V.S.A. § 4551(3))

As a Renter

Privacy & Access

How can a Landlord gain access to a tenant's property while respecting a tenant's right to privacy? (9 V.S.A. § 4460)

With Tenant's CONSENT

NOTE: Tenant's consent shall not be unreasonably withheld

After Giving the Tenant at least a 48-hour Notice for entry between hours of 9 a.m. and 9 p.m.

In an Emergency

As a Renter

Privacy and Access

What if a Landlord enters a unit without proper Notice?

- CONSULT with an Attorney or Vermont Tenants
- WRITTEN NOTICE (form letters available via Vermont Tenants)
- May call the POLICE
- In extreme circumstances – consider Trespass Notice (may want to consult with an attorney on this)

As a Renter

ILLEGAL RETALIATION (9 V.S.A. § 4465)

(a) A landlord of a residential dwelling unit **may not** retaliate by establishing or changing terms of a rental agreement or by bringing or threatening to bring an action against a tenant who:

(1) has **complained** to a governmental agency charged with responsibility for enforcement of a building, housing, or health regulation of a violation applicable to the premises materially affecting health and safety;

(2) has **complained** to the landlord of a violation of this chapter; or

(3) has **organized** or become a member of a **tenant's union** or similar organization.

(b) If the landlord acts in violation of this section, the tenant is entitled to recover **damages and reasonable attorney's fees** and has a defense in any retaliatory action for possession.

(c) If a landlord serves notice of termination of tenancy on any grounds other than for nonpayment of rent within 90 days after notice by any municipal or State governmental entity that the premises are not in compliance with applicable health or safety regulations, there is a **rebuttable presumption** that any termination by the landlord is in retaliation for the tenant having reported the noncompliance.

As a Renter

ILLEGAL RETALIATION

Not all forms of retaliation are considered ILLEGAL

Landlords are not required to:

- set EQUAL RENTS for equal housing (exception: Mobile Home Parks)
- allow all tenants the SAME PRIVILEGES
- treat all tenants in the SAME MANNER

If you are concerned that you are being **ILLEGALLY RETALIATED** against – may wish to consult with lawyer

As a Renter

RENT INCREASES \$\$\$ ↑↑↑

“An increase in rent shall take effect on the first day of the rental period following no less than 60 days ACTUAL NOTICE to the tenant”
(9 V.S.A. § 4455(b) (emphasis added))

Tenant consent **NOT** required – as long as notice proper (written), increase is effective

Check local ordinances (example: Burlington local ordinance requires 3 rental period notice)

As a Renter

SECURITY DEPOSITS

The landlord may retain all or a portion of the security deposit for:

- (1) **NONPAYMENT** of rent;
- 2) **DAMAGE** to property of the landlord, unless the damage is the result of normal wear and tear or the result of actions or events beyond the control of the tenant;
- (3) **NONPAYMENT** of utility or other charges which the tenant was required to pay directly to the landlord or to a utility; and
- (4) **EXPENSES** required to remove from the rental unit articles abandoned by the tenant.

As a Renter

SECURITY DEPOSITS

A landlord SHALL return the security deposit along with a WRITTEN STATEMENT itemizing any deductions to a tenant within 14 days from the date on which the landlord discovers that the tenant vacated or abandoned the dwelling unit, or the date the tenant vacated the dwelling unit, provided the landlord received notice from the tenant of that date. In the case of the seasonal occupancy and rental of a dwelling unit not intended as a primary residence, the security deposit and written statement shall be returned within 60 days.

9 V.S.A. § 4461(c)

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Vermont's Lead in Housing Law



Vermont's Lead in Housing Law

Vermont:

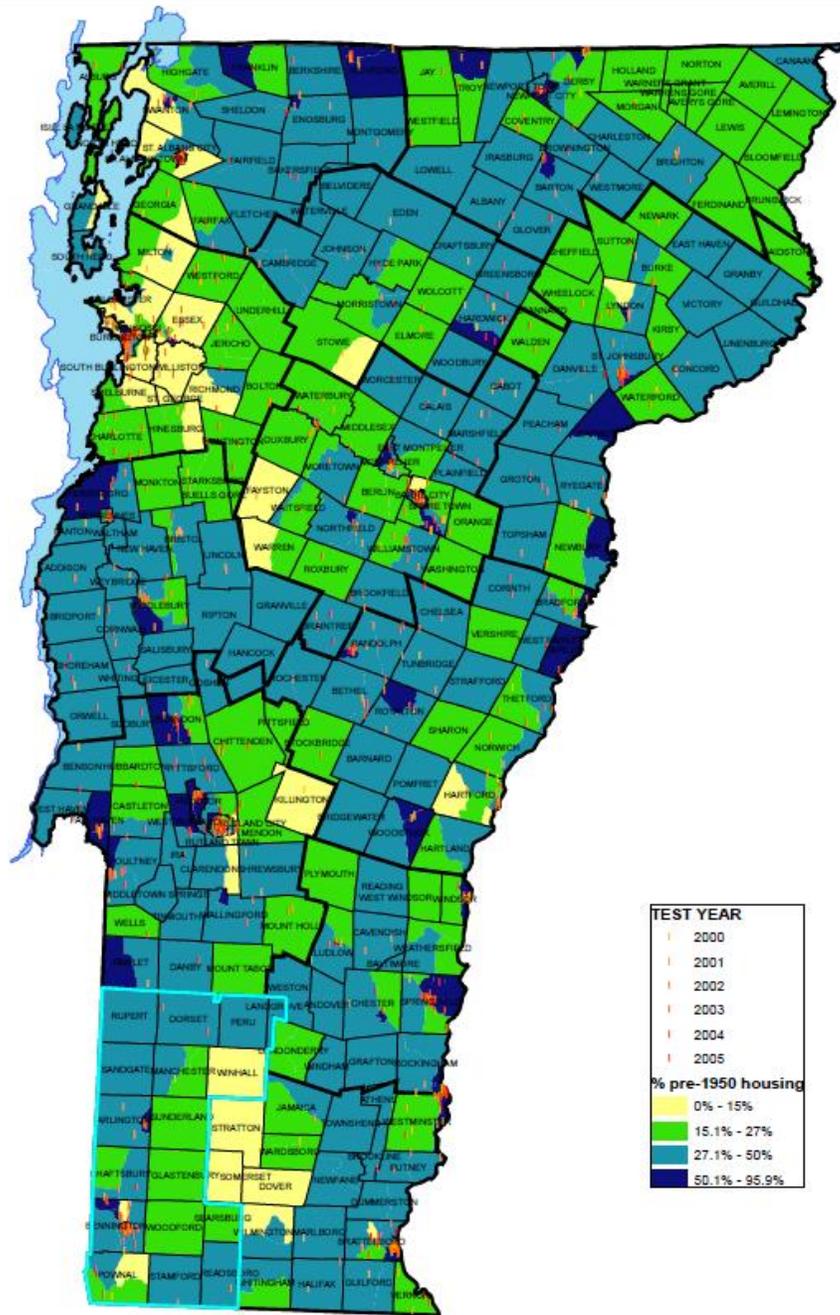
Vermont has some of the oldest housing stock in the country

Approximately 66% of Vermont homes and 80% of Vermont rental units were built before 1978 when lead was banned in residential paint.

Lead in Housing Law on the Books in Vermont since 1997

Requires completion of “Essential Maintenance Practices” aka EMPs in rental target housing & daycares --- rental units older than 1978

VERMONT ELEVATED LEAD DATA, 2000 - 2005



TEST YEAR

- 2000
- 2001
- 2002
- 2003
- 2004
- 2005

% pre-1950 housing

- 0% - 15%
- 15.1% - 27%
- 27.1% - 50%
- 50.1% - 95.9%

Vermont's Lead In Housing Law

Key Definitions (18 V.S.A. § 1751)

“Deteriorated Paint” – “any interior or exterior lead-based paint or other coating that is peeling, chipping, chalking, or cracking or any paint or other coating located on an interior or exterior surface or fixture that is otherwise damaged or separated from the substrate.”

All paint in pre-1978 housing is presumed to be lead-based unless certified that no lead paint is present (18 V.S.A. § 1760(a))

Vermont's Lead in Housing Law

Key Definitions (18 V.S.A. § 1751)

“Rental target housing” means “target housing offered for lease or rental under a rental agreement as defined in 9 V.S.A. § 4551. “Rental target housing” does not include a rented room located within a dwelling in which the owner of the dwelling resides unless a child six years of age or younger resides in or is expected to reside in that dwelling.”

“Target housing” means “any dwelling constructed prior to 1978, except any 0-bedroom dwelling or any dwelling located in multiple-unit buildings or projects reserved for the exclusive use of the elderly or persons with disabilities, unless a child six years of age or younger resides in or is expected to reside in that dwelling. “Target housing” does not include units in a hotel, motel, or other lodging, including condominiums that are rented for transient occupancy for 30 days or less.”

Essential Maintenance Practices

Statute: 18 V.S.A. § 1759

EMPs: repair of 1 square foot deteriorated paint, window well inserts, cleaning of common areas annually & specialized cleaning of rental units at change of tenant, paperwork to tenants --- AND filing of annual EMP compliance statement with Department of Health, insurance carrier & adult tenant in each unit

NOT abatement, really annual upkeep – *must be EMP certified (free 4-hour course)*

EMPS also have to be performed as a part of a sale of property – attest to them being done (once had case with realtor who falsified compliance)

Filing of EMP statement only way for state to know who is complying with law

As a Renter: what to expect from the Lead Law

1. Tenants must be given a copy of the EMP Statement, every year. Can be mailed, emailed, or hand-delivered. 18 V.S.A. § 1759(b)(3)

EMP Statement:

Vermont Department of Health Instructions for Completing Compliance Statement

Vermont Law requires that owners of residential rental property built before 1978 complete a Compliance Statement upon completion of Essential Maintenance Practices (EMPs). Property managers who provide maintenance services are also required to complete EMPs, including filing the Compliance Statement, unless their contract explicitly states the property manager is not responsible. Every 365 days, a Compliance Statement must be filed with the Department of Health and the property owner's liability insurance carrier. Copies of the Compliance Statement must also be given to tenants.

You may wish to use the boxes below as check boxes to help make sure you are completing the form correctly.

Side 1

The top portion of Side 1 is identifying information. Please print legibly.

- Complete one Compliance Statement per building, along with its outbuilding(s).
- Only one owner or the property manager needs to sign the Compliance Statement.
- All owners' names, addresses, and phone numbers must be listed.
- If all owners do not fit in the space provided, use a Compliance Statement Continuation Sheet to list additional owners.

The bottom portion of Side 1 (numbers 1–6) applies to the exterior of the building, outbuildings, grounds, and interior common areas.

- Be sure to include the EMP Certificate # and date completed for numbers 1–5.
- On numbers 2 and 4, "None" means that no deteriorated paint needed to be stabilized.
- On number 3, "None" means there were no visible paint chips on the ground.
- For number 6, the poster needs to be in each unit or in a location that all occupants can see.

Side 2

Side 2 is for EMPs completed for each unit in the rental property.

- Be sure to fill in the rental property address at the top of the page.
- There are spaces for 6 units on Side 2. If you have more than 6 units, copy enough blank sheets of Side 2 to have enough spaces for all the units in the building.
- Be sure to include the EMP Certificate # and date completed for numbers 5–7.
- Number 10 applies to lease and rental agreements beginning July 1, 2008. If more spaces are needed, use a Compliance Statement Continuation Sheet for the additional information.
- Property owner or manager must sign and date each Side 2 page.

Overall

- In the upper right hand corner of each page, fill in the page number, for example, Page 1 of 3, Page 2 of 3, Page 3 of 3. Please remember that for buildings with more than 6 units, additional Side 2 pages will be needed.
- Copies of Side 1 and Side 2 must be distributed to tenants within 10 days of signing the Compliance Statement. If more than one Side 2 has been completed (because the building has more than 6 units), give the tenant the Side 2 with that tenant's unit on it.
- File the Compliance Statement with the Vermont Department of Health, Childhood Lead Poisoning Prevention Program, PO Box 70, Burlington, VT 05402-0070 and with the owner's liability insurance carrier. All pages of the Compliance Statement must be filed.

Contact the Childhood Lead Poisoning Prevention Program at 1-800-439-8550 with questions.

Side 2: For Each Unit at _____

Address of Rental Property _____

7. Visually inspected window wells to verify that inserts were installed in wooden windows or were not needed because windows are aluminum or vinyl.

	Unit # _____					
EMP Certificate #						
Date insert verified or installed						
Vinyl/aluminum window						
Other: please specify						

8. Visually inspected all interior surfaces of the units to identify deteriorated paint. Used safe work practices to stabilize deteriorated paint exceeding 1 sq. ft. on interior surfaces within 30 days of visual inspection or report by tenant.

	Unit # _____					
EMP Certificate #						
Date inspected						
No deteriorated paint						
Date deteriorated paint stabilized						

9. At change of tenant, visually inspected unit interior and building exterior to identify deteriorated paint and performed specialized cleaning in unit. Used safe work practices to stabilize deteriorated paint exceeding 1 sq. ft. within 30 days.

	Unit # _____					
No Change of Tenant	<input type="checkbox"/>					
EMP Certificate #						
Date inspected						
No deteriorated paint						
Date deteriorated paint stabilized						
Date performed cleaning						

10. Prior to entering into a lease or rental agreement (written or oral), provided to approved tenants a copy of the pamphlet "Protect Your Family From Lead in Your Home" and a copy of the most recent EMP Compliance Statement.

Unit # _____	Date gave pamphlet _____	Date gave Compliance Statement _____	Date entered into lease or rental agreement _____
Unit # _____	Date gave pamphlet _____	Date gave Compliance Statement _____	Date entered into lease or rental agreement _____
Unit # _____	Date gave pamphlet _____	Date gave Compliance Statement _____	Date entered into lease or rental agreement _____

No new lease or rental agreements during this time period

11. Within 10 days of signing this Compliance Statement, I will ensure that the pamphlet "Protect Your Family From Lead in Your Home" and a copy of this EMP Compliance Statement will be given to tenants. A copy of this EMP Compliance Statement will also be given to my liability insurance company.

Property Owner's or Manager's Signature

Date

The date that this compliance statement is received by the Department of Health becomes your annual compliance date for the purposes of fulfilling 18 VSA § 1759. This means you will be required to complete and file your next compliance statement within 365 days of the date this compliance statement is received by the Department. Each year a compliance statement must be given to each tenant and must be filed with the owner's liability insurance carrier and with the VERMONT DEPARTMENT OF HEALTH, Childhood Lead Poisoning Prevention Program, PO Box 70, Burlington, VT 05402-0070.

EMP Statements

Vermont Department of Health EMP database (can search by property):

<https://secure.vermont.gov/VDH/emp/index.php>

The screenshot shows a web browser window with the URL <https://secure.vermont.gov/VDH/emp/index.php>. The page header includes the Vermont logo and the text "VERMONT EMP COMPLIANCE STATEMENT A SERVICE OF THE DEPARTMENT OF HEALTH". Below the header is a navigation bar with links for "Vermont.gov", "FAQs", and "VDH Website". The main content area is titled "Essential Maintenance Practices Compliance Statement Service" and contains a welcome message: "Welcome to the Vermont Department of Health Online Essential Maintenance Compliance (EMP) Statement Service. This online service allows completed compliance statements to be filed online. Anyone interested, can also search if a residential rental property or a child care facility built before 1978 has filed a compliance statement as required by Vermont law. Searching does not require an account. There is no charge for this service." Below the welcome message are three main sections, each with a blue button and a corresponding instruction in a grey box:

Existing EMP Account Login	Already have an account? Click "Existing EMP Account Login" to login. Note: Residential rental property and child care facility managers must be assigned to a property by a property owner before logging in.
Create New EMP Account	To create a new EMP account click 'Create New EMP Account'
Search for Compliance Statement	To search for 'Search for Compliance Statement'

At the bottom of the page, there is a footer with links for "Accessibility Policy" and "Privacy Policy", the text "A Vermont Government Website Copyright 2017 State of Vermont", and a "Secured By Vermont.gov" logo.

As a Renter: **what to expect from the Lead Law**

1. A Copy of the EMP Statement, every year. Can be mailed, emailed, or hand-delivered. 18 V.S.A. § 1759(b)(3)
2. **Posting a notice about lead hazards and how to report them (landlord's contact info); "must be prominently posted" (i.e. common areas) 18 V.S.A. § 1759(a)(8)**

Notice to Occupants



Promptly report all deteriorated paint or visible paint chips to the Owner or Owner's agent.

This means any paint on the inside and outside of this building that is chipping, peeling, chalking, flaking, cracking, or damaged. It also includes any visible paint chips on the ground.

Prevent Lead Poisoning

Name of Owner or

Owner's Agent: _____

Address: _____

Telephone: _____

18 V.S.A. § 1759

December 2016

As a Renter: what to expect from the Lead Law

1. A Copy of the EMP Statement, every year. Can be mailed, emailed, or hand-delivered. 18 V.S.A. § 1759(b)(3)
2. Posting a notice about lead hazards and how to report them (landlord's contact info); "must be prominently posted" (i.e. common areas). 18 V.S.A. § 1759(a)(8)
3. **Prior to entering lease, tenants must be given EPA's pamphlet "Protect Your Family from Lead in the Home"**
18 V.S.A. § 1759(b)(4)



Protect Your Family From Lead in Your Home



Vermont's Lead In Housing Law

Vermont Attorney General's Office
Consumer Assistance Program

IN 2007 – “**Get the Lead out of Vermont**” initiative: Attorney General's Office along with Department of Health

Q: In what ways were Vermonters being affected by lead, what sources, what could be done?

Lead in Housing one source of exposure

100+ stakeholders invited to participate ~80 did

Result was “**Get the Lead Out of Vermont**” report to Legislature

“Get the Lead Out of Vermont”



Report to
Vermont Attorney General
William H. Sorrell
and
Acting Commissioner of Health
Sharon Moffatt

February 2007

Get the Lead Out of Vermont

Publicized initiative and results: legislation changes: consumer products laws, plumbing, housing

Report found that with respect to Housing – Vermont landlords had complied less & less since 1997 law – greater enforcement/awareness needed

AG's Office working with Vermont Department of Health for awareness and enforcement – violations of Lead in Housing Law and Consumer Protection Act

Significant penalties and press release BUT goal #1 – Compliance (priority to units with children) – allow some \$\$\$ back into property BUT have to go beyond what law requires



Lead in Housing

Lead in Housing

Vermont's lead in housing law was most recently amended effective July 1, 2008. View a [summary](#) of those amendments or [the law](#).

View the [summary](#) of lead enforcement actions taken by the Attorney General since 2007.

Sales of pre-1978 Housing

Sellers of pre-1978 housing must disclose certain information on lead hazards and, for rental housing, on compliance with the lead law. Disclosures are required both prior to executing a purchase and sale agreement and at the time of sale. For information from the Department of Health on the specific actions that must be taken and the materials that must be distributed, click [here](#).

Rental Housing

Annually, owners of pre-1978 rental properties must perform essential maintenance practices (known as "EMPs") at the rental properties. EMPs include, but are not limited to, installing window well inserts, visually inspecting properties at least annually for deteriorated lead-based paint, restoring surfaces to be free of deteriorated lead-based paint within 30 days after such paint has been visually identified or reported to the owner by a tenant, and posting lead-based paint hazard information in a prominent place.

An EMP Compliance Statement certifying completion of EMPs needs to be submitted **annually** to the Department of Health, to the property owner's insurance carrier **and to all tenants** of the property.

Renting in Vermont

Warranty of Habitability – Consumer Protection Act

9 V.S.A. § 4457(a) – “In any residential rental agreement, the landlord shall be deemed to covenant and warrant to deliver over and maintain, throughout the period of tenancy, premises that are safe, clean and fit for human habitation and which comply with the requirements of applicable building, housing and health regulations”

By renting apartment, landlord impliedly represents that the apartment is in compliance with the law

Landlords violate Consumer Protection Act by renting property that is in violation of the law. *Bisson v. Ward*, 160 Vt. 343, 351 (1993)

Warranty of Habitability: examples

“Safe, Clean and Fit for Human Habitation” + comply with housing codes

- ▶ **Heat** (good working order, capable of heating to 65°, if landlord pays, must be available any time temp is below 55°)
- ▶ **Water supply** (hot/cold, safe drinking water, plumbing/sewage)
- ▶ **Electricity** (2 working outlets and at least one light fixture)
- ▶ **Bathroom and Kitchen** (working facilities)
- ▶ **Garbage/sanitation** (trash receptacles, common area cleaned)
- ▶ **Ventilation** (working windows, adequate common area vents)

Consumer Protection Act: complaints and enforcement

- ▶ CAP receives complaints about lead law and warranty of habitability.
- ▶ AGO enforces Consumer Protection Act violations by landlords.