



POLICY STATEMENT LANDLORD AND TENANT ISSUES

FLOOD DISCLOSURE

Background

The Federal Emergency Management Agency (FEMA) publishes maps indicating a community's flood hazard areas and the degree of risk in those areas. Flood insurance maps are usually on file in a local repository in the community, such as the planning and zoning or engineering offices in the town hall or the county building. A property owner or potential buyer may consult these maps to find out if the property in question is in a special flood hazard area (SFHA). Potential legislation would require additional disclosures regarding flood history of a property.

PAR Position

Disclosing the flood history of a property could render the landlord or property manager liable for inaccuracies regardless of the extent of actual knowledge of prior flooding. A property's flood history will likely span decades or even hundreds of years; that a property is in a designated flood plain is not indicative of its actual flood history. Imposing a duty to provide a flood history of rental property imposes an unreasonable burden on landlords and property managers.

PAR would seek to amend any legislation to:

- Require residential landlords to disclose the landlord's actual knowledge of flood related history involving the leased property. The disclosure may be stated in the lease agreement.
- Require residential landlords to provide notice of the entity that tenants may contact to ascertain whether the leased property is located in a FEMA flood plain area.
- Delete any reference to wetlands area, and
- Clarify the definition of residential.

With PAR amendments, the legislation would hold that the landlord or property manager provide a notice that the property is in a FEMA flood plain area, thereby still disclosing information to a prospective tenant.

LEAD PAINT

Background

Lead and lead-based paint is considered to be an environmental concern in residences, rental and apartment housing, commercial buildings, and work places – particularly those built before 1978.

Recent years have observed an increase in regulations governing the eradication of lead and lead-based paint in an effort to limit exposure to humans, especially children.

Federal and state laws require that sellers and their agents disclose the presence of known lead-based hazards in all buildings constructed prior to 1978, provide buyers and tenants with copies of any reports or tests dealing with such known hazards, provide buyers and tenants with a federally approved pamphlet dealing with such hazards, provide buyers with a period of up to ten days to conduct risk assessment or testing, and ensure that purchase agreements and leases include certain specified disclosures and acknowledgement language.

PAR Position

PAR is opposed to additional mandates that would impose additional disclosure duties and costs, as well as incur potential liability for landlords and possibly for any party (except the tenant) associated with the leased property (including sellers, purchasers, and property managers). Additional disclosure requirements could entail from two to four additional forms in any lease transaction, as well as extensive revisions to accompanying notices in the residential lease and agreements of sale.

*Approved by the PAR Board of Directors
January 2011*