2023 -- H 5318

LC000920

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2023

AN ACT

RELATING TO HEALTH AND SAFETY -- LEAD POISONING PREVENTION ACT

<u>Introduced By:</u> Representatives Morales, Kislak, Carson, Cortvriend, Casimiro, Vella-Wilkinson, Diaz, Giraldo, Hull, and Felix

<u>Date Introduced:</u> February 01, 2023

Referred To: House Finance

It is enacted by the General Assembly as follows:

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

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

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For the purposes of this chapter:

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

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

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

18 (2)(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) "Federal EPA Lead and Copper Rule Revisions" means federal regulations issued by
19	the U.S. Environmental Protection Agency related to minimizing lead and copper levels in drinking
20	water found at the Federal Register (86 FR 31939), as updated from time to time.
21	(12) "Full lead service line replacement" means the replacement of a lead service line that
22	results in the entire length, including lead goosenecks or other lead connectors, of the service line.
23	(13) "Galvanized service line" means iron or steel piping that has been dipped in zinc to
24	prevent corrosion or rusting.
25	(14) "Galvanized requiring replacement" means where a galvanized service line is or was
26	at any time downstream of a lead service line or is currently downstream of a service line.
27	(15) "IIJA" means the federal Infrastructure Investment and Jobs Act, Pub. L. No. 117-58
28	(2021) relating to drinking water found at Division E, Title I.
29	(9)(16) "Inspection" means the inspection, other than a comprehensive environmental lead
30	inspection, of any structure or premises undertaken to determine compliance with the requirements
31	of this chapter or with orders issued pursuant to this chapter.
32	(10)(17) "Insurer" means every medical service corporation, hospital service corporation,
33	health maintenance organization, or other insurance company offering and/or insuring health
34	services: the term includes any entity defined as an insurer under 8 42-62-4

1	(11)(18) "Lead contractor" means any person or entity engaged in lead hazard reduction as
2	a business and includes consultants who design, perform, oversee, or evaluate lead hazard reduction
3	projects undertaken pursuant to the requirements of this chapter.
4	(12)(19) "Lead exposure hazard" means a condition that presents a clear and significant
5	health risk to occupants of the dwelling, dwelling unit, or premises, particularly where there are
6	children under the age of six (6) years.
7	(13)(20) "Lead free" means that a dwelling, dwelling unit, or premises either contains no
8	lead or contains lead in amounts less than the maximum acceptable environmental lead levels
9	established by department of health regulations.
10	(14)(21) "Lead hazard reduction" means any action or actions designed to reduce exposure
11	to toxic levels of lead which impose an unacceptable risk of exposure in any dwelling or dwelling
12	unit, where a child under the age of six (6) years, with environmental intervention blood lead level
13	or greater resides, or on any premises and may include, but is not limited to: repair, enclosure,
14	encapsulation, or removal of lead based paint and/or lead contaminated dust, soil or drinking water,
15	relocation of occupants; and cleanup measures or ongoing maintenance measures, which may
16	include activities and/or measures that do not present an undue risk to children under age six (6)
17	and can be performed by, or on behalf of, the property owner, without the person performing such
18	activities being licensed or certified.
19	(15)(22) "Lead safe" means that a dwelling, dwelling unit, or premises has undergone
20	sufficient lead hazard reduction to ensure that no significant environmental lead hazard is present
21	and includes but is not limited to covering and encapsulation.
22	(23) "Lead service lines" means any part of a public or private service line that is made of,
23	lined with, or contains, materials consisting of lead. Service lines with galvanized steel or iron shall
24	be considered lead service lines.
25	(24) "Lead status unknown" means where the service line material is not known to be lead,
26	galvanized steel or iron requiring replacement, or a non-lead service line, such as where there is no
27	documented evidence supporting material classification, and otherwise where a non-lead
28	determination cannot be made. Lines which are lead status unknown will be considered lead service
29	<u>lines.</u>
30	(25) "Non-lead" means where the service line is determined through an evidence-based
31	record, method, or technique not to be lead or galvanized steel or iron requiring replacement.
32	(16)(26) "Occupant" means any person who legally resides in, or regularly uses, a
33	dwelling, dwelling unit, or structure; provided, however, that a guest of any age shall not be
34	considered an occupant for the purposes of this chapter

1	(17)(27) "Owner" means any person who, alone or jointly or severally with others:
2	(i) Shall have legal title to any dwelling or dwelling unit with or without accompanying
3	actual possession of it, or
4	(ii) Shall have charge, care, or control of any dwelling or dwelling unit as owner or agent
5	of the owner, or an executor, administrator, trustee, or guardian of the estate of the owner. Any
6	person representing the actual owner shall be bound to comply with the provisions of this chapter
7	and with rules and regulations adopted pursuant to this chapter to the same extent as if that person
8	were the owner. An agent of the owner excludes real estate and property management functions
9	where the agent is only responsible for the property management and does not have authority to
10	fund capital and/or major property rehabilitation on behalf of the owner.
11	(iii) For purposes of publicly owned property only, the owner shall be defined to be the
12	chief executive officer of the municipal or state agency which owns, leases, or controls the use of
13	the property.
14	(18)(28) "Person" means any individual, firm, corporation, association, or partnership and
15	includes municipal and state agencies.
16	(19)(29) "Premises" means a platted lot or part thereof or unplatted lot or parcel of land, or
17	plot of land, occupied by a dwelling or structure and includes any building, accessory structure, or
18	other structure thereon which is or will be frequently used by children under the age of six (6) years.
19	(30) "Private service line" or "private side" means the portion of the service line including
20	appurtenances and connections thereto that runs from the curb shutoff valve into the residential
21	property or building.
22	(20)(31) "Program" means the comprehensive environmental lead program established by
23	this chapter.
24	(32) "Public service line" or "public side" means the portion of the service line including
25	appurtenances and connections thereto that runs from the water main in the street to the curb shutoff
26	valve.
27	(21)(33) "State inspector" means the director, his or her designee, or any inspector
28	employed by the department of health who is authorized by the director to conduct comprehensive
29	environmental lead inspections and/or other inspections for the department.
30	(34) "Transient non-community water system" means a non-community water system that
31	does not regularly serve at least twenty-five (25) individuals over six (6) months per year.
32	(35) "Water supplier" means any supplier of water which operates a public water supply
33	system, as defined in § 46-13-2.
34	SECTION 2. Chapter 23-24.6 of the General Laws entitled "Lead Poisoning Prevention

2	23-24.6-28. Lead water supply replacement.
3	(a) Water suppliers shall develop a service line inventory no later than October 16, 2024 to
4	determine the existence or absence of lead within each water connection in its service area. This
5	inventory shall be completed in accordance with all applicable state and federal requirements
6	including, but not limited to, the IIJA and the federal EPA Lead and Copper Rule Revisions. Water
7	suppliers shall include in their inventories a list of all private side lead service replacements
8	performed in their service areas since January 1, 2018. Transient non-community water systems
9	are exempt from this section.
10	(b) The service line inventory shall include all service lines and shall classify which are:
11	(1) Lead service lines;
12	(2) Non-lead; and
13	(3) Lead status unknown.
14	(c) Once completed, each water supplier shall provide a copy of their inventory to the
15	department and to the Rhode Island infrastructure bank. This inventory shall be posted on the
16	department's website and on the water supplier's website. Water suppliers without a website shall
17	make the most recent service line inventory available in a publicly accessible location in each
18	community they serve.
19	(1) The department shall:
20	(i) Establish a webpage that serves as a public dashboard to track progress towards the
21	deadline in subsection (a) of this section for each public water supply system;
22	(ii) Publish and maintain online a map of the location of each service line and identify
23	whether it is a lead service line or may be of unknown material and allow this map to serve as
24	compliance for participating public water supply systems with requirements at 40 C.F.R. §
25	141.84(a)(8) that direct the systems to make the service line materials inventory publicly accessible;
26	<u>and</u>
27	(iii) Define disadvantaged communities consistent with federal guidance to include
28	communities of color and low-income communities.
29	(d) When conducting the inventory of service lines in its distribution system for the initial
30	inventory pursuant to this section, a water supplier shall use any information on lead and galvanized
31	iron or steel that it has identified pursuant to applicable state and federal requirements.
32	(e) Water suppliers may utilize the following to develop a service line inventory:
33	(1) Visual inspection during planned maintenance, meter replacement, and main
34	replacement projects:

Act" is hereby amended by adding thereto the following sections:

1	(2) Solicitation and receipt of comments, complaints and other input from customers in the
2	service area;
3	(3) Historical building records and other available data from the American Water Works
4	Association or other industry research groups; and/or;
5	(4) Any other procedures and resources, including from 40 C.F.R. 141.84 (a)(3) the water
6	supplier deems appropriate for identifying lead service lines.
7	(f) Within thirty (30) days of identifying a lead service line, the water supplier shall provide
8	written notice to the property owner, the tenants of the building and the director of the presence of
9	lead service lines or lead status unknown service lines. The notice shall be multilingual and include
10	information describing the sources of lead in drinking water, description of the health effects of
11	lead exposure and steps customers can take to reduce their exposure to lead in drinking water. This
12	notice shall include lead service line replacement instructions and contact information to schedule
13	a service line inspection and replacement.
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 lead
16	replacement program.
17	(h) The department and the Rhode Island infrastructure bank shall coordinate with water
18	suppliers to implement lead replacement programs, including assisting with providing financial
19	assistance to the extent the funds are available.
20	(i) The department and the Rhode Island infrastructure bank shall assist water suppliers
21	with grants, loans or other financial assistance to ensure that public service lines containing lead
22	are replaced in accordance with this chapter;
23	(j) Based on the inventories provided pursuant to subsection (a) of this section, the
24	department, the water suppliers and the Rhode Island infrastructure bank, shall determine the
25	estimated total cost associated with all private side replacements. Consistent with any applicable
26	federal law and regulation and to the extent funds are available, the Rhode Island infrastructure
27	bank shall utilize federal funds allocated under section 50105 of the IIJA for the specific purpose
28	of reducing lead in drinking water, to enable water suppliers to meet all eligible private side lead
29	service replacement cost.
30	(k) Water suppliers are not permitted to request an increase in residential water rates from
31	the PUC based solely on the receipt of funds, grants, or loans for a lead service line replacement
32	project or programs for reducing lead in drinking water.
33	(l) In the event total costs exceed available federal funding allocated under section 50105
34	of the IIJA, 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. The Rhode Island infrastructure bank is
3	also authorized to apply and seek additional federal funding sources, such as grants, loans, or other
4	financial assistance.
5	(m) For properties with a lead service line or a lead status unknown service line, water
6	suppliers shall inspect, at no cost to the property owner or tenant, the private side service lines to
7	determine whether lead or galvanized iron or steel is present. If lead is detected in the private service
8	line, the private service line shall be replaced in accordance with all applicable federal and state
9	requirements.
10	(n) The water supplier shall replace the entire lead service line, if lead is present in the
11	public side. The water supplier shall replace the entire lead service line with minor disruption to
12	water service unless there is either an emergency or all persons served by the service line object to
13	the replacement in writing. Transient non-community water systems shall be exempt from lead
14	service line replacements.
15	(o) In the event a property owner refuses to allow the inspection or replacement of private
16	side service lines, the water supplier shall file notice of all attempts to inspect or replace the private
17	side service lines and the property owner's refusal to allow inspection or replacement services with
18	the department. The notice shall state at a minimum: the date and time of each attempt; the name
19	of the person who refused each attempt; and the name and signature of the person who made each
20	attempt. The address where each refusal took place shall be published on the appropriate
21	department website to ensure occupants of the building have notice of the potential lead in the
22	service line. The notice shall be filed within thirty (30) days following the second refusal by the
23	property owner. The notice shall be written as a multilingual document.
24	(p) If the property owner refuses to allow the inspection and/or replacement of private side
25	service line, the water supplier may, beginning sixty (60) days after the notice has been filed, assess
26	a monthly charge of not more than one hundred dollars (\$100) that will accrue until the property
27	owner allows for the inspection and/or replacement of the private side service line. The monthly
28	charge shall be a lien on the property in accordance with § 39-15-12. A property owner may make
29	application for a hardship waiver of the assessment upon written notice to the water supplier. All
30	monies collected by the water supplier shall be used for lead hazard reduction.
31	(q) If the property is a rental property, the owner shall inform the tenants of the presence
32	of lead in accordance with § 23-24.6-15(b), in language the tenant understands. If the owner fails
33	to provide tenants with timely notification of the existence of lead in service lines to the building
2/	the owner shall be subject to civil panelty in accordance with \$ 23.24.6.27

1	(1) In the event that a water service line in a remai property is found to contain lead and the
2	property owner declines or is unresponsive to a request for a service line replacement, the tenant
3	shall reserve the right to request and schedule a private side lead replacement with their local water
4	supplier. Water suppliers are authorized to notify the property owner of the tenant's request and
5	begin the process of scheduling a private side replacement.
6	(s) When a property owner transfers the ownership of property they shall disclose the
7	presence of lead service lines. Pursuant to § 5-20.8-11, every contract for the transfer or purchase
8	and sale of real estate that is or may be served by a service line containing lead shall provide that
9	potential purchasers be permitted a ten (10) day period, unless the parties mutually agree upon a
10	different period of time, to conduct a risk assessment or an inspection of the property's water service
11	lines for the presence of lead hazards before becoming obligated under the contract to transfer or
12	purchase.
13	(t) Any private side service line found to have lead, which provides water to a residential
14	property subject to sale or transfer, shall be removed and replaced within twelve (12) months of the
15	date of sale or transfer by the water supplier. The owner will schedule private side replacement
16	with the water supplier at the time of sale. The public side replacement, if not already replaced,
17	shall occur at the same time as the private side replacement.
18	(u) The department and the Rhode Island infrastructure bank shall prioritize the allocation
19	of funds for private lead service line replacements in accordance with all federal requirements and
20	based on the percentage of private lead services lines present within a water supplier service area,
21	which shall be based on factors including, but not limited to:
22	(1) Targeting known lead service lines;
23	(2) Targeting populations living in zip codes with high concentration of public and private
24	<u>lead service lines;</u>
25	(3) Targeting available funds to support water suppliers demonstrating a need for technical
26	assistance from the department or the Rhode Island infrastructure bank; and
27	(4) Targeting populations most sensitive to the effects of lead.
28	(v) Upon award of funds for lead service replacements, water suppliers shall prioritize
29	projects within their service area to disadvantaged customers, zip codes with the highest
30	concentration of lead presence, and those who are most sensitive to the effects of lead.
31	(w) For any award of one million dollars (\$1,000,000) or greater to a water supplier for a
32	lead service line replacement project, the Rhode Island infrastructure bank shall require water
33	suppliers and their contractors to participate in an approved apprenticeship program for all
34	apprenticeable crafts or trades that will be employed on the project at the time of bid

1	(x) Contingent upon available funding, each water supplier shall complete the replacement
2	of all public and private lead service lines in its service area within ten (10) years of the effective
3	date of this section unless otherwise provided in this section. All lead service line replacement
4	projects funded under this chapter shall be completed in accordance with all applicable state and
5	federal requirements including, but not limited to, the IIJA, federal EPA Lead and Copper Rule
6	Revisions, and other related federal regulations and guidance.
7	(y) Upon completion of their lead service line inventory, any water supplier which provided
8	financing to its customers for private side lead service replacement after January 1, 2018, shall be
9	eligible for reimbursement from the state for costs associated with private side lead service
10	replacements financed by its customers. The water supplier shall submit request for reimbursements
11	to the department. Within ninety (90) days of receipt of funds from the state, the water supplier
12	shall reimburse each customer for costs incurred in connection with their private side lead service
13	replacement project.
14	(z) Each water supplier shall provide an annual report to the governor, the speaker of the
15	house, president of the senate, chairs of the house and senate finance committees, director of the
16	department of health, and executive director of the Rhode Island infrastructure bank within ninety
17	(90) days of the end of each fiscal year. The report shall contain information, including, but not
18	limited to, the number of public services lines per community served and the number replaced, the
19	number of private service lines per community served and the number replaced, an estimated
20	number of service lines to be replaced, property number of private service line inspections
21	conducted, and annual expense to replace service lines. Water suppliers whose initial inventories
22	contain only non-lead service lines are not required to provide subsequent annual reports required
23	in this section.
24	(aa) Water suppliers may coordinate with the department and nonprofit lead advocacy
25	organizations to reach residents in communities with lead infrastructure. This coordination may
26	include, but is not limited to, developing education materials, awareness communications, and
27	multilingual outreach campaigns.
28	(bb) The department shall enforce the provisions of this section.
29	23-24.6-29. Compliance with federal guidelines.
30	Whenever federal guidelines for reporting or replacing public or private lead service lines
31	using federal Infrastructure Investment Jobs Act (IIJA) funds are updated, the department, the
32	Rhode Island infrastructure bank, and water suppliers are authorized to promulgate rules and
33	regulations to meet or surpass existing federal rules and regulations.
34	SECTION 3. Sections 5-20.8-1 and 5-20.8-11 of the General Laws in Chapter 5-20.8

1	Children Real Estate Sales Discosures are hereby affected to read as follows.
2	5-20.8-1. Definitions.
3	When used in this chapter, unless the context indicates otherwise:
4	(1) "Agent" means any individual or entity acting on behalf of a seller or buyer to effect
5	the transfer of real estate. It includes listing agent, selling agent, buyer's agent, and their respective
6	brokers.
7	(2) "Agreement to transfer" means a purchase and sale agreement, installment-sales
8	contract, option to purchase agreement, or other agreement intended to effect the transfer of real
9	estate from a seller to a buyer.
10	(3) "Buyer" means any individual or entity seeking to obtain title to real estate from a seller
1	for consideration.
12	(4) "Closing" means the time at which real estate is transferred from seller to buyer and
13	consideration is delivered to the seller or to a settlement agent with the intention of imminent
14	delivery upon the recording of pertinent documents and other ministerial acts associated with
15	settlement.
16	(5) "Deficient conditions" means any land restrictions, defect, malfunction, breakage, or
17	unsound condition existing on, in, across, or under the real estate of which the seller has knowledge.
18	(6) "Lead exposure hazard" means a condition that presents a clear and significant health
19	risk to occupants of the dwelling, dwelling unit, or premises, particularly where there are children
20	under the age of six (6) years.
21	(6)(7) "Real estate" means vacant land or real property and improvements consisting of a
22	house or building containing one to four (4) dwelling units.
23	(7)(8) "Seller" means any individual or entity seeking to transfer title to real estate to a
24	buyer for consideration.
25	(8)(9) "Transfer" means the sale or conveyance, exchange of, or option to purchase any
26	real estate.
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
2/1	agraement for recidential real estate does not create any defect in title: provided that each violation

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

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

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

SECTION 4. This act shall take effect upon passage.

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EXPLANATION

BY THE LEGISLATIVE COUNCIL

OF

AN ACT

RELATING TO HEALTH AND SAFETY -- LEAD POISONING PREVENTION ACT

This act would establish a lead water supply replacement program for public and private service lines using federal funds provided by the federal Infrastructure Investment and Jobs Act (IIJA) and other federal sources. Water suppliers would be required to develop a service line inventory in accordance with federal guidelines and work in collaboration with the Rhode Island infrastructure bank to develop a comprehensive replacement plan. Upon award of funds for lead service replacements, water suppliers shall prioritize projects within their service area to disadvantaged customers, zip codes with the highest concentration of lead presence, and those who are most sensitive to the effects of lead. For residential properties with an identified lead service line presence, water suppliers shall communicate these findings and replace the private lead service line at no cost to the property owner or tenant. Water suppliers would not be allowed to request an increase in residential water rates as a result of receiving grants, loans or other financial assistance for the purpose of replacing lead service lines, reducing lead in drinking water, or other related programs. For any award of one million dollars (\$1,000,000) or greater to a water supplier for a lead service line replacement project, the Rhode Island infrastructure bank shall require water suppliers and their contractors to participate in an approved apprenticeship program. Within ninety (90) days, at the end of each fiscal year, each water supplier shall be required to provide an annual report to the governor, the general assembly, director of the department of health, and executive director of the Rhode Island infrastructure bank detailing the number of public and private services lines per community served and the number replaced, an estimated number of service lines to be replaced, and the annual expense to replace services lines.

This act would take effect upon passage.

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