

[Is Your Home a Death Trap? You May Be Eligible for Compensation](#)

US News and World Report

US News and World Report – Four ways to help fund the removal of toxins from your home.

Discovering toxins in your home is often terrifying – it’s not just lowering the value of your home, but it’s also potentially causing long-lasting health problems.

While remediation or mitigation of the issue is often a necessary step upon discovery, that is sometimes easier said than done. Not everyone has the money to shell out to fix a problem they didn’t see coming. Plenty of homeowners find themselves in the same boat when they find potentially major household hazards, but there are a number of ways to seek compensation or reimbursement to help cover the cost of the necessary repairs. Here are four ways you can seek payment.

Lawsuit

Once you discover a toxin in your home, looking for someone to point a finger at might be the gut reaction for many homeowners. And in some cases, it would be the right one.

Particularly if you purchased your home in the last few months, you should be aware of local laws regarding disclosing home defects in a real estate transaction. Most states require a seller to disclose any known defects, whether it’s possible mold, knowledge of asbestos in the insulation, the presence of lead-based paint or a recent radon gas test revealing elevated levels in the home.

If you believe the seller did not disclose a known condition before the sale, you can pursue compensation for damages. Exposure to mold, for example, could lead to payment for medical expenses as well as pain and suffering, says Adam J. Hodkin, principal and managing member of Padula Hodkin PLLC in Boca Raton, Florida.

If the problem has more of an impact on the value of the home, you can pursue damages for the difference between what you paid and the value of what you received. “If you agreed to buy a house for \$100,000, and you got a house that’s infested with mold and only worth \$50,000, you’d be entitled to damages for the diminution in value to the house, and/or the cost of the repairs,” Hodkin says.

It’s not always easy to confirm whether the seller knew of the situation, so it’s important to be thorough

before you close a real estate deal and have the home inspected by a professional who is experienced in checking for potentially invisible dangers. Knowing what to look for and asking about certain potential problems can give the seller the chance to come clean and lead you to better negotiations over the deed. Some transactions can include clauses that designate the responsibility to either the buyer or seller for future problems, and that's when you want to be sure you know what you're signing.

"That's why it's important to always see an experience Realtor or lawyer," Hodkin says.

Depending on the type of toxin causing damage to your home and your health, it's possible there is a class-action lawsuit you can join to seek compensation from the manufacturer or company that created the product containing asbestos or lead paint, for example. A successful class-action lawsuit can lead to damages paid out to all plaintiffs, victims not necessarily included in the suit or even the formation of a bankruptcy trust.

Trust Fund

After a company has filed for bankruptcy, a trust may be created to make future payments to claimants. If a court determines payment should be set aside for the discovery of future problems, in this case the realization of existing toxins originally created by the company, the trust will be responsible for determining the validity of the claims and paying out the money. Many trusts today are specific to asbestos exposure.

One such trust is the Zonolite Attic Insulation Trust, which reimburses homeowners for a portion of the abatement of vermiculite insulation manufactured by W.R. Grace & Co. beginning in the 1940s up through the late 1990s.

After W.R. Grace emerged from bankruptcy in 2014, a trust was established to pay for the removal of a loose insulation that contains a small amount of asbestos, yet the company sold it for decades.

Made with mined vermiculite from Libby, Montana - in a mine W.R. Grace purchased from the Zonolite Company in 1963 - Zonolite insulation has a loose, granola-like consistency and as a result is highly friable, making it easy for any asbestos fibers to become airborne. When breathed in, asbestos fibers can wreak havoc on the lungs, leading to health problems such as mesothelioma, lung cancer and asbestosis. The trust has access to as much as \$140 million to pay for a portion of the asbestos remediation process. "We can reimburse 55 percent of the abatement cost up to a cap of 55 percent of a \$7,500 removal," explains Ed Cottingham, trustee for ZAI Trust and an attorney based in Charleston, South Carolina. The maximum payment for these services is \$4,125, he adds.

While it doesn't cover the total cost and only serves as a reimbursement, rather than payment before the vermiculite removal, Cottingham says it can make a big difference. "We've paid almost 300 claims in

Massachusetts alone, because the abatement contractors up there are all over this,” Cottingham says. “They are changing their marketing materials to reflect that an abatement cost that would normally cost \$7,500 will only cost \$3,300 now. ... It’s sort of changing the landscape up there, at least in their industry.”

Other trusts established to help with either abatement or medical costs related to asbestos include the U.S. Gypsum Asbestos Personal Injury Settlement Trust, the Owens Corning Fibreboard Asbestos Personal Injury Trust and many more. In all, the National Mesothelioma Claims Center estimated there are \$30 billion in funds available to assist those effected by asbestos, from both job-related exposure and building exposure.

Government Subsidy

Even when a company hasn’t set aside funds to help with abatement, the local government may have programs designed to lessen the financial burden of repairing and removing toxins from your home. Cottingham points out many northern states provide free insulation for low-income households through weatherization programs, but only if it’s verified there is no asbestos in the existing insulation. If you know you have Zonolite vermiculite insulation, you can take advantage of both the trust’s funds and the free insulation from the state if it applies to your home, further reducing the cost of abatement, but also taking away the worry of selling a house with a known asbestos problem.

New York has multiple programs to assist homeowners or renters to improve the energy efficiency of their home, for example. Based on your household income, you can implement energy improvements – which could include better, safer insulation or installing a thermostatic mixture valve on your water heater to use less hot water – at a discounted rate, or even free.

In Massachusetts, homeowners that delead their home can earn a tax credit equal to the cost of removal up to \$1,500.

The state-run Minnesota Housing Finance Agency has a Fix Up Program that provides loans for homeowners looking to improve their property. The loans can be applicable to mold and radon mitigation, as well as other cosmetic or energy efficiency-focused renovations such as a bathroom remodel or septic system upgrade.

Insurance Claim

Filing an insurance claim to try and have remediation of a toxin from your home may seem like the right move, but depending on the toxin and your individual policy, there’s a good chance it’s excluded from your policy.

Insurance companies include a “pollution exclusion” in homeowners insurance policies, explains Amy Bach, executive director of United Policyholders, a nonprofit organization that advocates for insurance policyholders and helps educate them on making claims. The pollution exclusion rules out coverage for things like the discovery of asbestos, lead paint and even high levels of radon gas.

A pollution exclusion aims to exclude issues like defects in the air quality because it’s not a disaster or event that damaged the home but rather a condition discovered that could affect the value of the property.

Mold is one category that has traditionally been covered by homeowners insurance policies, but more and more in recent years insurance companies have been implementing limits on coverage for a discovery, Bach says.

Bach says a 2001 toxic mold case in Texas that awarded a policyholder significant compensation from Farmers Insurance Group changed the way many insurance companies approach mold in their policies. The court found Farmers mishandled a toxic mold claim from a family in Dripping Springs, Texas, ultimately awarding them \$32 million, according to Insurance Journal.

“The increased awareness of potential health hazards of mold exposure, combined with insurance companies seeing one of their own get hit with this big insurance award, put the fear of God into these insurance companies,” Bach says.

A typical homeowners policy will address mold coverage in some way, whether to limit or even exclude it, though Bach says, “In most policies there should be some coverage.” Phrasing in the policy will often indicate how the damage occurred and require detailed documentation of the approximate time frame to determine a devastating event versus wear and tear over time.

“Damage that’s gradual is much less likely to be covered by your insurance company than any damage that is sudden and accidental, meaning something happens,” Bach says. “There’s a storm - it tears a few shingles off the roof [and] water gets in. There’s a time element you can kind of pinpoint when the damage occurred, and how - those types of claims are more likely to get covered.”