

Policy Brief

Energy efficiency for low-income tenants

How the federal government can improve energy efficiency while protecting and enhancing tenant rights

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The brief discusses how a federal low-income energy efficiency program can make the buildings where tenants live safer and more affordable, while pushing against market trends that result in the loss of affordable housing and evictions.

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A federal low-income program that includes tenants

Canada does not have a national approach to improving energy efficiency for low-to-moderate income Canadians.

The federal government's Oil to Heat Pump Affordability Grant acknowledges that Canadians with lower incomes face an up-front cost barrier. It aims to remove that barrier for Canadians that heat with oil and can install heat pumps. This program is only available to homeowners, and does not include most low-to-moderate income Canadians that heat with electricity or natural gas or those requiring building envelope upgrades.

Efficiency Canada and over 130 anti-poverty, environmental, and energy efficiency industry organizations have called for the federal government to support low-income energy efficiency.¹

62% of Canadians falling under the low-income measure are renters, and thus any low-income energy efficiency initiative should aim to help both homeowners and those living in rental properties. Improving energy efficiency will protect tenants from climate change driven extreme heat events, and reduce costs that increase energy bills and rents. However, rental energy efficiency faces added complications due to landlord-tenant power relationships and potential impacts on rents and eviction.

This brief discusses how a federal low-income energy efficiency program could be designed to deliver the benefits of energy efficiency to tenants in need, while safeguarding affordable housing and enhancing tenant rights.

Why Canada needs energy equity for renters

Energy inefficiency is expensive and dangerous. Inefficient rental housing can lead to:

- Higher energy bills for renters paying utilities, with little means to make upgrades
- Higher rents for tenants with property owners paying utilities
- Increased risk of health problems or death due to extreme heat
- Health and quality of life difficulties associated with rodents, mold, and drafts

Energy efficiency helps Canadian tenants lower energy bills, reduce rents, and improve housing quality. These benefits are particularly important for low-income tenants.

The lack of federal energy efficiency policy support for renters will leave a growing number of people behind. Rental households are one of Canada's fastest growing demographic groups. While one in three Canadians today is a renter, rental households are growing at a rate more

¹ Energy Affordability in the 2023 Federal Budget, sign-on letter, available at <https://www.energycanada.org/low-income-energy-efficiency/>

than twice that of homeowners.² Renting is not just a young and urbanized phenomenon, the share of renter households has increased across municipalities of all sizes and across households of all age groups. Canada's aging population, rising immigration targets and other demographic trends are expected to create the need for more rental housing.³

Compared to homeowners, renters are more likely to have lower incomes, live in older housing stock and use inefficient heating equipment:

- 62% of low-income Canadians are renters.⁴
- 72% of renters live in housing built before 1990, when energy efficiency was not a feature of Canada's building codes.⁵
- Renters are more than twice as likely to use baseboard heating or radiators to warm their homes instead of more efficient air furnaces and heat pumps.⁶

Existing Federal Programs

No federal initiative specifically targets energy efficiency improvements for private low-to-moderate income rental properties.

Currently federal programs support affordable housing upgrades.⁷ Yet only one in five renters below Canada's official poverty line live in buildings subsidized by affordable housing providers.

The Canada Infrastructure Bank Building Retrofit Initiative aims to use public investment to attract private capital to large buildings, which can include multi-unit residential buildings where tenants live as well as institutional buildings such as student resident buildings. A strategy solely dependent on financing could put low-income tenants at risk because it provides less leverage to create affordability and housing security agreements with landlords.

The Greener Homes Initiative is not eligible for landlords who rent their property, yet is available for a landlord that lives with tenants in a low-rise multi-unit residential building. In this limited circumstance, there are no tenant protection policies in place.

The federal government's Oil to Heat Pump Affordability Grant is the only program offering no-cost energy efficiency upgrades to completely remove the up-front cost barrier for income-qualified Canadians. However, this program is restricted to property owners.

² To buy or to rent: The housing market continues to be reshaped by several factors as Canadians search for an affordable place to call home. Statistics Canada: The Daily 21-09-2022, based on Census 2021 data
<https://www150.statcan.gc.ca/n1/daily-quotidien/220921/dq220921b-eng.htm>

³ Royal Bank of Canada, Proofpoint Report: Is Canada becoming a nation of renters?
<https://thoughtleadership.rbc.com/proof-point-is-canada-becoming-a-nation-of-renters/>

⁴ Based on Low-income Measure after tax, 2016 Census of Population Public Use Microdata File, from Statistics Canada

⁵ Based on author's own calculations from households in bottom two income quintiles, 2016 Census of Population Public Use Microdata file from Statistics Canada

⁶ Household and Environment Survey 2015.

⁷ This includes The Federation of Canadian Municipalities Sustainable Affordable Housing program and the CMHC National Housing Co- Investment Fund, and new initiatives listed as a low-income stream under the Green Homes Loan Program.

The current mix of policies still leaves a major gap. Low-income homeowners needing building envelope upgrades or those heating with electricity or natural gas still face an up-front cost barrier.⁸ There is also a significant gap for low-income tenants accessing energy efficiency. This is why Canada should develop a comprehensive low-income energy efficiency strategy that includes both homeowners *and* tenants.

The rest of this brief will conceptualize tenant specific challenges in energy efficiency policy and show how a federal low-income energy efficiency program, and related policies, can be designed to overcome them.

Overcoming split incentives and preventing “renovictions”

“Split incentives” between landlords and tenants are a common concern in energy efficiency policy for rental properties. Tenants pay for energy inefficiency through higher bills or rent, yet have little to no ability or incentive to upgrade buildings because they don’t own the property. Landlords can pass on these costs of energy inefficiency to tenants and thus have little motivation to invest in good appliances and building structures (e.g. roofing, insulation) to keep the unit comfortable and affordable.

The split incentive problem can be alleviated by governments or other intermediaries acting as a third party. A government can bring financial and other resources into the landlord-tenant relationship to make building upgrades more attractive for both parties. In addition, governments can introduce mandatory policies such as building performance standards that require adequate energy efficiency, GHG emissions performance, as well as health and safety.⁹

Market forces and policy decisions such as housing speculation and higher interest rates are contributing to the loss of affordable housing stock. In this environment, landlords can use building upgrades as a strategy to evict tenants (“renovictions”). A low-income energy efficiency program needs to prevent renovictions and loss of affordable housing units. A well designed program should contribute to safeguarding affordable housing on the market by creating new financial and legal commitments amongst landlords, tenants, and efficiency program administrators, and rewarding landlords committed to maintaining affordable properties.

Policymakers must not neglect energy upgrades in an attempt to keep housing affordable through bad housing quality. This threatens to leave tenants vulnerable to health issues due to extreme cold or heat (e.g. heat deaths) which will increase with a warming

⁸ 90% of low-income energy costs are spent on natural gas and electricity in Canada. 2019 Canadian average household spending on energy in lowest income quintile. Statistics Canada. Table 11-10-0223-01 Household spending by household income quintile, Canada, regions and provinces
DOI: <https://doi.org/10.25318/1110022301-eng>

⁹ See Sharane Simon. “Making the case: Why we need mandatory building performance standards in Canada” Efficiency Canada Blog, January 30th, 2023.
<https://www.energycanada.org/making-the-case-why-we-need-mandatory-building-performance-standards-in-canada/>

climate. Buildings in need of repair will receive cosmetic upgrades that help sell the unit, rather than less visible upgrades to building envelopes that can truly improve tenant comfort and health. These are the buildings where speculative investors follow “renoviction” strategies.

It is important to appropriately conceptualize the right “policy mix” to achieve objectives.¹⁰ The policies under consideration should include both consideration of energy efficiency as well as tenant rights and protection. An unacceptable outcome for either objective is not necessarily because of a bad policy or program, but an inadequate *mix* of policies that fails to consider tenant protections or the right to quality, energy efficient, housing.

Without a good energy efficiency and tenant rights policy mix, we create a missed opportunity to prepare buildings for net-zero emissions while securing agreements with property owners that units will remain affordable as part of their participation in a program. This is why program design and larger housing stability policies matter.

Program Recommendations

Canada is in urgent need of an initiative to improve energy efficiency for low-to-moderate income Canadians, which includes a specific strategy for rental properties. Below are some model program design principles to meet net-zero emissions while enhancing tenant rights and quality of life, based on a national and international jurisdictional review and discussions with tenant rights advocates.

Foundational no-cost upgrades

A significant portion of energy efficiency upgrades are offered at no cost to the tenant or landlord. This gives tenants and program administrators bargaining power to ensure landlord participation in the program maintains the affordability of housing units, which might otherwise be marketed to upper income renters at higher rents.

In Canada, a program built on a foundation of no-cost upgrades for low-income tenants can be augmented by financing solutions such as on-bill payments, green leases, and energy service agreements facilitated by existing federal programs such as the Federation of Canadian Municipality Community Efficiency Financing programs, the Canada Infrastructure Bank Building Retrofits Initiative, as well as private social impact investment initiatives.

Affordability covenant

In order to receive no-cost energy upgrade assistance the property owner must sign an affordability covenant alongside the tenant and local program administrator. The covenant is an agreement amongst all three parties with the following requirements:

¹⁰ See Kantamneni & Haley (forthcoming). Energy Justice Perspectives on Energy Efficiency in Rental Housing: Policy Mixes for Efficient Buildings and Affordable, Secure Housing.

- Rental housing must be maintained at affordable levels, with limited rent increases, allowed only for specific causes
- Demonstration of shared benefits with tenants where utilities are included in rent
- Protection for tenant against sale of property and/or eviction
- The benefits of public investments in rental energy efficiency will primarily accrue to the renters, ensuring the landlord does not use public money to make undue or excessive enhancements to the value of the property
- A description of the process a tenant can follow if they believe the property owner has violated the agreement, along with supportive legal-aid resources they can access

This covenant binds the landlord into a contract that the tenant and program administrators can use to maintain affordability and housing security.

Failure to abide by the terms of the affordability covenant results in repayment (with interest) of all incentives and beneficial financial terms provided by public programs. All levels of government should consider what additional penalties can be activated.

These covenants are part of the United States Weatherization Assistance Program¹¹, as well as utility energy efficiency programs available today.¹² A federal initiative can bolster the impact of these affordability covenants and institute them across the country to strengthen tenant rights and protections.

Tenant rights and engagement

A tenant's ability to assert their rights under the affordability covenant and to make the energy retrofits meet their needs is realized through a program design with early and robust engagement and education of tenants before retrofits occur. Tenants should have clear understanding, and ability to act on, their rights - before, during, and after the retrofit.

A program design should deliver the following tenant rights:

- 1) **Right to legal counsel and tenant organization:** A tenant should have access to legal counsel and representation to interpret the affordability covenant and act if they believe it has been violated, and the program should encourage organization of tenants to bargain collectively with their landlord.

To secure these resources, we suggest the federal government and landlord provide a per participant contribution to a legal aid fund that any tenant in a participating building

¹¹ FAQs on US Weatherization Assistance Program.

<https://www.energy.gov/sites/prod/files/2016/05/f31/WPN%20Rental%20Units%20FAQs%205%205%2016.pdf>

¹² For example, Efficiency Nova Scotia's Affordable Housing Program requires landlords receiving incentives to commit to 12 years of affordable housing through an operating agreement. In case of non-compliance, a landlord must repay incentives with interest. See <https://www.efficiencyns.ca/business/business-types/affordable-housing/affordable-housing-eligibility/>

can access. This fund can also support tenant advocacy groups offering services as tenant right hot lines, peer guidance, and drop-in advice.

Anti-eviction best practices suggest tenants and landlords use mediation services before undergoing formal hearings because a mediated forum creates fewer barriers related to time, resources, and intimidation. The affordability convenient dispute resolution process will include mediation before appearance before a tribunal.

- 2) **Right to prior and informed consent of retrofit work undertaken in buildings:** Before the retrofit project, program implementers must actively engage tenants on their lived experience within the building and the role energy efficiency can play in solving problems that tenants prioritize. Program administrators must explain the upgrade process, expected benefits, and relevant timelines. Consensus agreement on the retrofit plan should be reached amongst tenants before a project is triggered.
- 3) **Right to maintain residence and tenure:** During the project, if the retrofit requires temporary displacement from the rental unit, the tenant will receive similar quality or better-quality accommodation at the same rental rate. After the retrofit, tenants have the right to return to their previous unit or exercise the right of first refusal to return to the unit after the retrofits. Wherever possible, solutions such as exterior insulated panels allowing the tenant to stay within the unit with minimal disruption will be prioritized.
- 4) **Right to information on energy performance:** The program administrator and building operators must provide information on energy performance to tenants after the retrofit so they understand benefits captured.

Eligibility and targeting

Buildings with a certain percentage of units with income-eligible renters are eligible for full building retrofits. For instance, the US Weatherization Assistance Program upgrades central systems if two-thirds of units are occupied by income-eligible tenants. Buildings below this threshold can receive enhanced incentives pro-rated by the number of low-income units. Eligible buildings should include high-rise as well as low-rise buildings (e.g. with a single rental unit, secondary suites).

We suggest that program marketing and outreach be targeted to communities with significant need and/or trigger point opportunities. This includes neighborhoods vulnerable to overheating, buildings with aging mechanical systems or structural upgrade requirements, and/or tenants that have organized for improved housing quality (e.g. access to air conditioning).

We suggest working with local program administrators and coordinating with existing utility programs to market the program to both tenants and landlords. Tenants can approach the

property owners themselves about the program, or ask the program administrator to engage property owners.

Deep retrofits with clean heat and cooling

Energy efficiency goals should aim to meet net-zero emission compatible building performance standards, and switch HVAC systems to options such as heat pumps providing air conditioning or district heating/cooling systems that can help the federal government’s goal to eliminate deaths due to extreme heat waves by 2040 under the National Adaptation Strategy.¹³

A larger “right to be cool” strategy should include building envelope upgrades and shading through measures like tree canopies, smart exterior blinds, and/or photochromic windows with active control. A federal program can play an important role in breaking down silos between fuel specific energy efficiency programs that prevent deployment of air conditioners that also operate as heat pumps or fail to recognize the social benefits of energy efficiency for tenant health and comfort.

Catalyzing Housing Stability Policies

The larger mix of regulatory policies can enhance tenant rights and induce landlords to make energy efficiency improvements to their properties with environmental and health and safety benefits. These policy changes should be encouraged through Canada’s Green Building Strategy and housing affordability initiatives.

A federal low-income energy efficiency program can catalyze these policy changes by providing technical support such as model by-laws and building performance standards and targeting program efforts to jurisdictions with complementary policy frameworks.

Relevant policy changes include:

- **A right to maintain tenure** for tenants to return to a unit after renovation.
- **Rental energy labeling and disclosure** via an immediate requirement that prospective tenants access previous energy bills (e.g. Ontario¹⁴), leading towards a national building energy labeling system for multi-unit residential properties.
- **Mandatory performance standards for large buildings**, which include minimum energy and GHG intensity requirements (e.g. Vancouver¹⁵) as well as health and safety

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<https://www.canada.ca/en/services/environment/weather/climatechange/climate-plan/national-adaptation-strategy/full-strategy.html>

¹⁴ Where units are individually metered and prospective tenants are required to pay for their own electricity costs, landlords in Ontario are required by the Landlord and Tenant Board to provide their tenants with information about the rental unit’s electricity consumption for the most recent 12 month period before the tenancy agreement is entered into. https://tribunalsontario.ca/documents/lrb/Tenant%20Applications%20&%20Instructions/T7_Instructions_20200401.pdf (page 6)

¹⁵ Ben Silverman “Vancouver adopts first building performance standard in Canada”, Institute for Market Transformation, August 1, 2022. <https://www.imt.org/news/vancouver-adopts-first-building-performance-standard-in-canada/>

requirements. This should include access to cool temperatures via building envelope upgrades and air conditioning / heat pumps.

- **Indoor temperature standards**, requiring property owners to maintain adequate minimum temperatures in winter and maximum temperatures in summer (e.g. Mississauga).
- **Tenant right to make energy efficiency upgrades**, including enabling upgrades triggered by tenants if they are no cost to landlords (e.g. England and Wales)¹⁶, as well as a right to practice energy-saving behaviours such as the use of clotheslines (e.g. Nova Scotia).¹⁷

Conclusion: A right to efficiency and efficiency securing tenant rights

Continuing to exclude low-income tenants from energy efficiency programs leaves Canadians vulnerable to poor housing quality in a warming climate, while missing out on a strategic opportunity to lock-in housing affordability for buildings that participate in a strategically designed program.

A low-income energy efficiency program must be designed to decarbonize *and* enhance tenant rights.

¹⁶ Energy Efficiency (Private Rented Property) Regulations 2015 established a new right whereby tenants can request consent from their landlord to install energy efficiency improvements in the property they rent, and the landlord cannot unreasonably refuse consent if tenant secures suitable funding.
<https://www.gov.uk/government/publications/tenants-energy-efficiency-improvements-provisions-guidance-for-domestic-landlords-and-tenants>

¹⁷ See Nova Scotia Clothesline Act, 2010.
<https://nslegislature.ca/legislative-business/bills-statutes/bills/assembly-63-session-2/bill-209>