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SP605-H-Lead Poisoning Prevention: Real Estate Notification and Disclosure

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Lead Poisoning Prevention Real Estate Notification and Disclosure

Tennessee Department of Health

Adapted for Tennessee by Martha Keel, Professor and Janice McCoy, former Research Associate Family and Consumer Sciences

UT Extension

SP605-H

What is the Real Estate Notification and Disclosure Rule?

This rule is intended to protect the public from exposure to lead from paint, dust and soil. In 1992, the U.S. Congress passed Title X, also known as the Residential Lead-Based Paint Hazard Reduction Act. Under Section 1018 of this law, HUD and the EPA require disclosure on lead-based paint and paint hazards before the sale or lease of most housing built before 1978. This rule is to help protect families who are living in housing that may have lead-based paint on the interior or exterior.

This rule became effective in 1996. Housing built after 1978 is not affected, because the Consumer Product Safety Commission banned lead-based paint in housing.

What responsibilities do the seller and landlord have?

Property owners who sell or rent housing built before 1978 must do the following:

- Make disclosure of all known lead-based paint and/or lead-based paint hazards in the housing.
- Disclose available reports pertaining to lead-based paint and/or lead-based paint hazards in the housing.
- Provide the buyers/renters with the EPA brochure "Protect Your Family from Lead in Your Home."
- Include warning language in the contract to also include signed statements from all parties (buyers, renters, etc.) that requirements were completed.
- Allow buyers a 10-day opportunity to perform lead testing on the housing.

- Keep signed acknowledgments for three years to show proof of compliance.

➤ What responsibilities do real estate professionals have?

Real estate professionals are required to ensure that:

- Landlords and sellers are aware of their obligations under the disclosure rule.
- Landlords and sellers provide all required information to lessors and buyers.
- Sellers provide purchasers the opportunity to test the housing for lead.
- Leases and contracts have the notification and proper signatures.
- The lessor and seller understand their obligations under this rule. They are also responsible for informing the buyer or renter if the seller or lessor does not comply.

➤ Are there any liability issues under this rule?

Disclosure can actually reduce the owner's liability, since occupants have the opportunity to prevent exposure to lead-based paint. If a seller, landlord or real estate professional knowingly does not provide the proper notification, he or she is liable. These individuals may be sued for triple the amount of damages if they fail to provide proper notice. Furthermore, they may be fined under both civil and criminal penalties. Mortgage lenders such as banks and mortgage companies are not liable. It is to everyone's benefit to provide all the appropriate information and prevent misunderstandings among all parties.

Lead Testing at 1 and 2...
It's the Thing to Do
TENNESSEE CHILDHOOD LEAD POISONING PREVENTION PROGRAM

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