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

Various State Codes

Housing/Property Maintenance Code
- Applies 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

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Various State Codes

Housing/Property Maintenance Code
- CA State Building Standards 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

- Red: Aggressive EH Legislation
- Blue: Insignificant EH Legislation
- Mix: EH Legislation
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

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