

Disclosure of Information Lead in Drinking Water in Real Estate Transactions

Examples from Other States and Cities

This document outlines the approach that some other states and cities have taken regarding the public disclosure of information on lead in drinking water, including the presence of lead service lines and indoor lead plumbing, at the point of home sale or rental. This information raises awareness of the lead in drinking water issue and enhances the negotiation process on the sale of property and apartment rentals.

Since 1996, federal law has required property owners to disclose the presence of lead paint to potential buyers and renters in buildings that were built prior to 1978, the year lead paint was prohibited. If unaware, the property owner is not required to find out if lead is present.

New Jersey:

In 2017 (and updated in 2019), the Environmental Defense Fund published a national survey of housing disclosure policies in various states that was particularly focused on the release of information on lead service lines.¹ EDF assigned New Jersey an overall rating of “D” based on the degree to which its current policy helps homebuyers make informed decisions.

Unlike most other states, New Jersey does not mandate the disclosure of lead pipes/materials or even general environmental hazards (i.e., substances that may pose a health issue.) New Jersey has a voluntary disclosure form that home sellers can provide information about known conditions affecting water quality of the presence of toxic substances on the property to potential homebuyers.

(Note: though not expressly covered by the EDF survey, New Jersey regulations (NJAC 5:17) presently authorize the issuance of three certificates regarding the presence of lead paint, as outlined below:

- “Lead free” certificate indicating that there is no lead paint in the entire building;
- “Lead free interior” certificate indicating the absence of lead paint on interior surfaces;
- “Lead hazard free” certificate indicating no lead hazards even if lead paint exists within the walls)

Other State Policies:

Disclosure varies considerably among the states. In New Jersey’s region, however, New York, Delaware, Connecticut, and Pennsylvania require disclosure of lead pipes at home sale.

Many states have policies that may make it more likely that a residential property owner will disclose the presence of a known LSL to potential homebuyers. The following policies specifically address lead pipes and/or plumbing material.

New York

State property law requires sellers of residential property to complete, sign, and deliver a property condition disclosure statement to the buyer or buyer’s agent prior to the signing by the buyer of a binding contract of sale. One of the questions asks, “Is lead plumbing present?” If the answer is yes, the seller

¹ https://www.edf.org/sites/default/files/content/LSL_-_State-Disclosure-Report-Update0319.pdf

must provide the locations of the lead plumbing. Presumably, an LSL on private property would be considered lead plumbing.

Delaware

The Delaware Buyer Protection Act requires home sellers to complete and provide to potential buyers a Seller's Disclosure of Real Property Condition Report. The following questions on the form address lead pipes: "What type of plumbing (copper, lead, cast iron, PVC, polybutylene, galvanized, unknown) is in the house?" and "Are there any lead hazards? (e.g. lead paint, lead pipes, lead in soil.) If Yes, describe..."

Connecticut

The Connecticut Uniform Property Condition Disclosure Act, requires home sellers to provide a Residential Property Condition Disclosure Report to prospective buyers prior to purchase. A seller must answer "Is lead plumbing present?" and state the location if the answer is yes.

Wisconsin

[Wisconsin law](#) requires home sellers to provide potential buyers with a Residential Real Estate Condition Report prior to purchase. A seller must disclose knowledge of "a defect caused by unsafe concentrations of, or unsafe conditions relating to, radon, radium in water supplies, lead in paint, lead in soil, lead in water supplies or the plumbing system."

Illinois

[The Illinois Residential Real Property Disclosure Act](#) requires home sellers to provide potential buyers with a Residential Real Property Disclosure Report prior to purchase. The seller must disclose if they are "aware of unsafe concentrations of or conditions relating to lead paint, lead water pipes, lead plumbing pipes, or lead in the soil."

City Policies:

The following communities have policies that support disclosure of lead pipes during real estate transactions:

Philadelphia

In 2017, the [Philadelphia Mayor signed a bill](#) amending the City's Health Code to expand required disclosures for lead paint hazards to include lead plumbing components and lead service lines for rental owners. Also, Philadelphia requires the disclosure of information relating to lead for rental units.

Cincinnati

In 2017, the Cincinnati City Council passed Ordinance 0185-2017 requiring landlords to notify tenants if the property is served by an LSL prior to executing a lease.

Washington, D.C.

In January 2019, the Washington, DC City Council passed a new law that requires property owners to disclose the presence of an LSL to potential homebuyers and renters. The city's lead disclosure form is quite comprehensive, including lead-in-water test results, the presence of an LSL or lead plumbing, and past fines.

Both Washington, D.C. and Cincinnati publish detailed, online maps of known and potential LSLs on both public and private property for public review. Location and address information is characterized as "best

available”; accuracy is not guaranteed. (Other cities retain that information in a central database but do not publish it.)

Additional general information on lead disclosure can be found at the Lead Service Line Replacement Collaborative site noted below:

<https://www.lslr-collaborative.org/helping-consumers.html>