

MOLD STATUTES PUBLIC HEALTH CODE REGULATIONS

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Landlord's Responsibility

- Generally, the landlord is responsible for repairing moisture problems and cleaning up mold



What is the Difference?

- Statute
- Public Health Code
- Regulation



Selected CT General Statutes (revised 2017) 47a-1 Definitions

- (d) "Landlord" means the owner, lessor or sublessor of the dwelling unit, the building of which it is a part or the premises
- (l) "Tenant" means the lessee, sublessee or person entitled under a rental agreement to occupy a dwelling unit or premises to the exclusion of others or as is otherwise defined by law
 - Includes tenants under eviction and verbal agreements

CGS 47a-1

- (i) "Rental agreement" means all agreements, written or oral, and valid rules and regulations adopted under section 47a-9 or subsection (d) of section 21-70 embodying the terms and conditions concerning the use and occupancy of a dwelling unit or premises

CGS 47a-7

Landlord's responsibilities

47a-7 Landlord's responsibilities

(a) A landlord shall: (1) Comply with the requirements of chapter 3680 and all applicable building and housing codes materially affecting health and safety of both the state or any political subdivision thereof;

CGS 47a-7

Landlord's responsibilities

(2) make all repairs and do whatever is necessary to put and keep the premises in a fit and habitable condition, except where the premises are intentionally rendered unfit or uninhabitable by the tenant, a member of his family or other person on the premises with his consent, in which case such duty shall be the responsibility of the tenant; ...

CGS 47a-7

Greater duty takes precedence

CGS 47a-7(b) If any provision of any municipal ordinance, building code or fire code requires a **greater duty** of the landlord than is imposed under subsection (a) of this section, then such provision of such ordinance or code **shall take precedence** over the provision requiring such lesser duty in said subsection

CAN LANDLORD
TRANSFER THE
OBLIGATION TO REMEDY
MOLD, LEAKS OR OTHER
VIOLATIONS TO TENANT?

CONTROLLED BY
CGS 47a-7(c) and (d)

CGS 47a-7

Landlord transfer of duty to tenant

47a-7(c) The landlord and tenant of a **single-family** residence may agree in writing that the tenant perform the landlord's duties specified in subdivisions (5) and (6) of subsection (a) and also specified repairs, maintenance tasks, alterations, or remodeling, provided the transaction is entered into in good faith and not for the purpose of evading the obligations of the landlord

CGS 47a-7

Landlord transfer of duty to tenant

(d) The landlord and tenant of a dwelling unit **other than a single-family** residence may agree that the tenant is to perform specified repairs, maintenance tasks, alterations or remodeling if (1) the agreement of the parties is entered into in good faith; (2) the agreement is in writing; (3) the work is not necessary to cure noncompliance with subdivisions (1) and (2) of subsection (a) of this section; and (4) the agreement does not diminish or affect the obligation of the landlord to other tenants in the premises

WHAT CAN HAPPEN IF
THE LANDLORD FAILS TO
MEET HIS DUTIES UNDER
CGS 47a-7?

CGS 47a-11

Tenant's responsibilities

47a-11. A tenant shall: (a) Comply with all obligations primarily imposed upon tenants by applicable provisions of any building, housing or fire code materially affecting health and safety; (b) keep such part of the premises that he occupies and uses as clean and safe as the condition of the premises permit; (c) remove from his dwelling unit all ashes, garbage, rubbish and other waste in a clean and safe manner to the place provided by the landlord pursuant to [subdivision \(5\) of subsection \(a\) of section 47a-7](#); (d) keep all plumbing fixtures and appliances in the dwelling unit or used by the tenant as clean as the condition of each such fixture or appliance permits; (e) use all electrical, plumbing, sanitary, heating, ventilating, air conditioning and other facilities and appliances, including elevators, in the premises in a reasonable manner;

CGS 47a-11

Tenant's responsibilities

(f) **not willfully or negligently destroy, deface, damage**, impair or remove any part of the premises or permit any other person to do so; (g) conduct himself and require other persons on the premises with his consent to conduct themselves in a manner that will not disturb his neighbors' peaceful enjoyment of the premises or constitute a **nuisance**, as defined in [section 47a-32](#), or a serious nuisance, as defined in [47a-15](#); and (h) if judgment has entered against a member of the tenant's household pursuant to subsection (c) of [section 47a-26h](#) for serious nuisance by using the premises for the illegal sale of drugs, not permit such person to resume occupancy of the dwelling unit, except with the consent of the landlord

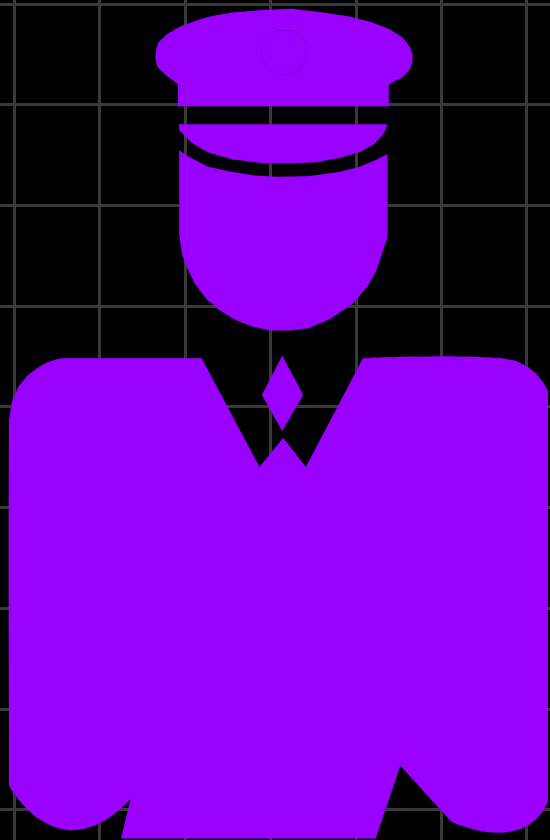
Tenant's Responsibilities

- Always use bathroom fans during and after bathing/showering
- Avoid spilling liquids on carpet. If this occurs, quickly dry carpets (if carpets stay wet, notify the landlord)
- Use the kitchen fans when cooking
- Don't run the shower to humidify your home
- Avoid using humidifiers unless there is a medical reason to use one

Local Health Enforcement Abatement of Nuisance

- When does the local health department investigate?
- What are the relevant laws for enforcement through the public health, housing and landlord/tenant statutes?

Legally Speaking...



Obligation to investigate

- Statutory
- Regulatory
 - CT Public Health Code

CGS 19a-206
Duty of directors of health
(ALSO - see CGS Chapter 368f
for Municipal District Health
Directors)

19a-206. Duties of municipal directors of health. Nuisances and sources of filth. Injunctions. Civil penalties. Authority of town director within city or borough. (a) Town, city and borough directors of health or their authorized agents shall, within their respective jurisdictions, examine all nuisances and sources of filth injurious to the public health, cause such nuisances to be abated and cause to be removed all filth which in their judgment may endanger the health of the inhabitants. Any owner or occupant of any property who maintains such property, whether real or personal, or any part thereof, in a manner which violates the provisions of the Public Health Code enacted pursuant to the authority of sections 19a-36 and 19a-37 shall be deemed to be maintaining a nuisance or source of filth injurious to the public health. Any local director of health or his authorized agent or a sanitarian authorized by such director may enter all places within his jurisdiction where there is just cause to suspect any nuisance or source of filth exists, and abate or cause to be abated such nuisance and remove or cause to be removed such filth.

Administrative Search Warrants

- May be used in any case where a regulatory or administrative search is required
- Obtain state form from DPH or Housing Court
- Must submit to Prosecutor for review before you see a judge

CGS 19a-206

(b) When any such nuisance or source of filth is found on private property, such director of health shall order the owner or occupant of such property, or both, to remove or abate the same within such time as the director directs. If such order is not complied with, within the time fixed by such director: (1) Such director, or any official of such town, city or borough authorized to institute actions on behalf of such town, city or borough, may institute and maintain a civil action for injunctive relief in any court of competent jurisdiction to require the abatement of such nuisance, the removal of such filth and the restraining and prohibiting of acts which caused such nuisance or filth, and such court shall have power to grant such injunctive relief upon notice and hearing;

CGS 19a-206

(b)(2) the owner or occupant of such property, or both, shall be subject to a civil penalty of two hundred fifty dollars per day for each day such nuisance is maintained or such filth allowed to remain after the time fixed by the director in his order has expired, except that the owner or occupant of such property or any part thereof on which a public eating place is conducted shall not be subject to the provisions of this subdivision, but shall be subject to the provisions of subdivision (3). Such civil penalty may be collected in a civil proceeding by the director of health or any official of such town, city or borough authorized to institute civil actions and shall be payable to the treasurer of such city, town or borough, and (3) the owner or occupant of such property, or both, shall be subject to the provisions of sections 19a-36, 19a-220 and 19a-230.

CGS 19a-206

(c) If the director institutes an action for injunctive relief seeking the abatement of a nuisance or the removal of filth, the maintenance of which is of **so serious a nature as to constitute an immediate hazard to the health of persons other than the persons maintaining such nuisance or filth**, he may, upon a verified complaint stating the facts which show such immediate hazard, apply for an ex parte injunction requiring the abatement of such nuisance or the removal of such filth and restraining and prohibiting the acts which caused such nuisance or filth to occur, and for a hearing on an order to show cause why such ex parte injunction should not be continued pending final determination on the merits of such action. If the court finds that an immediate hazard to the health of persons other than those persons maintaining such nuisance or source of filth exists, such ex parte injunction shall be issued, provided a hearing on its continuance pending final judgment is ordered held within seven days thereafter and provided further that any persons so enjoined may make a written request to the court or judge issuing such injunction for a hearing to vacate such injunction, in which event such hearing shall be held within three days after such request is filed.

CGS 19a-206

(d) In each town, except in a town having a city or borough within its limits, the town director of health shall have and exercise all the power for preserving the public health and preventing the spread of diseases; and, in any town within which there exists a city or borough, the limits of which are not coterminous with the limits of such town, such town director of health shall exercise the powers and duties of his office only in such part of such town as is outside the limits of such city or borough, except that when such city or borough has not appointed a director of health, the town director of health shall, for the purposes of this section, exercise the powers and duties of his office throughout the town, including such city or borough, until such city or borough appoints a director of health.

CGS 19a-206

(e) When such nuisance is abated or source of filth is removed from private property, such abatement or removal shall be at the expense of the owner or occupant of such property, or both, and damages for such abatement or removal may be recovered against them by the town, city or borough in a civil action as provided in subsection (b) or in a separate civil action brought by the director of health or any official of such city, town or borough authorized to institute civil actions.

CGS 49-73b

Municipal cost recovery (select parts)

Sec. 49-73b. Municipalities authorized to recover expenses. Liens on real estate and fire insurance proceeds. (a) Any municipality which has incurred expenses for the inspection, repair, demolition, removal or other disposition of any real estate in order to secure such real estate or to make it safe and sanitary under any provision of the general statutes or any municipal building, health, housing or safety codes or regulations shall have the right to recover such expenses from the owner of the real estate for which such expenses were incurred.

(b) The interest of each person in such real estate shall be subject to a lien for the payment of such expenses, which lien shall take precedence over any other encumbrance except municipal tax assessments on such real estate.

(h) The provisions of this section shall not apply to policies on single-family or two-family dwellings, unless such dwellings are vacant residential properties owned by a registrant subject to section 7-148ii.

Relocation

CGS 8-266

Uniform Relocation Act applies in:

- circumstances involving removal of persons from use or occupancy of buildings;
- affixes to shut down of a premises under relevant CT General Statutes;
- requires referral to Uniform Relocation Act administrator for your town, city or district for assistance to affected occupants

CGS 19a-36

CT Public Health Code

19a-36. (Formerly Sec. 19-13). Public Health Code. Fees. Fencing of naturally formed swimming pools. Use of private wells or installation of replacement wells. (a) The Commissioner of Public Health shall establish a Public Health Code and, from time to time, amend the same. The Public Health Code may provide for the preservation and improvement of the public health.

... (7) Any person who violates any provision of the Public Health Code shall be **fined not more than one hundred dollars or imprisoned not more than three months or both.**

19-13-B2

Abatement of Nuisance

19-13-B2. Abatement of nuisance (a) Any local director of health, upon information of the existence of a **nuisance** or any pollution occurring within his jurisdiction, or when any such nuisance or pollution comes to his attention, **shall, within a reasonable time, investigate and, upon finding such nuisance or pollution exists, shall issue his order in writing for the abatement of the same.**

19-13-B2

Abatement of Nuisance

(b) Such order shall specify the nature of such nuisance or pollution and shall designate the time within which such abatement or discontinuance shall be accomplished; and if such order is not complied with within the time specified, the facts shall be submitted to the prosecuting authority. Copies of all orders shall be kept on file by the director of health in his office and copies of the same shall be furnished the state commissioner of health on request.

Other enforcement remedies:
Rented dwellings

Chapter 833a: Public
enforcement of health and
safety standards in tenement
and boarding hose and in
rented dwellings

CGS 47a-52 (Formerly Sec. 19-88) Abatement of conditions in rented dwelling other than tenement house constituting danger to life or health

47a-52. (a) As used in this section, "rented dwelling" means any structure or portion thereof which is rented, leased, or hired out to be occupied as the home or residence of one or two families and any mobile manufactured home in a mobile manufactured home park which, although owned by its resident, sits upon a space or lot which is rented, leased or hired out, but shall not include a tenement house as defined in section 19a-355 or in section 47a-1.

(b) "Department of health" means the health authority of each city, borough or town, by whatever name such health authority may be known.

(c) When any defect in the plumbing, sewerage, water supply, drainage, lighting, ventilation, or sanitary condition of a rented dwelling, or of the premises on which it is situated, in the opinion of the department of health of the municipality where such dwelling is located, constitutes a danger to life or health, the department may order the responsible party to correct the same in such manner as it specifies. If the order is not complied with within the time limit set by the department, the person in charge of the department may institute a civil action for injunctive relief, in accordance with chapter 916, to require the abatement of such danger.

CGS 47a-52

(d) Paint on the exposed surfaces of the interior of a rented dwelling shall not be cracked, chipped, blistered, flaking, loose or peeling so as to constitute a health hazard. Testing, remediation, abatement and management of lead-based paint at a rented dwelling or its premises shall be as defined in, and in accordance with, the regulations, if any, adopted pursuant to section 19a-111c.

(e) When the department of health certifies that any such rented dwelling or premises are unfit for human habitation, by reason of defects which may cause sickness or endanger the health of the occupants, the department may issue an order requiring the rented dwelling, premises or any portion thereof to be vacated within not less than twenty-four hours or more than ten days.

(f) Any person who violates or assists in violating, or fails to comply with, any provision of this section or any legal order of a department of health made under any such provision shall be fined not more than two hundred dollars or imprisoned not more than sixty days or both.

(g) Any person aggrieved by an order issued under this section may appeal, pursuant to section 19a-229, to the Commissioner of Public Health.

CGS 47a-53 (Formerly Sec. 19-344)
Orders of enforcement agency
Municipal lien for expenses in executing order

47a-53. (a) Whenever any tenement, lodging or boarding house or any building, structure, excavation, business pursuit, matter or thing in or about such house or the lot on which it is situated, or the plumbing, sewerage, drainage, lighting, paint or ventilation of such house, is, in the opinion of the board of health or other enforcing agency, in a condition which is or in its effect is dangerous or detrimental to life or health, or whenever any tenement, lodging or boarding house in the opinion of the board or enforcing agency, is in violation of the provisions of section 19a-109, the board or other enforcing agency may declare that the same, to the extent specified by the board or other enforcing agency, is a public nuisance. The board or enforcing agency may order such public nuisance to be removed, abated, suspended, altered or otherwise remedied, improved or purified. The board of health or other enforcing agency may also order or cause any tenement house or part thereof, or any excavation, building, structure, sewer, plumbing pipe, paint, passage, premises, ground, matter or thing in or about a tenement, lodging or boarding house or the lot on which such house is situated, to be purified, cleansed, disinfected, removed, altered, repaired or improved.

CGS 47a-53

(b) If any order of the board of health or other enforcing agency is not complied with, or not so far complied with as the board or other enforcing agency regards as reasonable, within five days after the service thereof, or within such shorter time as the board or other enforcing agency designates, such order may be executed by the board or other enforcing agency, through its officers, agents, employees or contractors. The expense of executing such order, including an amount not to exceed five per cent of the expense thereof as a service charge and ten per cent of the expense thereof as a penalty shall be collected from the owner by an action in the name of the city, borough or town.

(c) (1) Any expense of executing an order, including any service charge and penalty imposed by the board of health or other enforcing agency pursuant to the provisions of subsection (b) of this section, and remaining unpaid for a period of sixty days after its due date, shall constitute a lien upon the real estate against which the expense was imposed, provided a notice of violation is recorded in the land records and indexed in the name of the property owner not later than thirty days after the expense was imposed.

CGS 47a-53

(2) Each such notice of violation shall be effective from the time of the recording on the land records. Each lien shall take precedence over transfers and encumbrances recorded after such time.

(3) Any municipal lien pursuant to the provisions of this section may be foreclosed in the same manner as a mortgage.

(4) Any municipal lien pursuant to this section may be discharged or dissolved in the manner provided in sections 49-35a to 49-37, inclusive.

(d) Any board of health or other enforcing agency imposing an expense, including a service charge and penalty, pursuant to subsection (b) of this section, shall maintain a current record of all properties with respect to which such expenses remain unpaid in the office of such board or agency. Such record shall be available for inspection by the public.

CGS 47a-54 (Formerly Sec. 19-345) Communicable diseases; unfit for habitation; order to vacate

47a-54. (a) Whenever it is certified by the board of health or other enforcing agency, that a tenement, lodging or boarding house, or any part thereof, is infected with communicable disease, or that it is unfit for human habitation or dangerous to life or health by reason of want of repair or of defects in the drainage, plumbing, ventilation or construction of the same, or by reason of the existence on the premises of a nuisance liable to cause sickness among the occupants of such house, the board of health or other enforcing agency may issue an order requiring all persons therein to vacate such house, or part thereof, within not less than twenty-four hours nor more than ten days. The board of health or other enforcing agency shall state in the order the reason for the issuance of the order.

(b) If such order is not complied with within the time so specified, the board of health or other enforcing agency may cause such house, or part thereof, to be vacated.

(c) The board of health or other enforcing agency, whenever satisfied that the danger from such house, or part thereof, has ceased to exist, or that such house is fit for human habitation, may revoke such order or may extend the time within which the order may be complied with.

CGS 47a-54c

Toilets and bathrooms

47a-54c(b). Each bathroom or water closet compartment in a tenement, lodging or boarding house shall be ventilated by a freely opening window of at least three square feet in area, opening to the outer air or upon a vent shaft having such openings at the bottom and top as meet the approval of the board of health, or by a separate ventilating flue of noncorroding material and at least thirty-six square inches in area, leading directly to the roof.

CGS 47a-55

Enforcement. Penalties.

(a) The board of health of each town, city or borough shall enforce the provisions of this part, and the board of health is given authority for such purpose. Any such town, city or borough may by ordinance duly adopted by its legislative body designate another authority or authorities to exercise concurrent or exclusive jurisdiction in the enforcement of this part. All duties imposed and powers conferred by this part upon boards of health shall devolve upon the health authority or such other designated authority or authorities of each city, borough or town by whatever name such health or other authority or authorities may be known. Nothing in this part shall be construed to abrogate or impair the powers of a local board of health, or of the courts, or any such other lawful authority, to enforce any provision of any city or borough charter or health ordinances and regulations not inconsistent with this part, or to prevent or punish for violations thereof.

(b) Each person who violates or assists in violating, or fails to comply with, any of said provisions or any legal order of a board of health or such other authority made under any of said provisions, for which no other penalty is provided, shall be fined not more than one thousand dollars or imprisoned not more than six months or both.

(c) Each person who continues to violate or assist in violating, or who continues to fail or refuse to comply with, any of said provisions after having been convicted of violating or assisting in violating any of said provisions, or of failing to comply therewith, for which no other penalty is provided, shall, upon a subsequent conviction, be imprisoned not more than one year.

In this case...

- LHD contacted property manager and asked them to address complaints
- Property manager tried, but said tenant won't let them in

What if landlord
can't get in to do
repairs?
Is it enough
to say: "Tenant
won't allow access?"

Landlord must use legal and reasonable mean of entry

“In a landlord-tenant setting it would appear that the landlord should, under the circumstances of the tenant's refusal of entry for repairs, file and obtain an order of access from the Superior Court under [CGS Section 47a-18](#), when a tenant refuses access under [CGS 47a-16](#).

Legal Entry by a Landlord

- CGS 47a-16 Landlord's right of entry
- CGS 47a-18 Landlord's remedy of tenant refusal

CGS 47a-16

Landlord's right of entry

47a-16. When landlord may enter rented unit.

(a) A tenant shall not unreasonably withhold consent to the landlord to enter into the dwelling unit in order to inspect the premises, make necessary or agreed to repairs, alterations or improvements, **supply necessary or agreed to services or exhibit the dwelling unit to prospective or actual purchasers, mortgagees, tenants, workmen or contractors.**

(b) A landlord may enter the dwelling unit without consent of the tenant in case of **emergency.**

CGS 47a-16

(c) A landlord shall not abuse the right of entry or use such right of entry to harass the tenant. The landlord shall give the tenant reasonable written or oral notice of his intent to enter and **may enter only at reasonable times, except in case of emergency.**

(d) A landlord may not enter the dwelling unit without the consent of the tenant except (1) in case of emergency, (2) as permitted by section 47a-16a, (3) pursuant to a **court order**, or (4) if the tenant has abandoned or surrendered the premises.

CGS 47a-18

Court Order for Entry

47a-18. Judicial relief if tenant refuses entry. If the tenant refuses to allow entry pursuant to section 47a-16 or section 47a-16a, the landlord may obtain a declaratory judgment or injunctive relief to compel access or terminate the rental agreement. In either case the landlord may recover actual damages and reasonable attorney's fees.

SUMMARY
SEE HANDOUT