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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2022

A N A C T

RELATING TO HEALTH AND SAFETY -- LEAD POISONING PREVENTION ACT

Introduced By: Representatives Morales, Kislak, Potter, Alzate, Hull, Bennett, Edwards,
Williams, Carson, and Cortvriend

Date Introduced: April 14, 2022

Referred To: House Finance

It is enacted by the General Assembly as follows:

1 SECTION 1. Section 23-24.6-4 of the General Laws in Chapter 23-24.6 entitled "Lead
2 Poisoning Prevention Act" is hereby amended to read as follows:

3 **23-24.6-4. Definitions.**

4 For the purposes of this chapter:

5 (1) "Apprenticeable" means any nationally-recognized occupation that has a pre-existing
6 registered apprenticeship program approved pursuant to 29 C.F.R. Part 29 and Part 30.

7 (2) "Approved apprenticeship program" or "apprenticeship program" means an
8 apprenticeship program that has been approved by the U.S. Department of Labor, or by a
9 recognized state apprenticeship agency, pursuant to 29 C.F.R. Parts 29 and 30; however, such
10 programs shall not include those that have obtained only provisional approval status. The required
11 apprenticeship programs may either be programs that have specifically allocated funding and are
12 subject to the Employee Retirement Income Security Act of 1974, 29 U.S.C. § 1001 et seq.
13 ("ERISA"), or non-ERISA programs financed by general funds of employers.

14 ~~(3)~~(3) "Childhood lead poisoning" means a confirmed venous blood lead level, measured
15 in micrograms of lead per deciliter of whole blood, established by rule by the Rhode Island
16 department of health based on the best available information about the effects of elevated blood
17 lead levels.

18 ~~(4)~~(4) "Comprehensive environmental lead inspection" means the inspection of any
19 structure or premises for the presence of lead in various media and includes sampling as may be

1 necessary or expedient in order to determine compliance in the structure or premises with standards
2 for being lead safe or lead free.

3 ~~(3)~~(5) "Department" means the state department of health.

4 ~~(4)~~(6) "Director" means the director of health.

5 ~~(5)~~(7) "Dwelling" means any enclosed space which is wholly or partly used or intended to
6 be used for living or sleeping by human occupants.

7 ~~(6)~~(8) "Dwelling unit" means any room or group of rooms located within a dwelling and
8 forming a single habitable unit with facilities which are used or intended to be used for living,
9 sleeping, cooking, and eating.

10 ~~(7)~~(9) "Environment intervention blood lead level" means a confirmed concentration, in a
11 person under six (6) years of age, of lead in whole blood of greater than or equal to twenty (20)
12 micrograms per deciliter for a single test or for fifteen (15) to nineteen (19) micrograms per deciliter
13 for two (2) tests taken at least three (3) months apart or as defined by the department consistent
14 with regulations adopted by the U.S. Department of Housing and Urban Development.

15 ~~(8)~~(10) "Environmental lead hazard reduction" means activities undertaken by or on behalf
16 of a property owner in order to achieve lead free or lead safe status pursuant to the requirements of
17 this chapter.

18 (11) "Full lead service line replacement" means the replacement of a lead service line that
19 results in the entire length of the service line, regardless of service line ownership, meeting the Safe
20 Drinking Water Act (SDWA) §1417 definition of lead-free applicable at the time of the
21 replacement. A full lead service line replacement, as defined at 40 C.F.R. § 141.2, includes a
22 replacement where only one portion of the service line is lead, such as where a partial lead service
23 line was previously conducted, as long as, upon completion of the replacement, the entire service
24 line meets the SDWA § 1417 definition of lead-free applicable at the time of the replacement.

25 ~~(9)~~(12) "Inspection" means the inspection, other than a comprehensive environmental lead
26 inspection, of any structure or premises undertaken to determine compliance with the requirements
27 of this chapter or with orders issued pursuant to this chapter.

28 ~~(10)~~(13) "Insurer" means every medical service corporation, hospital service corporation,
29 health maintenance organization, or other insurance company offering and/or insuring health
30 services; the term includes any entity defined as an insurer under § 42-62-4.

31 ~~(11)~~(14) "Lead contractor" means any person or entity engaged in lead hazard reduction as
32 a business and includes consultants who design, perform, oversee, or evaluate lead hazard reduction
33 projects undertaken pursuant to the requirements of this chapter.

34 ~~(12)~~(15) "Lead exposure hazard" means a condition that presents a clear and significant

1 health risk to occupants of the dwelling, dwelling unit, or premises, particularly where there are
2 children under the age of six (6) years.

3 ~~(13)~~(16) "Lead free" means that a dwelling, dwelling unit, or premises either contains no
4 lead or contains lead in amounts less than the maximum acceptable environmental lead levels
5 established by department of health regulations.

6 ~~(14)~~(17) "Lead hazard reduction" means any action or actions designed to reduce exposure
7 to toxic levels of lead which impose an unacceptable risk of exposure in any dwelling or dwelling
8 unit, where a child under the age of six (6) years, with environmental intervention blood lead level
9 or greater resides, or on any premises and may include, but is not limited to: repair, enclosure,
10 encapsulation, or removal of lead based paint and/or lead contaminated dust, soil or drinking water;
11 relocation of occupants; and cleanup measures or ongoing maintenance measures, which may
12 include activities and/or measures that do not present an undue risk to children under age six (6)
13 and can be performed by, or on behalf of, the property owner, without the person performing such
14 activities being licensed or certified.

15 ~~(15)~~(18) "Lead safe" means that a dwelling, dwelling unit, or premises has undergone
16 sufficient lead hazard reduction to ensure that no significant environmental lead hazard is present
17 and includes but is not limited to covering and encapsulation.

18 (19) "Lead service lines" means any part of a water service line that is made of, lined with,
19 or contains, materials consisting of lead. A lead service line may be owned by the water system,
20 owned by the property owner, or both. Service lines with galvanized steel shall be considered lead
21 service lines.

22 ~~(16)~~(20) "Occupant" means any person who legally resides in, or regularly uses, a dwelling,
23 dwelling unit, or structure; provided, however, that a guest of any age shall not be considered an
24 occupant for the purposes of this chapter.

25 ~~(17)~~(21) "Owner" means any person who, alone or jointly or severally with others:

26 (i) Shall have legal title to any dwelling or dwelling unit with or without accompanying
27 actual possession of it, or

28 (ii) Shall have charge, care, or control of any dwelling or dwelling unit as owner or agent
29 of the owner, or an executor, administrator, trustee, or guardian of the estate of the owner. Any
30 person representing the actual owner shall be bound to comply with the provisions of this chapter
31 and with rules and regulations adopted pursuant to this chapter to the same extent as if that person
32 were the owner. An agent of the owner excludes real estate and property management functions
33 where the agent is only responsible for the property management and does not have authority to
34 fund capital and/or major property rehabilitation on behalf of the owner.

1 (iii) For purposes of publicly owned property only, the owner shall be defined to be the
2 chief executive officer of the municipal or state agency which owns, leases, or controls the use of
3 the property.

4 ~~(18)~~(22) "Person" means any individual, firm, corporation, association, or partnership and
5 includes municipal and state agencies.

6 ~~(19)~~(23) "Premises" means a platted lot or part thereof or unplatted lot or parcel of land, or
7 plot of land, occupied by a dwelling or structure and includes any building, accessory structure, or
8 other structure thereon which is or will be frequently used by children under the age of six (6) years.

9 (24) "Private service line" or "private side" means the portion of the service line including
10 appurtenances and connections thereto that runs from the curb shutoff valve into the property or
11 building.

12 ~~(20)~~(25) "Program" means the comprehensive environmental lead program established by
13 this chapter.

14 (26) "Public service line" or "public side" means the portion of the service line including
15 appurtenances and connections thereto that runs from the water main in the street to the curb shutoff
16 valve.

17 ~~(21)~~(27) "State inspector" means the director, his or her designee, or any inspector
18 employed by the department of health who is authorized by the director to conduct comprehensive
19 environmental lead inspections and/or other inspections for the department.

20 SECTION 2. Chapter 23-24.6 of the General Laws entitled "Lead Poisoning Prevention
21 Act" is hereby amended by adding thereto the following section:

22 **23-24.6-28. Lead water supply replacement.**

23 (a) Water suppliers, as defined in § 39-15.1-2, that provide safe and potable drinking water
24 to the public shall replace all lead service lines connected to residential and non-residential facilities
25 that provide water for human consumption within ten (10) years of the effective date of this section.

26 (b) No person served by a lead service line shall be required to pay to replace the lead
27 service line on their property, unless the cost of the lead service line replacement exceeds ten
28 thousand dollars (\$10,000) in which case they would only be required to pay for the portion of the
29 replacement that exceeds ten thousand dollars (\$10,000). A fiscal note estimate will be provided to
30 owners of properties for which the cost of the lead service line replacement will exceed ten thousand
31 dollars (\$10,000).

32 (c) Water suppliers shall conduct full lead service line replacements according to the follow
33 procedures:

34 (1) Follow procedures at 40 Code of Federal Regulations Sections 141.84 and 141.85;

1 (2) Replace the entire lead service line with only one disruption to water service unless
2 there is either an emergency or all persons served by the service line object to the replacement in
3 writing;

4 (3) If there is an emergency that prevents replacement with only one disruption, the system
5 shall fully replace the lead service line within forty-five (45) days unless weather makes it
6 hazardous; and

7 (4) Ensure that the entire lead service line is replaced if any portion is physically disturbed.

8 (d) No later than twelve (12) months after the enactment of this section, water suppliers
9 shall develop a service line inventory in order to determine the existence or absence of lead within
10 each water connection in its service area. This inventory shall include information about the service
11 line locations and composition of service lines at each location. The water supplier shall provide a
12 list of all service lines, with a location identifier, and classify which have lead, which do not contain
13 lead and which are of unknown composition. This information shall be posted on the department's
14 website and on the water supplier's website.

15 (e) Water suppliers may utilize the following to develop a service line inventory:

16 (1) Visual inspection during planned maintenance, meter replacement, and main
17 replacement projects;

18 (2) Solicitation and receipt of comments, complaints and other input from customers in the
19 service area;

20 (3) Historical building records and other available data from the American Water Works
21 Association or other industry research groups; and/or,

22 (4) Any other procedures and resources the water supplier deems appropriate for
23 identifying lead service lines.

24 (f) Within five (5) days of identifying a lead service line, the water supplier shall provide
25 written notice to the property owner, the tenants of the building and the director of the presence of
26 lead service lines in a culturally sensitive manner communicated to residents in a language they
27 understand to ensure the lines are fully and safely replaced. The notice shall include information
28 describing the sources of lead in drinking water, description of the health effects of lead exposure
29 and steps customers can take to reduce their exposure to lead in drinking water. This notice shall
30 include information on the water supplier's plans for lead service line replacement at said property.

31 (g) Water suppliers without an established lead service line replacement program shall
32 coordinate with the department and the Rhode Island infrastructure bank to develop a replacement
33 program. The department and the Rhode Island infrastructure bank shall partner with water
34 suppliers to implement lead replacement programs including assisting with financial needs that

1 exist.

2 (h) The department and the Rhode Island infrastructure bank shall assist water suppliers
3 with financing, grants, loans, drinking water funding opportunities or other monetary assistance to
4 ensure that lead service lines are replaced in an expeditious manner.

5 (1) The department and the Rhode Island infrastructure bank shall require that in any
6 project conducted by a water supplier that disturbs lead service lines, all specifications in any
7 invitations to bid on any covered project valued at one million dollars (\$1,000,000) or more shall
8 include a requirement that all bidders responding to an invitation to bid shall have an approved
9 apprenticeship program for all apprenticeable crafts or trades that will be employed on the project
10 at the time of bid. All bidders responding to such invitation to bid shall also provide proof in the
11 bid package of the existence of an approved apprenticeship program for all crafts or trades that will
12 be employed on the project by all contractors and subcontractors needed for the project. All bidders
13 shall strive to source seventy-five percent (75%) of employment from disadvantaged communities
14 as defined by the department.

15 (i) Where all persons served by a lead service line, including, but not limited to, residents,
16 tenants, customers, office workers, and property owners object to the replacement in writing, the
17 system is not obligated to meet the deadline in subsection (a) of this section for that service line if
18 it documents the written objection annually.

19 (j) In the event a person served by a lead service line refuses to allow the inspection or
20 replacement of private side service lines, the water supplier shall file notice with the department of
21 all attempts to inspect or replace the private side service lines and the property owner's refusal to
22 allow inspection or replacement services with the department. The notice shall state at a minimum:
23 the date and time of each attempt; the name of the person who refused each attempt; and the name
24 and signature of the person who made each attempt. The address where each refusal took place
25 shall be published on the appropriate department website to ensure occupants of the building have
26 notice of the potential lead in the service line.

27 (k) If a property with a lead service line is a rental property, the owner and the department
28 shall inform the tenants of the presence of a lead service line in accordance with § 23-24.6-15(b),
29 in a language the tenant understands. If the owner fails to provide tenants with notification of lead
30 in service lines to the building, the owner shall be subject to a civil penalty in accordance with §
31 23-24.6-27.

32 (l) When a property owner transfers the ownership of property, they shall disclose the
33 presence of lead service lines. Pursuant to § 5-20.8-11, every contract for the transfer or purchase
34 and sale of real estate that is or may be served by a service line containing lead shall provide that

1 potential purchasers be permitted a ten (10) day period, unless the parties mutually agree upon a
2 different period of time, to conduct a risk assessment or an inspection of the property's water service
3 lines for the presence of lead hazards before becoming obligated under the contract to transfer or
4 purchase.

5 (m) Any private side service line found to have lead, which provides water to a building
6 subject to sale or transfer, shall be removed and replaced within twelve (12) months of the date of
7 sale or transfer.

8 (n) Water suppliers shall prioritize to the greatest extent practical lead service line
9 replacements in neighborhoods as defined by the director as disadvantaged communities pursuant
10 to the Safe Drinking Water Act § 1452. Communities where lead service lines comprise over thirty-
11 five percent (35%) of the public side service line connections will also be prioritized as high-
12 priority.

13 (o) Water suppliers subject to this section shall complete the replacement of all lead service
14 lines in its service area within ten (10) years of the effective date of this section.

15 (p) Each water supplier shall provide an annual report by January 31 of each year to the
16 governor, president of the senate, speaker of the house, director of the department of health, and
17 executive director of the Rhode Island infrastructure bank. The report shall contain information,
18 including, but not limited to, the number of public lead services lines per community served and
19 the number replaced, the number of private lead service lines per community served and the number
20 replaced, an estimated number of remaining lead service lines to be replaced, property type, number
21 of private lead service line inspections conducted, and annual expense to replace lead service lines.

22 (q) Each water supplier shall follow additional requirements and guidance including
23 community outreach and resident communications and engagement, as established by the
24 department as per subsection (r)(5) of this section.

25 (r) The department shall:

26 (1) Establish a webpage that serves as a public dashboard to track progress towards the
27 deadline in subsection (o) of this section for each water supplier;

28 (2) Publish and maintain online a map of the location of each service line and identify
29 whether it is a lead service line or may be of unknown material and allow this map to serve as
30 compliance for participating water suppliers with requirements at 40 Code of Federal Regulations
31 § 141.84(a)(8) that direct the systems to make the service line materials inventory publicly
32 accessible;

33 (3) Define disadvantaged communities consistent with federal guidance to include
34 communities of color and low-wealth communities;

1 (4) Establish a lead service line replacement advisory commission to help the director
2 implement the responsibilities of the department to protect citizens from lead exposure due to lead
3 service lines, comprised of twelve (12) representatives, appointed by the director unless indicated
4 otherwise, including one staff member from the department's center for drinking water quality, one
5 staff member from the department's center for healthy homes and the environment, one
6 representative from the Providence water supply board, one representative from another water
7 supplier, one representative from the Rhode Island infrastructure bank, one representative from the
8 governor's office, the president of the Rhode Island Building and Construction Trades Council or
9 designee, one representative of the Rhode Island Building and Construction Trades Council,
10 appointed by president of the Rhode Island AFL-CIO, the executive director of the Childhood Lead
11 Action Project, or designee, two (2) representatives from community nonprofit organizations
12 located in Rhode Island, serving disadvantaged communities as defined by the director pursuant to
13 the Safe Drinking Water Act § 1452, and one representative with national expertise in lead service
14 line replacement programs;

15 (5) Publish guidance developed in conjunction with the lead service line replacement
16 advisory commission for water suppliers and contractors to adequately engage people served by
17 lead services lines, including residents and tenants in a culturally sensitive manner communicated
18 to residents in a language they understand to ensure the lead service lines are fully and safely
19 replaced; and

20 (6) Conduct a statewide education campaign informing residents and property owners
21 regarding lead service lines, interim safety measures, and lead service line replacement plans, with
22 the support of the lead service line replacement advisory commission.

23 (s) The department shall promulgate rules and regulations for the implementation and
24 enforcement of the provisions of this section.

25 SECTION 3. Section 5-20.8-11 of the General Laws in Chapter 5-20.8 entitled "Real Estate
26 Sales Disclosures" is hereby amended to read as follows:

27 **5-20.8-11. Lead inspection requirement.**

28 (a) Every contract for the purchase and sale of residential real estate (1-4 family)-built prior
29 to ~~1978~~ 2011 located in the state shall provide that potential purchasers be permitted a ten-day (10)
30 period, unless the parties mutually agree upon a different period of time, to conduct a risk
31 assessment or inspection for the presence of lead exposure hazards before becoming obligated
32 under the contract to purchase.

33 (b) Failure to include the provision required in subsection (a) in the purchase and sale
34 agreement for residential real estate does not create any defect in title; provided, that each violation

1 of this section by the seller or his or her agent is subject to a civil penalty of not less than one
2 hundred dollars (\$100) nor more than five hundred dollars (\$500).

3 (c) Failure to provide inspection results and/or educational materials pursuant to
4 department regulations required by § 23-24.6-16(a) does not create any defect in title; provided,
5 that each violation of this section by the seller or his or her agent is subject to a civil penalty of not
6 less than one hundred dollars (\$100) nor more than five hundred dollars (\$500).

7 (d) Failure to include the purchase and sale agreement provision required in subsection (a);
8 failure to provide inspection results pursuant to § 23-24.6-16(a); or inspection results that show a
9 lead exposure hazard as defined at § 23-24.6-4(12) entitles the purchaser to void the purchase and
10 sale agreement by providing notice, in writing, to the seller prior to the transfer of the title at closing.

11 SECTION 4. This act shall take effect upon passage.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF
A N A C T
RELATING TO HEALTH AND SAFETY -- LEAD POISONING PREVENTION ACT

1 This act would establish a lead water supply replacement program for public and private
2 service lines within the next ten (10) years and require the disclosure to tenants and buyers of real
3 property of the presence of lead service lines.

4 This act would take effect upon passage.

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