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A BILL
22-507

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

To amend An Act To provide for the drainage of lots in the District of Columbia to authorize the District of Columbia Water and Sewer Authority (“DC Water”) to use appropriated funds to replace lead water service lines on private property; to amend the Lead Service Line Priority Replacement Assistance Act of 2004 to require DC Water 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; to establish a payment plan for residents to assist in paying for the replacement of lead water service lines located on private property; to require that owners disclose to tenants if there is lead plumbing in the dwelling 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:

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

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

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

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

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

50 “(C) The replacement is necessary to repair a damaged or leaking water
51 service line, and DC Water requests the consent of the private property owner in writing via hand

52 delivery to the property to replace the portion of the lead water service line on private property,
53 but does not receive a response within 24 hours after DC Water makes the request; or

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

55 “(i) The replacement is required pursuant to 40 DCR 141.84 to
56 address the lead exposure; and

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

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

65 ~~“(4) If DC Water does not have sufficient funds to replace the portion of a lead~~
66 ~~water service line on private property, DC Water shall not replace the portion of the lead water~~
67 ~~service line on public property.~~

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

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

73 “(B) In the event of an exceedance of a lead action level, the replacement
74 is required pursuant to 40 CFR 141.84 to address the lead exposure.”.

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

80 (c) Nothing in this section shall be construed to affect DC Water’s authority under section
81 5(b) of An Act To provide for the drainage of lots in the District of Columbia, effective March
82 29, 1977 (D.C. Law 1-98; D.C. Official Code § 8-205(b)), to, where DC Water deems such
83 action necessary, perform maintenance or repair work on private property, in which case, the
84 cost, including overhead expense, shall be paid by the property owner.

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

86 “(a) There is established a lead water service line replacement payment assistance
87 program (“Program”), to be administered by the Department of Energy and Environment
88 (“DOEE”) and the District of Columbia Water and Sewer Authority (“DC Water”), to provide
89 financial assistance to certain District residential property owners who elect to replace the
90 portion of a lead water service line located on their private property ~~if DC Water already~~

91 ~~replaced the portion of the lead water service line on public property if the portion of the water~~
92 ~~service line on public property is not a lead water service line.~~

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

94 “(A) 100% of the replacement costs for:

95 “(i) Residential property owners with household incomes of 80%
96 or less of the area median income; and

97 “(ii) Residential property owners whose tenants participate in
98 District or federal housing programs;

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

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

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

109 “(3) For the purposes of this section, the term “area median income” means the
110 area median income for a household of like size in the Washington Metropolitan Statistical Area

111 as set forth in the periodic calculation provided by the United States Department of Housing and
112 Urban Development.

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

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

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

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

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

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

129 “(e) DOEE shall transfer funding for the discounts to DC Water at the beginning of each
130 fiscal year pursuant to a Memorandum of Understanding regarding implementation of the
131 Program.

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

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

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

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

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

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

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

158 “Sec. 6019c. Community education.

159 “DC Water shall provide:

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

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

164 Sec. 3. Lead plumbing tenant disclosure requirements.

165 (a) The owner of a dwelling unit shall provide a tenant, before the tenant is obligated
166 under any contract to lease or renew the lease of the dwelling unit, the lead disclosure form

167 provided by the Mayor pursuant to subsection (c) of this section, complete with any information
168 that the owner knows about the presence of any of the following:

169 ~~(1) Lead in water, including the results of any lead tests conducted;~~

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

203 (d) Civil infraction fines, penalties, and fees may be imposed as alternative sanctions for
204 any infraction of the provisions of this section pursuant to the Department of Consumer and
205 Regulatory Affairs Civil Infractions Act of 1985, effective October 5, 1985 (D.C. Law 6-42;

206 D.C. Official Code § 2-1801 et seq.)(“Civil Infractions Act”). Adjudication of any infractions
207 shall be pursuant to the Civil Infractions Act.

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

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

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

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

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

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

224 “(A) Water and sewer systems; including:

225 ~~“(i) Lead in water, including the results of any lead tests~~
226 conducted;

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

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

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

235 “(v) Inclusion on the DC Water website as a property with lead
236 water service lines.”.

237 Sec. 5. Applicability.

238 (a) ~~Section 3~~ Section 2 shall apply upon the date of inclusion of its fiscal effect in an
239 approved budget and financial plan.

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

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

245 (2) The date of publication of the notice of the certification shall not affect the
246 applicability of ~~section 3~~ section 2.

247 ~~Sec. 6. Fiscal impact statement.~~

248 ~~(a)(1) Sections 2 and 3 shall apply upon the date of inclusion of their fiscal effect in an~~
249 ~~approved budget or financial plan.~~

250 ~~—————(2) The Chief Financial Officer shall certify the date of the inclusion of the fiscal~~
251 ~~effect in an approved budget and financial plan, and provide notice to the Budget Director of the~~
252 ~~Council for certification.~~

253 ~~—————(3)(A) The Budget Director shall cause the notice of the certification to be~~
254 ~~published in the District of Columbia Register.~~

255 ~~—————(B) The date of publication of the notice of the certification shall not affect~~
256 ~~the applicability of this section.—————~~

257 Sec. 6. Fiscal impact statement.

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

261 Sec. 7. Effective date.

262 This act shall take effect after approval by the Mayor (or in the event of veto by the
263 Mayor, action by the Council to override the veto), a 30-day period of congressional review as
264 provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December

ENGROSSED ORIGINAL

265 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(1)), and publication in the District of
266 Columbia Register.