ENVIRONMENTAL LAW INSTITUTE

State Policy Opportunities for Lead Hazard Reduction

General Approaches and Recent Trends

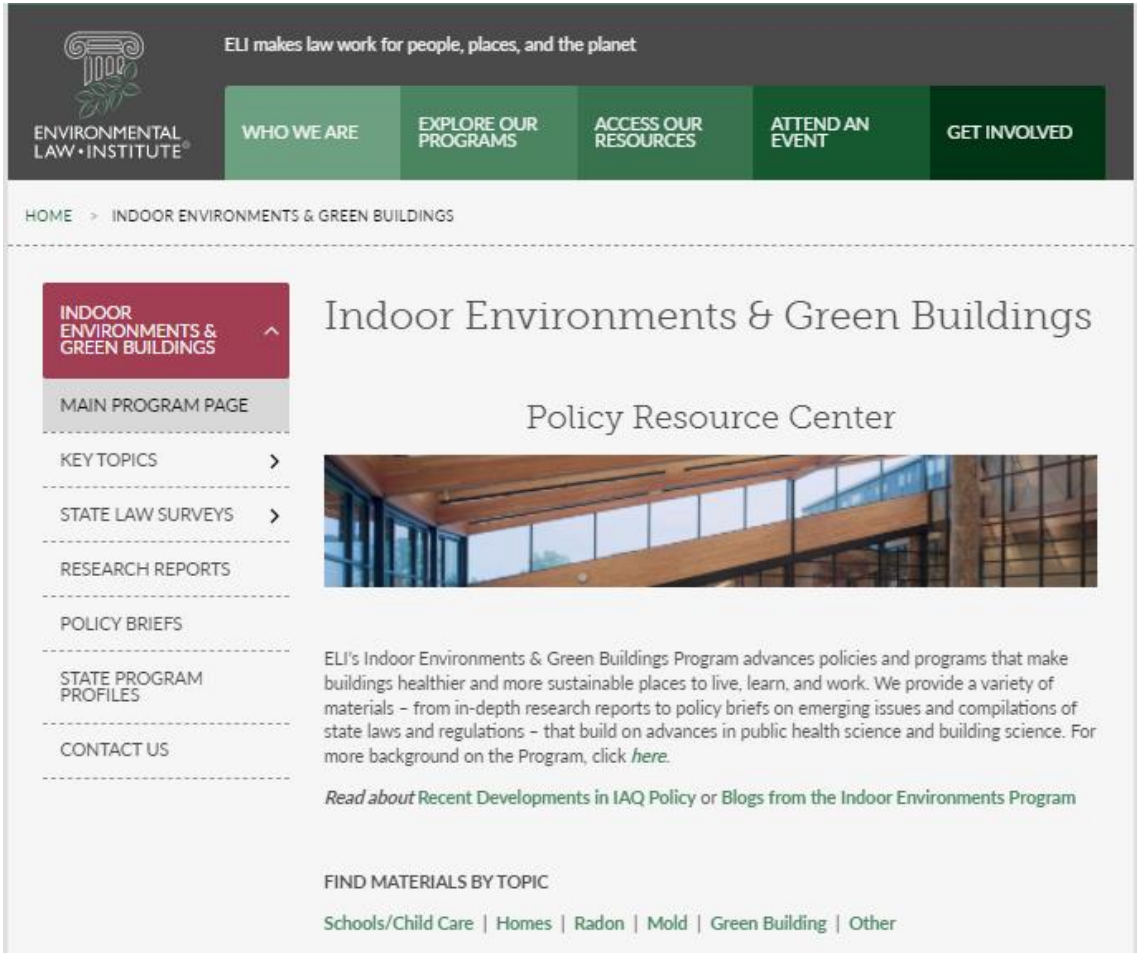
www.eli.org/buildings

About ELI's Indoor Environments Program

Visit: www.eli.org/buildings

- Catalogs Materials by Key Topics
  - Homes, Schools/Child Care, Radon, Mold
- Browse by Type of Material
  - Research Reports, Policy Briefs, Database of State IAQ Laws

Contact: reed@eli.org

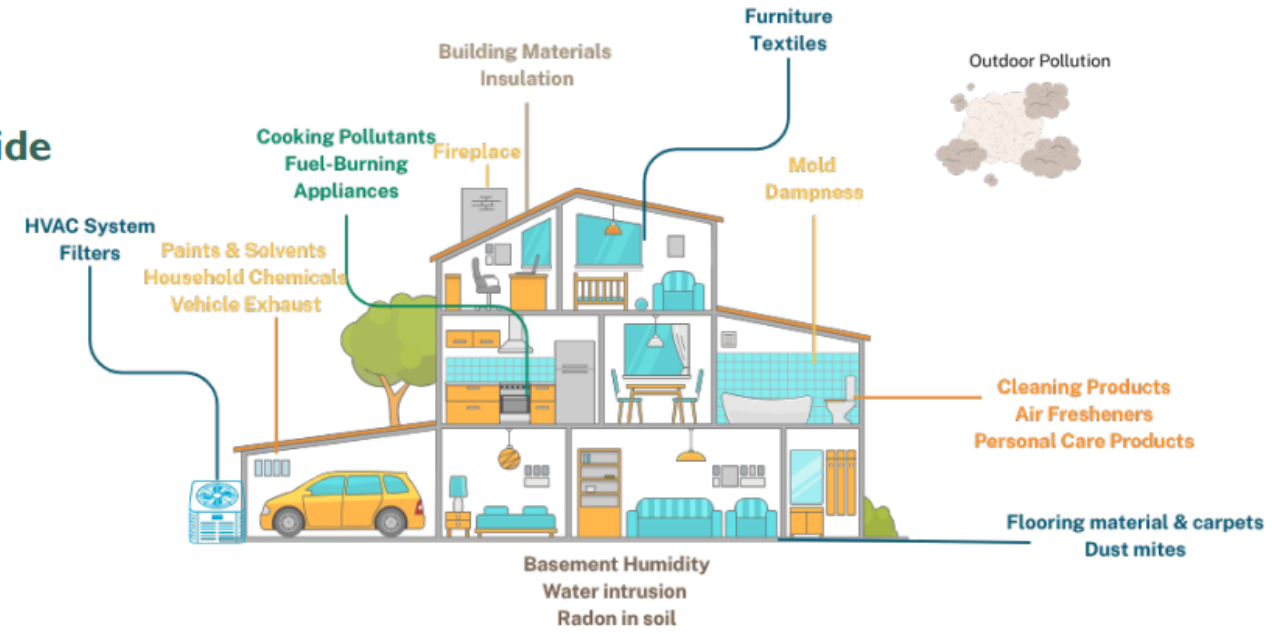


WHAT DOES "IAQ POLICY" INVOLVE?

- **Ventilation + broad range of pollutants and practices**

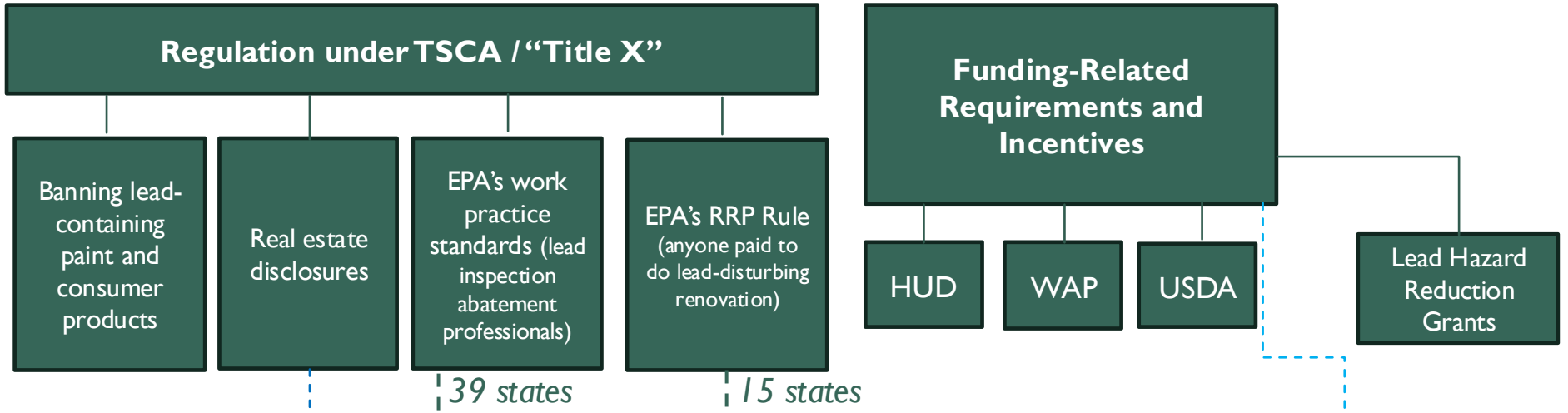
- **IAQ is affected by many different:**
  - **Pollutant sources**
    - **Outdoor pollutants that get inside**
    - **Indoor pollutants**
  - **Building design choices**
  - **Building systems**
  - **Occupant behaviors**

AND all of their interactions…



ELI's "IAQ" focuses mostly on pollutants that enter the body through lungs, but we do cover lead

Federal Policy Context



State Policies Addressing Lead Risk Hazard Reduction inside Homes and Child-Occupied Facilities

*Not including drinking water

- Comprehensive Lead Poisoning Prevention Laws
- Real Estate Laws
- Landlord-Tenant Laws
- Funding-Related Requirements and Incentives
- Housing Code (Property Maintenance)
- School Buildings and Operations (Educ. Law, Health Law)
- Child Care Facility Licensing

STATE "LEAD POISONING PREVENTION" LAWS

- Comprehensive (or multi-pronged) approach to childhood lead poisoning prevention (go beyond BLL screening and reporting)
  - Around half of states (CDC as of 2022)
- Typically address blood lead screening, surveillance, environmental investigations, hazard remediation, case management
  - May also be a place for state policies that apply to lead hazards in residential and child-occupied facilities
  - **EXAMPLE:** Rhode Island's Lead Poisoning Prevention Act (R.I. Gen. Laws §§ 23-24.6-1 to 23-24.6-28)
    - Designates the Department of Health as the lead state agency for lead poisoning prevention activities
    - Establishes a coordinated program addressing screening, detection, education, hazard reduction, and enforcement
    - Authorizes DOH to adopt standards re: lead hazards (in paint, dust, soil, drinking water)
    - Requirements for responding to child lead poisoning, including environmental investigations and hazard correction
    - Provides enforcement authority

- **A+ : Massachusetts**
  - **Public health law (Ch. 111, Sections 189-199B)**
  - **Section 197: Affirmative duty of residential owners to abate hazards for children under 6**
    - Whenever a child under 6 resides in any premises where paint, plaster, or any other accessible structural material contains "dangerous levels" of lead, the owner must abate or contain said materials (kicks in 90 days after a change in ownership if new occupants include child under 6)
    - Exception for short-term rentals (31 days or less), though dwelling still cannot have any peeling or chipping paint and tenant must receive disclosure

REAL ESTATE DISCLOSURE LAWS

- Federal minimum requirements (Title X, Sec. 1018)
  - Disclosure of "known information on the presence of lead-based paint and lead-based paint hazards"
  - Provide "all available records and reports" and provide a form pamphlet on protecting your family from lead in the home
  - Buyer must have 10 days to conduct a lead-based paint inspection or risk assessment (contingency language in contract for sale)
  - Applies to most pre-1978 residential properties (exemptions for zero bedroom, elderly/disabled housing, foreclosure sales, short-term rentals under 100 days)
- State laws/regulations can go beyond, e.g.:
  - Supplement federal informational requirements with state-specific information, documents, or disclosures about compliance—may be included of the state's lead laws or alongside other disclosures in real estate laws
  - Cover property types exempted under federal law
  - Anticipate and close loopholes: In Maryland, an owner selling covered rental housing must disclose outstanding lead risk-reduction responsibilities if they will not be fulfilled before ownership transfers (Md. Code, Env. § 6-824)
  - Stretch:
    - Create a contingency-by-statute that cannot be waived: buyer may terminate and recover deposit and/or renegotiatate if inspection discovers lead (no known examples)
    - Require a lead hazard assessment by the buyer before sale of pre-1978 residential (like new radon law in R.I.)

HOUSING CODES

- Main type of law with minimum standards for rental housing. Often include general housing standards ("habitable") as well as a list of specific conditions that must be maintained on the property.
  - Unlike "building codes," these apply to existing residential properties
  - Can be adopted by the state (many, not all) or local gov. (some)
  - Enforced by a government agency with authority to inspect, identify deficiencies, and order corrective action
- **EXAMPLE**: In California, the presence of qualifying lead hazards (e.g., deteriorated LBP and contaminated dust or soil) are a violation of state housing law

LANDLORD-TENANT LAWS

- Unlike housing codes, **all states (PA)** have laws that establish the rights and responsibilities of landlords and tenants. (e.g., security deposit procedures, landlord access to the rental unit).
  - Some cities or counties have their own, but less common (rent stabilization jurisdictions)
  - Enforced through private legal action (i.e., in court) by landlords or tenants
  - Usually include only general requirements for maintaining the property – such as keeping the property "clean," "safe," and "in good repair."
    - Can add a specific requirement to maintain the property free of lead hazards (alongside, e.g., mold, pests). Example: Delaware's L/T law specifies that duties of a landlord include providing a unit that is free of lead-based paint hazards and certified as lead safe or lead free
    - L/T laws often require landlords to comply with housing codes and other laws that may contain more detailed housing standards
- These laws can be used to establish:
  - Landlord obligations to identify and control lead hazards
    - Affirmative duty to correct lead hazards a.k.a. the presence of LBP hazards in rental housing is illegal (primary prevention)
      - A+ EXAMPLE: District of Columbia's lead-based paint presumption for any peeling or chipping paint in pre-1978 residential or child-occupied facility; covers all residential, common areas of multi-family buildings, and child care facilities; agency has broad authority to go in and do a risk assessment
    - Require corrective action after EBL result/investigation (e.g., Illinois)
  - Disclosure requirements (different or beyond federal minimum)
  - Tenant protections
    - Cover relocation expenses for tenants who are under 6 or pregnant (at least 35 states do *not*, per Howard U)
    - Prohibition on raising rent after abatement work
  - Rental housing registration system

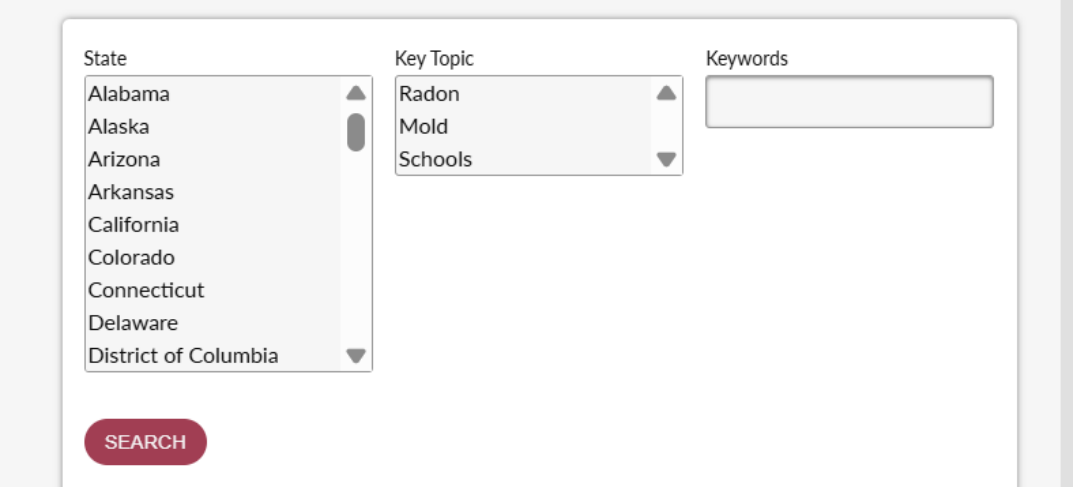
State Policy Database

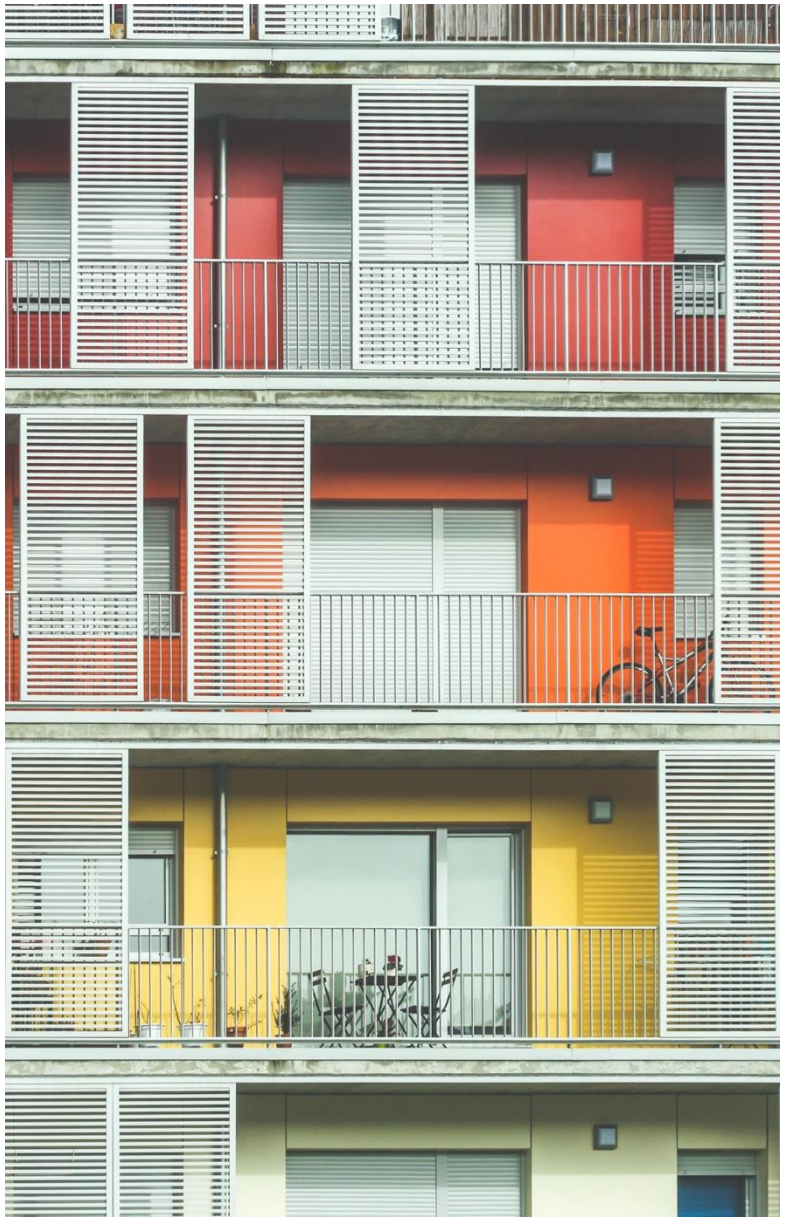
About the Database

Visit: www.eli.org/buildings

- Searchable
  - ~400 state laws related to IAQ
- PDFs available for download
- Browse by Topic
  - Radon, Mold, Schools

CAVEAT: Generally the database does not include state policies that are almost universal, e.g., laws/regs that implement the RPP rule, Safe Drinking Water Act, and rules on reporting lead exposures





Recent Policy Trends: IAQ in Homes

(new or updated end of 2024-June 2026)

- **New tenant protections**
  - Lead-based paint (DE, NY), mold (MD)
  - Post-disaster (CA), max temperature (CA (TBD))
- **Systematic identification of unhealthy housing**
  - Lead-based paint (DE, NY)
  - Healthy housing stock assessment (RI)
- **Funding programs for retrofit/weatherization/energy-efficient IAQ measures**
  - Healthy home/weatherization assistance (IL)
  - EE+IAQ upgrades to lower heating costs for LI residents (VA)
  - Low-income weatherization/HH (WA)
  - Require "whole home" plan coordinating & leveraging various funding sources (MD)

New Policy Spotlight

Delaware H.B. 70 (2025)

- Establishes a **lead-based paint certification system for rental housing built before 1978.** Directs the Department of Health and Social Services to adopt regulations.
- Requires LL to obtain, file, and periodically renew a **certification that units and premises are "lead free" or "lead safe**" (i.e., state-approved lead inspector determines unit/premises do not currently have lead hazard)
- **If the inspection shows that rental unit is uninhabitable because of existing hazard, requires LL to provide alternative housing** before and during abatement/remediation activities
- Requires **lease to disclose the lead certification status** and requires LL to provide T with lead hazard educational materials before occupancy (or face civil penalties that increase daily).
- Directs DHSS to establish a new grant and loan program to help property owners pay for required certification, remediation/abatement, and alternative housing.

New York Pub. Health Law §1377

- Applies in NY state (except NYC) to **state-identified "communities of concern"** (area designated as having disproportionately high prevalence of children with elevated BLL)
- Requires DOH to **establish a "registry" and inspection program to identify and remediate lead paint hazards in older rental housing** (pre-1980, 2+ units)
- Requires owners of covered buildings to **register each unit** in the building.
- Units that do not qualify for an exemption under the regulations (e.g., have been determined to be free of lead-based paint or are owner-occupied) must **pass an interior and exterior inspection for lead hazards conducted by a qualified inspector and obtain certification as lead safe** (which may necessitate performing lead hazard remediation)
- Directs the DOH to audit 10% of certifications each year through in-person inspections and document review

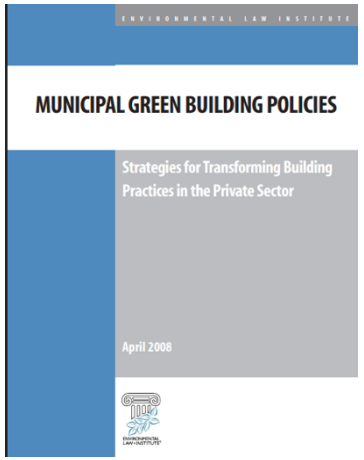
Maryland Pub. Util. § 7-224

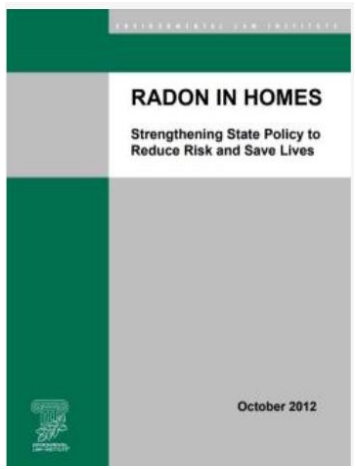
- Requires Dept. of Housing and Community Development to **provide or procure energy-related programs for LI homes** (in furtherance of GHG targets)
- Integration of energy measures with a **whole-home approach**, to include H&S upgrades and weatherization
- Requires coordination across funding sources; **calls for "whole home" plan that leverages various state and fed. $ sources** (e.g., EmPOWER, DOE weatherization, USDA Home Repair program, HUD Lead Hazard Control and Healthy Homes Grants, CDBG, Maryland's Healthy Homes for Healthy Kids); state must ensure that for whole-home retrofits there is a single point of contact for each household (and services in any language needed)
- Prohibits use of insulation w/ intentionally-added formaldehyde (or present >0.1% by weight)
- Regs. (2025) prohibit owner from raising rent after using this assistance so most financial benefits accrue to the T

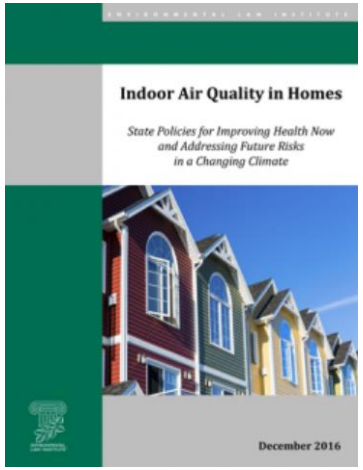
Cal. Civ. Code §1941.8

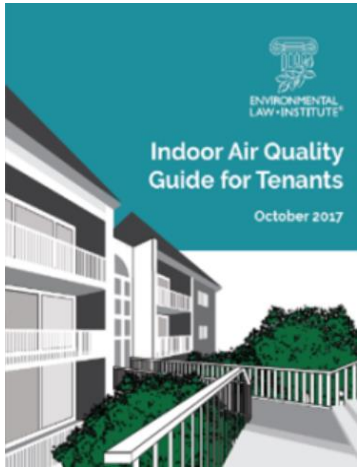
- Building on the preexisting duty of LL to maintain rental properties in a habitable condition, **imposes a specific duty to remediate any "dilapidations" that arise as result of natural or man-made disaster** (e.g., earthquake, flood, fire, riot, storm, drought, infestation, epidemic).
- Remediation must occur w/in a "reasonable time" after disaster and include (1) removal of debris caused by disaster and/or (2) mitigation of hazards arising from disaster -- e.g., mold, smoke residue, smoke odor, ash, asbestos, and/or water damage
- Declares that presence of debris from a disaster (e.g., ash, sludge, runoff) is presumed to render a rental unit untenable until determined otherwise by local public health
- Tenant notice and access to studies/tests/reports. Specifies T right to return to the unit (paying same rent as immediately prior to disaster), but does not require LL to rebuild a property that has sustained damage

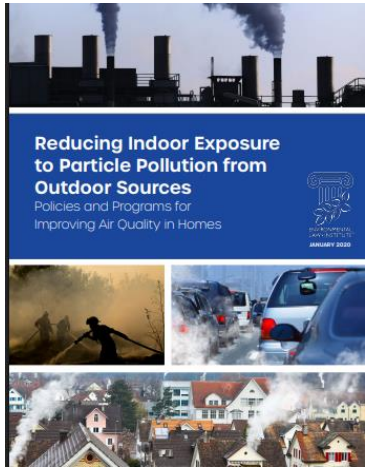
ELI POLICY MATERIALS: *Research Reports, Database, Policy Briefs, Convenings*









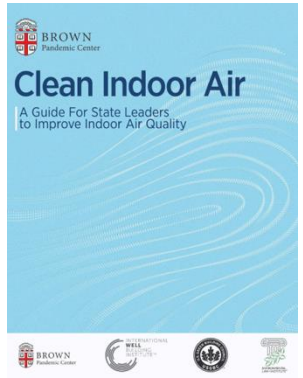




Examples of Policy Briefs

- Indoor Air Quality in Rental Dwellings
- Radon Control in New Home Construction
- Legionella Management in Building Water Systems
- Indoor Chemical Exposures: Identifying and Regulating Priority Chemicals

Collaborative Resources



QUESTIONS?



- Recent ELI-International WELL Building Institute Webinar on Affordable Housing and IAQ (description and recording)
- @EnvironmentalLawInstitute on Youtube
- www.eli.org/buildings
- Amy Reed (reed@leli.org)