

Examples of Incentives for Healthy Housing and Addressing Code Violations



Massachusetts

The Commonwealth of Massachusetts' "deleading" income tax credit, which has been in place since 1994, offers a model for other states interested in helping residents pay for the cost of abating lead hazards. The owner of a residential property can claim a tax credit equal to the lesser of the cost of deleading, or \$1,500, for the containment or abatement of lead hazards, including the replacement of window units. A tax credit equal to the lesser of one-half of the cost of deleading, or \$500, is available to offset the cost of bringing the property into interim compliance, using interim control measures, pending full compliance. Several steps are necessary to claim the credit: the property must be inspected by a licensed inspector; the property is then "deleaded" by a MA-licensed contractor; a licensed inspector issues a letter of compliance or a letter of interim control; and the owner files a copy of the inspector's letter with the owner's income tax return. The tax credit is a dollar-for-dollar offset for the actual amount spent against taxes owed. Any unused portion of the credit may be carried forward from the year that a credit was first claimed to any of the next seven years. Some activities may be undertaken by a "qualified unlicensed individual" pursuant to State regulations.

Milwaukee

The City of Milwaukee created the Milwaukee Pilot Ordinance in 1999 to eliminate all lead hazards in pre-1950 homes in two high-risk neighborhoods, and the program ran through April 2002. All rental property owners were required to register their properties in the program. For each property, the Health Department conducted a risk assessment and documented the scope of work needed. The City funded lead safety treatments of windows (or, rarely, their replacement); the owners were responsible for all other required work. The City used certified workers for window repairs; the owners could do the other work themselves. All properties passed City-administered clearance examinations and received certificates of lead safety.

Lead hazard control was completed in 800 units in one year. The owners of approximately 50 units were taken through the court system. This strategy can be easily replicated wherever there are reluctant landlords to quickly and effectively comply with enforcement orders using a "carrot-and-stick" approach.

Maryland

The State of Maryland's Housing Rehabilitation Program, through its Radon Gas and Asbestos Abatement Pilot Program, provides low-interest loans to property owners engaged in

rehabilitation projects to address and mitigate radon problems. The loans are focused on properties that provide housing to low-income families.

Salt Lake City Landlord/Tenant Program

The Good Landlord Program. The goal of the training program is to address aspects of property management that help eliminate code violations and public nuisances while controlling and preventing illegal activity on rental properties that impact the quality of life within our neighborhoods.

Under the new program, all residential rental properties, including single and double family homes, boarding houses and fraternities/sororities, require a business license. However, with participation in the Landlord/Tenant program, per unit licensing fees can be discounted by up to 95%.

The base fee for all business licenses is \$110.00. This fee is only charged once, regardless of how many rental properties you own. In addition, there is a per unit fee of \$342.00 per unit. However, with participation in the Landlord/Tenant program, this fee is discounted to \$20.00 per unit.

The landlord is required to have the training completed no later than 6 months after application into the program. You are also required to take a 4 hour refresher course every three years.

Non-profits are not required to pay the licensing base fee, but they are required to pay the per unit fee for participation or non-participation.

With good history and practices the landlord will be able to participate in the Landlord/Tenant Program on an ongoing basis and be entitled to the discount in the per unit fees. The City is also looking into other ways to recognize and reward good landlord histories and practices.

Syracuse

The City of Syracuse is currently considering new standards for landlords. If the City's Common Council approves, a new rental registry would generate a list of approved landlords who it believes take care of their property and pay their bills on time.

The initiative for the rental registry began during the last years of former Syracuse Mayor Matt Driscoll's tenure. At the time, it failed because it was too expensive and presented a burden on landlords who are in good standing without being able effectively deal with disreputable landlords.

"The purpose was to actually focus on those particular landlords who were putting tenants in harm's way, but it hasn't been able to serve that purpose. We've been too wrapped around trying to keep up with all the provisions over-burdening the landlords who are trying to do good things," said Corporation Counsel Juanita Perez Williams.

The new rental registry would put the homes of "good" landlords on a public "preferred landlord" list. In order to qualify for such a list, the landlord's record will need to be free of code violations and all bills and [taxes](#) associated with the property must be paid off.

"We're going to reward the preferred landlords, if you will, those that are doing good things. And they're not going to have to pay the fee with this new rental registry policy. And in fact, their inspections can be completed with an affidavit," Perez Williams said.

Williams said that under the new law, landlords who fail to register and allow code violations on their properties will be fined immediately. The City will no longer wait for housing court to impose the fines. Tickets will be issued and fines will accrue.

The Corporation Counsel says the proposed rental registry law will give city codes inspectors more time to focus on the bad properties.

The Corporation Counsel says the Codes and Assessment Departments were closely involved in drafting the rental registry law. Perez Williams says the final draft should be under review by a Common Council committee in early August. She added that she'll be urging quick council approval of these new rules for landlords.

Rhode Island

Rhode Island's new Lead Hazard Mitigation law requires the state to provide technical assistance to property owners who seek to comply with the law requiring the repair of lead hazards using lead-safe work practices and clearance. This law was enacted in 2003 and became effective on November 1, 2005. The Housing Resources Commission has crafted and is in the process of implementing a technical assistance plan. When the plan is fully implemented, the state will provide property owners with access to technical service centers. These centers will be "one-stop shops" where owners will be able to gain hands-on experience with lead hazard mitigation, work with technical assistance staff, and find resources on how to obtain financial assistance for making their properties lead-safe.



Philadelphia

Title 6 of the Philadelphia Code and Regulations gives the city's Department of Public Health the authority to issue correction orders to owners (or their agents) of housing units found to have lead-based paint hazards. If an owner does not comply with the order, the City files a case in Philadelphia's special "lead court." The city may seek a range of remedies, including the use of City funds to abate the hazard and recovery of those costs from the owner. If the property owner fails to reimburse the city, the court may place a lien on the subject property for the amount of abatement costs and other related expenses. This process has been a powerful motivator for property owners, who are now more likely to proactively correct lead hazards—or at least comply with orders before the case gets to court.

Cleveland

The Cleveland City Council passed a new lead-based paint ordinance in August 2004 that, among other provisions, made lead paint hazards in residences, schools, and day care facilities a "nuisance" subject to city code enforcement; established city lead hazard disclosure requirements and penalties; created a property certificate program as an incentive for property owners to eliminate lead hazards; and allowed the city to regulate exterior paint removal through their permitting process for most pre-1978 properties.

The law makes lead paint hazards (as defined in state regulations) in residences, schools, and day care facilities a "nuisance" under city code, which empowers the city environment commissioner to require the property owner to immediately control the hazards. If the owner fails to act, the commissioner can send a contractor to abate the hazard and assess the costs to the owner by placing a lien on the property.

The ordinance also incorporates the federal lead hazard disclosure law into city code. It gives individuals harmed by the property owner the ability to recover triple damages, and it authorizes nonprofit groups to pursue damages on behalf of individuals. The ordinance also gives the Cleveland Department of Public Health authority to pursue criminal penalties (up to \$5,000 per violation) against property owners who fail to distribute the EPA lead hazard information pamphlet, disclose the known presence and location of any lead-based paint or hazard, or fulfill other duties under the federal lead hazard disclosure law. In addition, the ordinance includes a voluntary certificate incentive program for property owners. With proof of a lead inspection, owners of property built before 1978 can obtain a Lead-Free Certificate, granting the owner the legal presumption that the property is free from lead-based paint and

lead hazards. For property constructed before 1950 that meets the Essential Maintenance Practices requirements defined in state law, owners can obtain a Lead-Safe Maintenance Certificate which states that the property does not contain a lead hazard but is not certified as lead-free. To obtain either certificate, property owners must meet stringent inspection requirements, and they must abide by all disclosure provisions in order to retain their certificates. Lead-Free Certificates are valid unless they are revoked by the city; Lead-Safe Maintenance Certificates must be renewed annually. Both types of certificates transfer with property ownership, but the new owner must notify the city, pay a small fee, and comply with all the conditions for maintaining the certificate.

The law also requires city permits for residential interior or exterior lead hazard abatement projects and for exterior lead paint removal in pre-1978 housing, except for owner-occupied properties under certain conditions, housing exclusively for seniors or persons with disabilities, and zero-bedroom units. Both the city environment department and the city code enforcement agency are given authority to issue stop work orders if a permit has not been obtained or if work is not being done in compliance with state lead safety standards and methods.

New Jersey

On Jan. 12, 2004, the New Jersey Legislature passed the Lead Hazard Control Assistance Act, which has since come into force through regulatory implementation by the Department of Community Affairs. The Act authorizes a \$10 million annual fund to evaluate and control lead-based paint hazards in low-income housing, and offers low-interest loans and grants for abatement and hazard mitigation projects. The sources of funding for this are a set-aside portion of the state sales tax collected on the sale of paint and a \$20 per rental unit fee collected from landlords collected every five years for properties of 3 or more units. The bill creates a separate fund to help relocate lead-poisoned children in emergency circumstances and establishes a registry of lead-safe housing.

The New Jersey Lead Hazard Control Assistance Act also mandates lead hazard inspections for rental properties with three or more housing units constructed before 1978, unless they are certified as being free of lead-based paint. Inspections will occur in five-year cycles. Owners must be in compliance with state lead safety standards, and the law requires basic lead-safe work practices training and clearance dust testing for maintenance and repair work.

Los Angeles

In March 2004, the Western Center on Law and Poverty and the Healthy Homes Collaborative, two non-profit organizations, completed two years work, culminating in the launch of the City of Los Angeles' lead poisoning prevention code enforcement pilot program. The pilot is the first housing code enforcement program in the state to proactively identify and repair lead hazards in housing before children are poisoned. But more than simply inspecting housing, the program embodies collaboration between local government and community to empower families to advocate for themselves.

Under this groundbreaking program, housing code enforcement inspectors require landlords to repair unsafe conditions (using state legal authority established under Senate Bill 460, Health & Safety Code §105256). Moreover, inspectors refer high-risk properties (older, poorly maintained buildings occupied by families with children) to community health promoters and tenant advocates who educate the families about environmental hazards in their homes, how to get their children screened for lead, how to identify unsafe repairs that can create lead hazards, and what their tenant rights are. The health promoters also refer eligible landlords to the City's lead abatement program to seek funding to make appropriate lead safe repairs.

When landlords fail to comply with initial repair orders or fail to use lead safe work practices, housing inspectors call in certified environmental health specialists from the County's lead program to document lead hazards. The City Attorney prosecutes repeatedly noncompliant landlords. The first criminal landlord prosecution was filed in June of 2005.

The program, currently operating in the five highest-risk council districts of Los Angeles, received expanded funding from HUD in October 2005.

The City of Los Angeles, through its Rent Escrow Account Program, Utility Management Program, and Urgent Repair Program, contracts with the Coalition for Economic Survival, a community-based organization, to provide outreach to tenants living in substandard housing in order to assist those residents to force rental property owners to address housing code problems that threaten both life and health.

The programs use a financial "stick" approach, allowing renters to pay into the city's rent escrow account while property owners have outstanding housing code violations, and allowing tenants a rent reduction for each month. When housing conditions are so dire as to be life-threatening and property owners refuse to make repairs, the city steps in and fixes the problem.

New York City

New York City law classifies a variety of housing code violations, including inadequate supply of heat and hot water, rodent infestation, peeling lead paint in dwellings where a child under 7 resides, broken or defective plumbing fixtures, defective plaster, defective faucets, and extreme water damage, as Class C immediately hazardous. The city Housing Code empowers HPD to address Class C conditions and contains procedures that allow the city to recoup money spent on repair and rehabilitation. For example, under Chapter 14 of the New York City Housing Code (passed as part of Local Law 38), the city requires all rental property owners to comply with orders to repair lead hazards. Lead hazards are classified as a Class C condition, giving cited property owners 21 days to correct the problem. If landlords need more time, they can petition HPD for an extension, which gives them 60 days after the citation to repair lead hazards. When owners fail to take action, the city's Housing and Preservation Department (HPD) sends in workers from its Emergency Repair Program, who use lead-safe work practices to correct the

problem. HPD then places a lien on the property that is equal to the amount of materials and labor expended by the Department to repair the lead hazards. To clear the lien, the property owner must reimburse the city for the work it performed. Under the predecessor to current city law, between 2001 and 2003, HPD spent \$12 million on emergency repairs that property owners failed to complete within the deadline.

The New York City Department of Health and Mental Hygiene makes available to property owners and tenants a set of guidelines on assessing and addressing mold growth in homes. The guidelines provide direction on mold assessment, as well as steps to remediate and address excessive mold problems.

Among other specific guidance, the guidelines direct occupants to directly address mold growth in bathrooms and kitchens through cleaning. However, the guidelines also stress the importance of addressing underlying problems that may not be caused by everyday sources. This includes ensuring that all bathrooms and kitchens are vented to the outside with a fan, all water leaks are promptly repaired, and all water-damaged building materials are replaced as quickly as possible.

Rochester, NY

Late in 2005, the City of Rochester passed a new lead poisoning prevention ordinance that, in part, uses more effective code enforcement to advance primary prevention. The ordinance, has several notable features: Mandatory visual inspection by city inspectors of all rental housing as part of the existing Certificate of Occupancy system, under which each building is inspected every five years, Targeted implementation of the inspections in "high risk" areas'. In the targeted areas, units that pass a visual inspection must also pass dust wipes and all units must be inspected by 2009. Everyone conducting lead hazard reduction must have Lead Safe Work Practices training. After work is completed, owners must obtain a clearance examination by a private lead sampling technician/risk assessor. A Citizens Advisory Committee will provide input into the implementation process.

San Diego

The City of San Diego uses a mix of California and city law to address and remedy substandard housing conditions in San Diego. It's a powerful combination, enabling the city to issue violation notices for substandard housing conditions indicated by the presence of deteriorating lead paint, contaminated bare soil and/or lead dust. Enforcing both levels of law also allows violation

notices for unsafe work practices, currently defined in California as inadequate containment in pre-1979 housing, with a statutory presumption that paint being disturbed on pre-1979 homes is lead-based. The city follows up actively on all substandard housing cases and requires appropriate hazard control within a tight timeframe. A separate city code enforcement authority also allows entry to any dwelling to verify code is being followed. This allows San Diego inspectors to patrol neighborhoods, looking for deteriorating exterior conditions, then noting the address, coming back to the office, and seeking access through the owner to inspect exterior and interior surfaces of the dwelling. Notices of violation typically follow where necessary.

Boston

In Boston, the Breathe Easy program connects health care providers with Inspectional Services so that if an asthmatic child is identified and the health provider feels that the home may be contributing, and that there may be housing code violations, they refer the program using a database system to ISD, which then commits to respond with an Breathe Easy inspection within 48 hours. The results are accessible to the health care provider and ISD as well as the Boston Public Health Commission, which can offer additional assistance in connecting families with housing resources to repair homes.

Washington State

In April 2005, the State of Washington passed HSSB 5577, a bill that provides relocation assistance for tenants who are forced out of their homes when their landlords repeatedly fail to address pressing housing code violations, including rampant mold growth, carbon monoxide problems, and non-functional heating systems.

The bill also provides a financial disincentive for owners to ignore repeated housing code enforcement orders. Landlords who refuse to comply with enforcement orders are now required to pay \$2,000 or three times monthly rent (whichever amount is larger) to families forced to move due to their landlord's actions (or inaction). If the landlord refuses to pay, the local government where the landlord's property exists can step in, pay the tenants' relocation fees, and then collect the money from the landlord, complete with interest and penalties. The law also requires landlords to refund 100 percent of all security deposits and prepaid rent to tenants.

Charlotte and Mecklenburg County, North Carolina:

Mecklenburg County, which includes the City of Charlotte, has one of the longest-standing carbon monoxide (CO) ordinances in America. Updated in 2003, the ordinance requires CO detectors in all residences, regardless of energy source and regardless of whether residences have attached garages. Each residence, whether owned or rented, must contain at least one operable CO detector, and each detector must be battery-powered or have a battery backup if hard-wired. For landlords who have not yet complied, the ordinance requires them to install CO

detectors before signing new or renewal leases; leases signed without installation of CO detectors are not valid.

Though not as wide-ranging as the Charlotte/Mecklenburg County ordinance, similar provisions exist in the City of Chicago and have been enacted recently in Massachusetts, New Jersey, Rhode Island, and Vermont.

Minnesota

Minnesota's landlord-tenant law, Chapter 504B, grants tenants, a municipality, or a neighborhood housing-related organization legal standing to bring a court action against a landlord who fails within a reasonable time to correct deficiencies at their property. Project 504, a nonprofit neighborhood organization, has brought more than ten such cases in the past three years, leading to broad remedies for tenants, including in some cases the appointment of a third-party administrator, or receiver, to manage and operate the property. Project 504's court actions established precedent that significant unabated lead hazards in a property constitute an emergency, causing the court to issue orders to the landlord to correct the hazards immediately. More than 200 families have directly benefited since 1999, with 200 additional units/families benefiting from the strategy's incidental effects on neighboring properties. Project 504's example has prompted the City of Minneapolis to pursue a similar strategy, leading to the filing of nearly 200 city-initiated cases since 2001.

San Francisco

The City of San Francisco, using both state and local laws, addresses air quality problems through inspection and, when necessary, city-operated abatement of substandard housing conditions.

State and local law define "substandard housing conditions" related to indoor air quality as excessive dampness in habitable rooms, infestation by insects and rodents, and/or the general dilapidation or improper maintenance of homes. To enforce state and local housing law, the city relies on authority to inspect properties whenever necessary to ensure compliance. If the city's housing inspectors find violations related to indoor air quality, they are empowered to issue violation notices compelling property owners to repair and address the substandard housing conditions discovered. Should the property owner fail to address the problem within a reasonable time, the city has the option of initiating abatement procedures itself and charging the property owner for the work. These costs can include court-ordered monetary penalties. In extreme cases, the city can ask the municipal court to imprison property owners who wantonly disregard repair orders and fail to pay for city-operated abatement.

Marion County, Indiana

In Marion County, Indiana, the County Health Department implements a strong local housing ordinance through a combination of general housing inspections and support from a unit of the

Department that specializes in indoor air quality issues. The result is an integration of housing and health expertise in the code enforcement process. Indiana law and Marion County ordinances empower the County Health Department to, among other things, declare premises unfit for occupancy when housing-related health problems are extreme, and to order residences repaired and cleaned. A property owner who violates these orders can be forced to pay all enforcement costs and can be convicted of a misdemeanor should the Department press charges. The local law addresses problems including general disrepair that cause health hazards; pest infestation; plumbing leaks; improper ventilation in bathrooms and kitchens; and improper ventilation of fossil fuel combustion devices such as water heaters, furnaces, and gas ovens and stovetops.