

## **Vermont's new lead paint rules drive workforce housing rents higher**

In Governor Phil Scott's 2023 Inaugural address to the Legislature, he made the case that if Vermont were to regulate solutions to our problems, we should endeavor to pursue "Smart" regulation. His Health Department has just imposed new regulations concerning lead paint that are not smart at all, not even close.

In October, 2022, the Health Department issued new regulations concerning lead paint control. The Department had previously sought authority from the Legislature to adopt a more comprehensive approach to control of lead, particularly as it relates to exposure for small children - - those most vulnerable to the health consequences of lead exposure. In seeking authorization, the Health Department proposed to require licensure and high lead-safe work standards for professional contractors holding themselves out for hire dealing with lead paint. (Lead paint is presumed to exist in any structure originally constructed prior to 1978) It also proposed that small mom and pop landlords, as well as owners of childcare facilities, would be subject to the same training and lead-safe work practices, but they would not need to pay licensing fees or obtain expensive professional contractor's insurance. In 2018, the Legislature authorized the Health Department to adopt the regulations as they testified they intended to do.

In fact, the Health Department enacted a different regulation. One that requires small landlords to obtain not one but two separate licenses in order to repair or repaint more than a single square foot in an apartment, whether it is occupied or not. (Ironically, childcare facilities are exempt) More importantly, they changed the insurance requirements for owners of rental apartments. Vermont has long required landlords to maintain a minimum of \$300,000 in liability insurance to insure against damages resulting from lead exposure. Standard property insurance policies issued in Vermont include liability coverage for exposure to lead. Vermont law also exempts landlords from lead exposure liability so long as they conduct annual inspections, perform regular cleaning and adopt lead-safe working procedures when making repairs or repainting. These same insurance policies however, uniformly exclude liability coverage for licensed professionals performing work in their trade.

So for example, if you are a licensed electrician and own your home, your homeowners insurance does not provide professional liability coverage for your work as an electrician. In order to insure your work as a professional contractor, you need to obtain professional

contractor's insurance. In the case of a small landlord who owns less than a dozen apartments and repaints one or two apartments a year, the new licensure requirements transforms them into licensed professionals. The additional expense of professional contractors insurance is significant: as in, over \$3,000 /yr., if you can get it at all. Most insurance companies don't want to insure small landlords for professional painter's liability insurance because, candidly - - they're amateurs. Vermont now requires anyone repainting any room in an apartment to be a licensed professional, and in order to obtain the license, you must maintain professional contractor's liability insurance. So Vermont's new regulations mandate that small landlords obtain specialty insurance that they can't get, to insure against liability that they are exempt from. That doesn't sound like Governor Scott's "Smart" regulation to me.

There are an estimated 60,000 pre-1978 rental housing units in Vermont. These units are predominantly owned and operated by small local landlords who own 2-3, maybe up to a half-dozen properties. They don't have offices, staff or professional commercial insurance. They are the backbone of the State's most affordable market rate workforce rental housing. To impose thousands of dollars in additional annual expense on them just drives up the rents they must charge to maintain a reasonable return on their investment. It's as if the Health Department is completely tone deaf to the rest of the government's efforts to make workforce housing more affordable here.

Other states have adopted smarter regulations around lead paint and housing. To date, the EPA has approved 14 State's lead paint regulations. Half of them clearly permit an owner of rental housing to work on their own properties without obtaining special licenses or paying licensing fees. No other State in the country mandates that owners purchase specialty painting contractor insurance in order to work on their own buildings. These are the very problems with Vermont's new lead paint regulations that drive up rents so much. Vermont's Health Department could take a smarter approach to regulating lead in housing, if only someone there would pick up the phone and listen. Since they have decided not to, Vermonters can take action themselves to provide a solution. Contact your legislators and ask them to support H.184, a bill that ensures high lead control standards, without needlessly driving up the cost of workforce housing. To learn more, visit [Sugarhousevt.com/lead](http://Sugarhousevt.com/lead).

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