



Advancing Healthy Housing Agenda through State Legislatures (and Policy Makers)

Healthy Housing Legislative Summit
San Diego, CA

Doug Farquhar, JD
National Conference of State Legislatures



What do they think?

"I grew up in Kellogg, Idaho. I played in the tailings from the lead mines; I ate fish from the streams laced with lead wastes. And look at me – I'm a state senator."

Senator David Peitch, Idaho

"Show me the dead bodies."

Former EPA Region 8 Administrator (and former CO State Senator) David Rayley, upon being presented the reasons for regulating toxic wastes



Environment and Public Health

"Improved health owes less to advances in medical science than to changes in the external environment, and to a favorable trend in the standard of living...medicine is in danger of neglecting what has hitherto proved its most powerful resource - the manipulation of the external environment."

Rene Dubos - Winner of the 1969 Pulitzer Prize for general non-fiction.



Regulating an unRegulated Community

Inadequate housing has been linked to adverse human health effects

Millions of children live in home environments that are unhealthy

Coordinated, comprehensive, and practical approach to prevent diseases that result from environmental health hazards related to housing



Regulating an unRegulated Community

Private interest; no public component

- Eliminates Environmental regulation (via EPA)

Not an employee/employer relationship

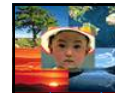
- Eliminates Occupational regulation (via OSHA)

Not Rental Housing

- Warranty of Habitability

No link to Federal Housing Standards

- HUD Section 8 Housing - not applicable
- Indian Housing - not applicable
- Department of Defense Housing - not applicable



Healthy Homes Hazards

Lead hazards

Asbestos Hazards

Construction Products

Indoor air pollutants

- *chemicals, allergens, smoke, ventilation*

Pesticides

Chemical and Safety Hazards

Rat infestations and other vermin

Radon

Other



Codes that apply to Private Housing

Housing/Property Maintenance Code

Applied at property transition

Health/Sanitation Code

Landlord-Tenant Law

Rental properties

Product Standards

For consumer products

Hazard Management Laws

Miscellaneous

PA Municipal Housing Code Avoidance - sets enforcement penalties but fails to define the municipal housing code



Various State Codes

Housing/Property Maintenance Code

CA State Building Standards Code

Health/Sanitation Code

CO Sanitary Standards and Regulations

Landlord-Tenant Law

TN Smoke Detector Code

Product Standards

MN Formaldehyde Product Standard - new and manufactured homes

Hazard Management Laws

GA Community Living Arrangement Code - mandates a healthy home for residents

Miscellaneous

FL Environmental Health - to prevent disease caused by natural and manmade factors in the environment



Housing/Property Maintenance Code

11 states have enacted housing and property maintenance codes - California, Florida, Georgia, Louisiana, Michigan, Minnesota, Ohio, Oregon, Tennessee, Virginia, and Washington

California is at the forefront of establishing housing and property maintenance codes

Oregon has a statute to protect the indoor air quality of private residences

States are including tort related codes in order to place a stronger burden on owners to maintain their property



Health/Sanitation Code

California, Colorado, Michigan, and Texas

- protect individuals from non-structural health hazards

trash removal, drinking water quality, indoor air quality, and exposure to chemicals and volatile organic compounds (VOC) indoors.

Chicago city ordinance on trash and waste

- helps reduce the growing rat problem/population

Colorado has a code that regulates odor emissions from various sources in both residential and business settings



Product Safety Law

Arkansas, California, Georgia, Louisiana, Maine, Maryland, Michigan, and Minnesota

- product standards codes attempting to protect individuals from harm inside of the home.
- Some product standards not only protect individuals inside of the home, but have a specific aim of protecting children (La. R.S. 46:2702; Md. Health Gen. T.22).
- Other items of regulation include plywood and particleboard used in new home construction
- States have a growing concern with manufacturer use of formaldehyde and VOC's in wood and consumer products

Florida's Drywall emits byproducts that corrodes air conditioners



Landlord Tenant Law

based on the Uniform Residential Landlord and Tenant Act (URLTA),

- "encourage landlords and tenants to maintain and improve the quality of housing," and
- clarify the "rights and obligations of landlords and tenants."

California has not adopted URLTA, it has codes in place regulating responsibilities of a sponsor for Residential Housing Development and employee housing/building used for human habitation

Texas, Kansas and Georgia require 'Visitability' for certain homes



Hazard Management Law

California, Colorado, Connecticut, Georgia, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, Tennessee, Texas, and Wisconsin

- mold, lead, pesticides, fire, smoke, toxics in the water, among other concerns

California sought to improve indoor air quality at home and adopted a law that addresses hazards in the home

Texas addresses mold more stringently than any state



Disclosure Law

Alaska, California, Delaware, Illinois, Maryland, Montana, New Hampshire, New York, and Tennessee –

- have disclosure laws containing an element of health and safety before the sale of residential real property

Montana requires a radon disclosure statement with an offer for the purchase and sale of inhabitable real property home

Connecticut requires disclosure for any paranormal activities



Miscellaneous Laws

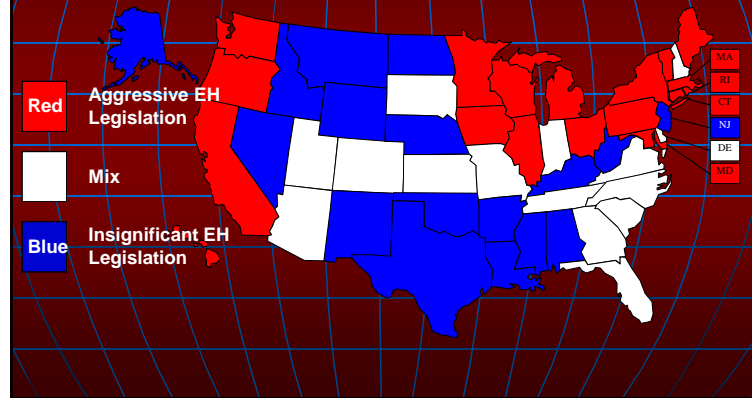
Colorado, Illinois, Indiana, and California have codes that set forth general requirements for daycare homes

- California recognizes that a significant number of family daycare homes in California are unregulated and that it is the responsibility of the state to “ensure the health and safety of children in family homes that provide daycare a radon disclosure statement with an offer for the purchase and sale of inhabitable real property home

Illinois and Indiana have general requirements for daycare homes, but also specify requirements for animals and pets in those homes



Environmental Health Legislation 2008





Healthy Homes Legislation

No organic Federal Act

- No Congressional authority to release grants

No model state law

- Complex and undefined topic

No quick legislative fix

- Will require amendments to several laws
- Will require new authorities for agencies to act
- Will require additional or reassigned resources



Healthy Homes Legislation

Whose interests are served?

- Can public health be linked to Medicaid?
- Could industry benefit (i.e., profit) from such legislation?

Whose interests are compromised?

- Who will pay to retrofit homes?

Can housing become healthy without legislation?

- Amend/expand current legislative authorities

Can/will the federal government perform this service?

- Will states/locals be preempted from acting?



Healthy Housing Lawsuits

Creating a standard of care for legal system

Providing for Attorney Fees

Eliminating tort restrictions



Can we make a change?

"Anyone who doesn't believe in miracles is not a realist."

David Ben-Gurion

NCSL Environmental Health
Program



Doug Farquhar, JD

National Conference of State
Legislatures



303/856-1397
doug.farquhar@ncsl.org
www.ncsl.org