

AN ACT

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

To amend the Lead Service Line Priority Replacement Assistance Act of 2004 to require District of Columbia Water and Sewer Authority to replace lead water service lines on private property, with the consent of the property owner, whenever it is replacing lead water service lines or the water main on public property, to establish a payment assistance program for income-eligible residents to assist in paying for the replacement of lead water service lines located on private property if the portion of the water service line on public property is not a lead water service line, and to require the District of Columbia Water and Sewer Authority to provide public education about the risks of lead water service lines and, upon request, annual free lead test kits to property owners and lessees of commercial and residential building; to require that owners of dwelling units to disclose to tenants if there is lead plumbing in the dwelling unit or if there is evidence of lead in the water; and to amend the Residential Real Property Seller Disclosure, Funeral Services Date Change, and Public Service Commission Independent Procurement Authority Act of 1998 to require that homeowners disclose if there is lead plumbing on the property or evidence of lead in the water to potential buyers prior to sale.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the “Lead Water Service Line Replacement and Disclosure Amendment Act of 2018”.

Sec. 2. The Lead Service Line Priority Replacement Assistance Act of 2004, effective December 7, 2004 (D.C. Law 15-205; D.C. Official Code § 34-2151 *et seq.*), is amended by adding new sections 6019a, 6019b, and 6019c to read as follows:

“Sec. 6019a. Full lead water service line replacement.

“(a)(1) Except as provided in paragraphs (2) and (4) of this subsection, the District of Columbia Water and Sewer Authority (“DC Water”) shall not replace the portion of a lead water service line that is on public property unless it also replaces the portion of the lead water service line that is on private property, subject to the consent of the property owner.

“(2) DC Water may replace the portion of a lead water service line that is on public property without replacing the portion of the lead water service line that is on private property if:

“(A) DC Water requests the consent of the private property owner in writing to replace the portion of the lead water service line on private property, and DC Water receives notice that the property owner does not consent to replacement of the portion of the lead water service line on private property;

“(B) DC Water requests the consent of the private property owner in writing to replace the portion of the lead water service line on private property, including an initial request sent by mail, and a second request sent 60 days after the initial request by mail or hand delivery to the property, as well as electronically, if feasible, but does not receive a response from the property owner within 120 days after DC Water sends the initial request;

“(C) The replacement is necessary to repair a damaged or leaking water service line, and DC Water requests the consent of the private property owner in writing via hand delivery to the property to replace the portion of the lead water service line on private property, but does not receive a response within 24 hours after DC Water makes the request; or

“(D) In the event of the exceedance of a lead action level:

“(i) The replacement is required pursuant to 40 C.F.R. § 141.84 to address the lead exposure; and

“(ii) DC Water requests the consent of the private property owner in writing to replace the portion of the lead water service line on private property, including an initial request sent by mail, and a second request sent 30 days after the initial request by mail or hand delivery to the property, as well as electronically, if feasible, but does not receive a response within 60 days after DC Water makes the initial request.

“(3) The cost of replacing lead water service lines on private property pursuant to paragraph (1) of this subsection, including overhead expense, shall be paid by DC Water using funds appropriated for this purpose in the District’s annual budget.

“(4) If DC Water does not have sufficient funds from the District or the private property owner to replace a portion of a lead water service line on private property, DC Water shall not replace the portion of the lead water service line on public property unless:

“(A) The replacement is necessary to repair a damaged or leaking lead water service line; or

“(B) In the event of an exceedance of a lead action level, the replacement is required pursuant to 40 C.F.R. § 141.84 to address the lead exposure.”.

“(b) Notwithstanding subsection (a) of this section, if DC Water learns that an owner of private property wishes to pay to replace the portion of a lead water service lines on his or her private property, DC Water may replace the portion of the lead water service line on public property at the same time. The cost to replace the portion of the lead water service line located on public property shall be paid by DC Water.

“(c) Nothing in this section shall be construed to affect DC Water’s authority under section 5(b) of An Act To provide for the drainage of lots in the District of Columbia, effective March 29, 1977 (D.C. Law 1-98; D.C. Official Code § 8-205(b)), to, where DC Water deems such action necessary, perform maintenance or repair work on private property, in which case, the cost, including overhead expense, shall be paid by the property owner.

“Sec. 6019b. Lead water service line replacement payment assistance program.

“(a) There is established a lead water service line replacement payment assistance program (“Program”), to be administered by the Department of Energy and Environment (“DOEE”) and the District of Columbia Water and Sewer Authority (“DC Water”), to provide financial assistance to certain District residential property owners who elect to replace the portion of a lead water service line located on their private property if the portion of the water service line on public property is not a lead water service line.

“(b)(1) Under the Program, the District shall pay:

“(A) 100% of the replacement costs for residential property owners:

“(i) With household incomes of 80% or less of the area median income; and

“(ii) Whose tenants participate in District or federal housing programs;

“(B) 80% of the first \$2,000 of replacement costs, and 100% of any replacement costs beyond the first \$2,000 of replacement costs for residential property owners with household incomes more than 80% but less than 100% of the area median income; and

“(C) 50% of the replacement costs for residential property owners with household incomes 100% or more of the area median income; provided, the District shall not provide more than \$2,500 to a property owner under this subparagraph.

“(2) The discounts described in paragraph (1) of this subsection shall be applied to the actual replacement costs incurred by the property owner; provided, that DOEE may establish a reasonable cap for replacements costs based on the cost of similar replacements completed by DC Water.

“(3) The discounts provided in this subsection shall be subject to the availability of funds.

“(4) For the purposes of this subsection, the term “area median income” means the area median income for a household of like size in the Washington Metropolitan Statistical Area as set forth in the periodic calculation provided by the United States Department of Housing and Urban Development.

“(c) DOEE shall develop and make available on its website an application form specific to the Program that requires only the information needed to determine eligibility for the Program.

“(d)(1) Within 30 days after the receipt of a completed application, DOEE shall provide written notification to the applicant of approval or denial of the applicant’s payment assistance application.

“(2) If an application is approved, DOEE shall include in the written notification the amount of the discount for which the applicant has been approved, as determined under subsection (b) of this section, and a description of the steps the applicant must take to receive the financial assistance.

“(3) If an application is approved, but funds are insufficient to assist the applicant during the current fiscal year, DOEE shall place the applicant on a waiting list for the following fiscal year and notify the applicant of their number on the waiting list.

“(4) If an application is denied, DOEE shall include in the written notification the reason for the denial and the process by which the applicant can request reconsideration.

“(e) DOEE shall transfer funding for the discounts to DC Water at the beginning of each fiscal year pursuant to a memorandum of understanding regarding implementation of the Program.

“(f)(1) DC Water may publish on its website a list of approved contractors for residential property owners to use for the replacement of the portion of a lead water service line on private property.

“(2) If DC Water publishes a list of approved contractors, as described in paragraph (1) of this subsection, a residential property owners shall use an approved contractor to replace the portion of the lead water service line on private property.

“(g)(1) The property owner shall be responsible for securing and contracting with a contractor for the replacement of the portion of the lead water service line located on their private property. When the contractor completes the replacement of the portion of the lead water service line on the private property, a copy of the invoice for the replacement of the portion of the lead waster service line on the private property shall be provided to DC Water.

“(2) Subject to certification of the work by DC Water, DC Water shall pay the contractor the amount of the discount for which the residential property owner was approved and notify the property owner of the payment within 30 days after receiving an invoice under paragraph (1) of this subsection.

“(3) Any replacement costs incurred by the residential property owner beyond the amount of the discount for which the residential property owner was approved shall be the responsibility of the residential property owner.

“(h)(1) Except as provided in paragraph (2) of this subsection, DC Water, pursuant to Title I of the District of Columbia Administrative Procedure Act, approved October 21, 1968 (82 Stat. 1204; D.C. Official Code § 2-501 *et seq.*), may issue rules to implement the provisions of this section.

“(2) The Department of Energy and Environment, pursuant to Title I of the District of Columbia Administrative Procedure Act, approved October 21, 1968 (82 Stat. 1204; D.C. Official Code § 2-501 *et seq.*), may issue rules to implement the provisions of subsections (b), (c), and (d) of this section.

“Sec. 6019c. Community education.

“DC Water shall provide:

“(1) Public education about the risks of lead water service lines, including for residents who are non-English speakers or have a low level of literacy; and

“(2) Upon request, annual free lead test kits to property owners and lessees of commercial and residential buildings.”.

Sec. 3. Lead plumbing tenant disclosure requirements.

(a) The owner of a dwelling unit shall provide a tenant, before the tenant is obligated under any contract to lease or renew the lease of the dwelling unit, the lead disclosure form provided by the Mayor pursuant to subsection (c) of this section, complete with any information that the owner knows about the following:

(1) The results of any lead tests conducted on the water supply of the property or dwelling unit;

(2) Lead-bearing plumbing, including a lead water service line serving the dwelling unit;

(3) Whether the portion of the lead water service line on private property, and the portion of the lead water service line on public property, that serves the property in which the dwelling unit is located has been replaced, and if so, the date of the replacement;

(4) Civil fines, penalties, and fees imposed on the owner as sanctions for any infraction of the provisions of this section; and

(5) Inclusion on the DC Water website as a property with lead water service lines.

(b) If the owner of the dwelling unit learns of the presence of lead-bearing plumbing or lead service lines serving a dwelling unit, the owner of the dwelling unit shall:

(1) Notify the tenant of the presence of the lead-bearing plumbing or lead service lines within 48 hours after discovering its presence; and

(2) Provide the tenant or owner-occupant with a completed disclosure form provided by the Mayor pursuant to subsection (c) of this section.

(c) Within 90 days after the effective date of this act, the Mayor shall make public a lead disclosure form, which shall include:

(1) Spaces for owners to disclose the information required in subsection (a) of this section;

(2) A lead-in-water warning statement that:

(A) Residential dwellings built before 1986 are presumed to have lead service lines and lead-bearing plumbing;

(B) Lead service lines and lead-bearing plumbing are capable of releasing lead into water that can cause permanent health harm even when present in small amounts;

(C) Lead poisoning in young children may produce permanent neurological damage, learning disabilities, reduced intelligence quotient, behavioral problems, and impaired memory;

(D) Lead poisoning poses a particular risk to developing fetuses and pregnant women; and

(E) Tenants should consider obtaining a water filter that is certified by NSF/ANSI Standard 53 for lead removal and maintaining the water filter according to the manufacturer's instructions.

(d) Civil infraction fines, penalties, and fees may be imposed as alternative sanctions for any infraction of the provisions of this section pursuant to the Department of Consumer and Regulatory Affairs Civil Infractions Act of 1985, effective October 5, 1985 (D.C. Law 6-42; D.C. Official Code § 2-1801 *et seq.*) ("Civil Infractions Act"). Adjudication of any infractions shall be pursuant to the Civil Infractions Act.

(e) The Mayor shall establish at least one method for a tenant to report violations of this section.

(f) For the purposes of this section, the term "dwelling unit" means a room or group of rooms that form a single independent habitable unit for permanent occupation by one or more individuals, that has living facilities with permanent provisions for living, sleeping, eating, and sanitation. The term "dwelling unit" shall not include:

(1) A unit within a hotel, motel, or seasonal or transient facility, unless such unit is or will be occupied by a person at risk for a period exceeding 30 days;

(2) An area within the dwelling unit that is secured and accessible only to authorized personnel; or

(3) An unoccupied dwelling unit that is to be demolished; provided, that the dwelling unit will remain unoccupied until demolition.

Sec. 4. Section 6(1)(A) of the Residential Real Property Seller Disclosure, Funeral Services Date Change, and Public Service Commission Independent Procurement Authority Act of 1998, effective April 20, 1999 (D.C. Law 12-263; D.C. Official Code § 42-1305(1)(A)), is amended to read as follows:

"(A) Water and sewer systems; including:

"(i) The results of any lead tests conducted on the water supply of the property;

"(ii) Lead-bearing plumbing, including the lead service line serving the property;

"(iii) Whether the portion of the lead water service line on private property, and the portion of the lead water service line on public property, that serves the property in which the dwelling unit is located has been replaced, and if so, the date of the replacement; and

"(iv) Inclusion on the DC Water website as a property with lead water service lines.".

Sec. 5. Applicability.

(a) Section 2 shall apply upon the date of inclusion of its fiscal effect in an approved budget and financial plan.

(b) The Chief Financial Officer shall certify the date of the inclusion of the fiscal effect in an approved budget and financial plan and provide notice to the Budget Director of the Council of the certification.

(c)(1) The Budget Director shall cause the notice of the certification to be published in the District of Columbia Register.

(2) The date of publication of the notice of the certification shall not affect the applicability of section 2.

Sec. 6. Fiscal impact statement.

The Council adopts the fiscal impact statement in the committee report as the fiscal impact statement required by section 4a of the General Legislative Procedures Act of 1975, approved October 16, 2006 (120 Stat. 2038; D.C. Official Code § 1-301.47a).

Sec. 7. Effective date.

This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), a 30-day period of congressional review as provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(1)), and publication in the District of Columbia Register.

Chairman
Council of the District of Columbia

Mayor
District of Columbia