

2023 -- S 0002 SUBSTITUTE A

LC000226/SUB A

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2023

A N A C T

RELATING TO HEALTH AND SAFETY -- LEAD POISONING PREVENTION ACT

Introduced By: Senators Ruggerio, Goodwin, Euer, Gallo, Pearson, Miller, DiMario,
Sosnowski, Gu, and Burke

Date Introduced: January 10, 2023

Referred To: Senate Health & Human Services

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, including lead goosenecks or other lead connectors, of the service line.

20 (12) "Galvanized requiring replacement" means where a galvanized service line is or was
21 at any time downstream of a lead service line or is currently downstream of a service line.

22 (13) "Galvanized service line" means iron or steel piping that has been dipped in zinc to
23 prevent corrosion or rusting.

24 (14) "IIJA" means the federal Infrastructure Investment and Jobs Act, Pub. L. No. 117-58
25 (2021) relating to drinking water found at Division E, Title I.

26 ~~(9)~~(15) "Inspection" means the inspection, other than a comprehensive environmental lead
27 inspection, of any structure or premises undertaken to determine compliance with the requirements
28 of this chapter or with orders issued pursuant to this chapter.

29 ~~(10)~~(16) "Insurer" means every medical service corporation, hospital service corporation,
30 health maintenance organization, or other insurance company offering and/or insuring health
31 services; the term includes any entity defined as an insurer under § 42-62-4.

32 ~~(11)~~(17) "Lead contractor" means any person or entity engaged in lead hazard reduction as
33 a business and includes consultants who design, perform, oversee, or evaluate lead hazard reduction
34 projects undertaken pursuant to the requirements of this chapter.

1 ~~(12)~~(18) "Lead exposure hazard" means a condition that presents a clear and significant
2 health risk to occupants of the dwelling, dwelling unit, or premises, particularly where there are
3 children under the age of six (6) years.

4 ~~(13)~~(19) "Lead free" means that a dwelling, dwelling unit, or premises either contains no
5 lead or contains lead in amounts less than the maximum acceptable environmental lead levels
6 established by department of health regulations.

7 ~~(14)~~(20) "Lead hazard reduction" means any action or actions designed to reduce exposure
8 to toxic levels of lead which impose an unacceptable risk of exposure in any dwelling or dwelling
9 unit, where a child under the age of six (6) years, with environmental intervention blood lead level
10 or greater resides, or on any premises and may include, but is not limited to: repair, enclosure,
11 encapsulation, or removal of lead based paint and/or lead contaminated dust, soil or drinking water;
12 relocation of occupants; and cleanup measures or ongoing maintenance measures, which may
13 include activities and/or measures that do not present an undue risk to children under age six (6)
14 and can be performed by, or on behalf of, the property owner, without the person performing such
15 activities being licensed or certified.

16 ~~(15)~~(21) "Lead safe" means that a dwelling, dwelling unit, or premises has undergone
17 sufficient lead hazard reduction to ensure that no significant environmental lead hazard is present
18 and includes but is not limited to covering and encapsulation.

19 (22) "Lead service lines" means any part of a public or private service line that is made of,
20 lined with, or contains, materials consisting of lead. Service lines with galvanized steel or iron shall
21 be considered lead service lines.

22 (23) "Lead status unknown" means where the service line material is not known to be lead,
23 galvanized steel or iron requiring replacement, or a non-lead service line, such as where there is no
24 documented evidence supporting material classification, and otherwise where a non-lead
25 determination cannot be made. Lines which are lead status unknown will be considered lead service
26 lines.

27 (24) "Non-lead" means where the service line is determined through an evidence-based
28 record, method, or technique not to be lead or galvanized steel or iron requiring replacement.

29 ~~(16)~~(25) "Occupant" means any person who legally resides in, or regularly uses, a dwelling,
30 dwelling unit, or structure; provided, however, that a guest of any age shall not be considered an
31 occupant for the purposes of this chapter.

32 ~~(17)~~(26) "Owner" means any person who, alone or jointly or severally with others:

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

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

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

11 ~~(18)~~(27) "Person" means any individual, firm, corporation, association, or partnership and
12 includes municipal and state agencies.

13 ~~(19)~~(28) "Premises" means a platted lot or part thereof or unplatted lot or parcel of land, or
14 plot of land, occupied by a dwelling or structure and includes any building, accessory structure, or
15 other structure thereon which is or will be frequently used by children under the age of six (6) years.

16 (29) "Private service line" or "private side" means the portion of the service line including
17 appurtenances and connections thereto that runs from the curb shutoff valve into the residential
18 property or building.

19 ~~(20)~~(30) "Program" means the comprehensive environmental lead program established by
20 this chapter.

21 (31) "Public service line" or "public side" means the portion of the service line including
22 appurtenances and connections thereto that runs from the water main in the street to the curb shutoff
23 valve.

24 ~~(21)~~(32) "State inspector" means the director, his or her designee, or any inspector
25 employed by the department of health who is authorized by the director to conduct comprehensive
26 environmental lead inspections and/or other inspections for the department.

27 (33) "Transient non-community water system" means a non-community water system that
28 does not regularly serve at least twenty-five (25) individuals over six (6) months per year.

29 (34) "Water supplier" means any supplier of water which operates a public water supply
30 system, as defined in § 46-13-2.

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

33 **23-24.6-28. Lead water supply replacement.**

34 (a) Water suppliers shall develop a service line inventory no later than October 16, 2024 to

1 determine the existence or absence of lead within each water connection in its service area. This
2 inventory shall be completed in accordance with all applicable state and federal requirements
3 including, but not limited to, the IJJA. Water suppliers shall include in their inventories a list of all
4 private side lead service replacements performed in their service areas since January 1, 2018.
5 Transient non-community water systems are exempt from this section.

6 (b) The service line inventory shall include all service lines and shall classify which are:

7 (1) Lead service lines;

8 (2) Non-lead; and

9 (3) Lead status unknown.

10 (c) Once completed, each water supplier shall provide a copy of their inventory to the
11 department and to the Rhode Island infrastructure bank. This inventory shall be posted on the
12 department's website and on the water supplier's website. Water suppliers without a website shall
13 make the most recent service line inventory available in a publicly accessible location in each
14 community they serve.

15 (1) The department shall:

16 (i) Establish a webpage that serves as a public dashboard to track progress towards the
17 deadline in subsection (a) of this section for each public water supply system;

18 (ii) Publish and maintain online a map of the location of each service line and identify
19 whether it is a lead service line or may be of unknown material and allow this map to serve as
20 compliance for participating public water supply systems with requirements at 40 C.F.R. §
21 141.84(a)(8) that direct the systems to make the service line materials inventory publicly accessible;
22 and

23 (iii) Define disadvantaged communities consistent with federal guidance.

24 (d) When conducting the inventory of service lines in its distribution system for the initial
25 inventory pursuant to this section, a water supplier shall use any information on lead and galvanized
26 iron or steel that it has identified pursuant to applicable state and federal requirements.

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

28 (1) Visual inspection during planned maintenance, meter replacement, and main
29 replacement projects;

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

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

34 (4) Any other procedures and resources, including from 40 C.F.R. 141.84 (a)(3), the water

1 supplier deems appropriate for identifying lead service lines.

2 (f)(1) Within thirty (30) days of identifying a lead service line, the water supplier shall
3 provide written notice to the property owner, the tenants of the building and the director of the
4 presence of lead service lines or lead status unknown service lines. The notice shall be multilingual
5 and include information describing the sources of lead in drinking water, description of the health
6 effects of lead exposure and steps customers can take to mitigate exposure to lead in drinking water.
7 This notice shall include lead service line replacement instructions and contact information to
8 schedule a service line inspection and replacement.

9 (2) Mitigation measures shall include, but not be limited to:

10 (i) A water supplier providing a filter pitcher or point-of-use device certified by an
11 American Standards Institute accredited certifier to reduce lead;

12 (ii) Instructions to use the filter; and

13 (iii) Six (6) months of filter replacement cartridges.

14 (g) A water supplier without an established lead service line replacement program shall
15 coordinate with the department and the Rhode Island infrastructure bank to develop a replacement
16 program.

17 (h) A water supplier shall develop and submit to the department a lead service replacement
18 plan in accordance with the rules and regulations of the Environmental Protection Agency Lead
19 and Copper Rule Improvements.

20 (i) The department and the Rhode Island infrastructure bank shall coordinate with water
21 suppliers to implement lead replacement programs, including assisting with providing financial
22 assistance to the extent the funds are available.

23 (j) The department and the Rhode Island infrastructure bank shall assist water suppliers
24 with grants, loans or other financial assistance to ensure that public service lines containing lead
25 are replaced in accordance with this chapter;

26 (k) Based on the inventories provided pursuant to subsection (a) of this section, the
27 department, the water suppliers and the Rhode Island infrastructure bank, shall determine the
28 estimated total cost associated with all private side replacements. Consistent with any applicable
29 federal law and regulation and to the extent funds are available, the Rhode Island infrastructure
30 bank shall utilize federal funds allocated under section 50105 of the IJA for the specific purpose
31 of reducing lead in drinking water, to enable water suppliers to meet all eligible private side lead
32 service replacement cost.

33 (l) In the event total costs exceed available federal funding allocated under section 50105
34 of the IJA, the Rhode Island infrastructure bank may request appropriations in one or more fiscal

1 years from the general assembly sufficient to meet the outstanding total cost of all identified
2 outstanding private side lead service line replacements.

3 (m) For properties with a lead service line or a lead status unknown service line, water
4 suppliers shall inspect, at no cost to the property owner, the private side service lines to determine
5 whether lead or galvanized iron or steel is present. If lead is detected in the private service line, the
6 private service line shall be replaced in accordance with all applicable federal and state
7 requirements.

8 (n) The water supplier shall replace the entire lead service line, if lead is present in the
9 public side. The water supplier shall replace the entire lead service line with minor disruption to
10 water service unless there is either an emergency or all persons served by the service line object to
11 the replacement in writing. Transient non-community water systems shall be exempt from lead
12 service line replacements.

13 (o) In the event a property owner refuses to allow the inspection or replacement of private
14 side service lines, the water supplier shall file notice of all attempts to inspect or replace the private
15 side service lines and the property owner's refusal to allow inspection or replacement services with
16 the department. The notice shall state at a minimum: the date and time of each attempt; the name
17 of the person who refused each attempt; and the name and signature of the person who made each
18 attempt. The address where each refusal took place shall be published on the appropriate
19 department website to ensure occupants of the building have notice of the potential lead in the
20 service line. The notice shall be filed within thirty (30) days following the second refusal by the
21 property owner. The notice shall be written as a multilingual document.

22 (p) If the property is a rental property, the owner shall inform the tenants of the presence
23 of lead in accordance with § 23-24.6-15(b). If the owner fails to provide tenants with timely
24 notification of the existence of lead in service lines to the building the owner shall be subject to
25 civil penalty in accordance with § 23-24.6-27.

26 (q) When a property owner transfers the ownership of property, they shall disclose the
27 presence of lead service lines. Pursuant to § 5-20.8-11, every contract for the transfer or purchase
28 and sale of real estate that is or may be served by a service line containing lead shall provide that
29 potential purchasers be permitted a ten (10) day period, unless the parties mutually agree upon a
30 different period of time, to conduct a risk assessment or an inspection of the property's water service
31 lines for the presence of lead hazards before becoming obligated under the contract to transfer or
32 purchase. Parties may mutually agree to waive a risk assessment or an inspection.

33 (r) The department and the Rhode Island infrastructure bank shall prioritize the allocation
34 of funds for private lead service line replacements in accordance with all federal requirements and

1 based on the percentage of private lead services lines present within a water supplier service area,
2 which shall be based on factors including, but not limited to:

3 (1) Targeting known lead service lines;
4 (2) Targeting available funds to lead service line replacements for disadvantaged water
5 suppliers; and

6 (3) Targeting populations most sensitive to the effects of lead.

7 (s) Upon award of funds for lead service replacements, water suppliers shall prioritize
8 projects within their service area to disadvantaged customers and those who are most sensitive to
9 the effects of lead.

10 (t) For any award of one million dollars (\$1,000,000) or greater to a water supplier for a
11 lead service line replacement project, the Rhode Island infrastructure bank shall require water
12 suppliers and their contractors to participate in an approved apprenticeship program for all
13 apprenticeable crafts or trades that will be employed on the project at the time of bid.

14 (u) Contingent upon available funding, each water supplier shall complete the replacement
15 of all public and private lead service lines in its service area within ten (10) years of the effective
16 date of this section unless otherwise provided in this section. All lead service line replacement
17 projects funded under this section shall be completed in accordance with all applicable state and
18 federal requirements including, but not limited to, the IIA and related federal regulations and
19 guidance.

20 (v) Upon completion of the lead service line inventory or no earlier than January 1, 2025,
21 any water supplier which provided financing to its customers for private side lead service
22 replacement after January 1, 2018, shall be eligible for reimbursement from the state for costs
23 associated with private side lead service replacements financed by its customers. The water supplier
24 shall submit request for reimbursements to the department. Within ninety (90) days of receipt of
25 funds from the state, the water supplier shall reimburse each customer for costs incurred in
26 connection with their private side lead service replacement project.

27 (w) Each water supplier shall provide an annual report to the governor, president of the
28 senate, speaker of the house, director of the department of health, and executive director of the
29 Rhode Island infrastructure bank within ninety (90) days of the end of each fiscal year. The report
30 shall contain information, including, but not limited to, the number of public services lines per
31 community served and the number replaced, the number of private service lines per community
32 served and the number replaced, an estimated number of service lines to be replaced, property type,
33 number of private service line inspections conducted, and annual expense to replace service lines.
34 Water suppliers whose initial inventories contain only non-lead service lines are not required to

1 provide subsequent annual reports required in this section.

2 (x) Water suppliers may coordinate with the department and nonprofit lead advocacy
3 organizations to reach residents in communities with lead infrastructure. This coordination may
4 include, but is not limited to, developing education materials, awareness communications, and
5 outreach campaigns.

6 (y) The department shall enforce the provisions of this section.

7 SECTION 3. Sections 5-20.8-1 and 5-20.8-11 of the General Laws in Chapter 5-20.8
8 entitled "Real Estate Sales Disclosures" are hereby amended to read as follows:

9 **5-20.8-1. Definitions.**

10 When used in this chapter, unless the context indicates otherwise:

11 (1) "Agent" means any individual or entity acting on behalf of a seller or buyer to effect
12 the transfer of real estate. It includes listing agent, selling agent, buyer's agent, and their respective
13 brokers.

14 (2) "Agreement to transfer" means a purchase and sale agreement, installment-sales
15 contract, option to purchase agreement, or other agreement intended to effect the transfer of real
16 estate from a seller to a buyer.

17 (3) "Buyer" means any individual or entity seeking to obtain title to real estate from a seller
18 for consideration.

19 (4) "Closing" means the time at which real estate is transferred from seller to buyer and
20 consideration is delivered to the seller or to a settlement agent with the intention of imminent
21 delivery upon the recording of pertinent documents and other ministerial acts associated with
22 settlement.

23 (5) "Deficient conditions" means any land restrictions, defect, malfunction, breakage, or
24 unsound condition existing on, in, across, or under the real estate of which the seller has knowledge.

25 (6) "Lead exposure hazard" means a condition that presents a clear and significant health
26 risk to occupants of the dwelling, dwelling unit, or premises, particularly where there are children
27 under the age of six (6) years.

28 ~~(6)~~(7) "Real estate" means vacant land or real property and improvements consisting of a
29 house or building containing one to four (4) dwelling units.

30 ~~(7)~~(8) "Seller" means any individual or entity seeking to transfer title to real estate to a
31 buyer for consideration.

32 ~~(8)~~(9) "Transfer" means the sale or conveyance, exchange of, or option to purchase any
33 real estate.

34 **5-20.8-11. Lead inspection requirement.**

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

6 (b) Failure to include the provision required in subsection (a) in the purchase and sale
7 agreement for residential real estate does not create any defect in title; provided, that each violation
8 of this section by the seller or his or her agent is subject to a civil penalty of not less than one
9 hundred dollars (\$100) nor more than five hundred dollars (\$500).

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

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

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

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LC000226/SUB A
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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 and require disclosure to tenants and buyers of real property of the presence of lead
3 service lines.

4 This act would take effect upon passage.

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