

SENATE, No. 3110

STATE OF NEW JERSEY
220th LEGISLATURE

INTRODUCED SEPTEMBER 29, 2022

Sponsored by:

Senator BOB SMITH

District 17 (Middlesex and Somerset)

SYNOPSIS

Requires sellers of real property and landlords to make certain notifications regarding flooding.

CURRENT VERSION OF TEXT

As introduced.



1 AN ACT concerning real property and flood notifications, amending
2 P.L.2001, c.313, and supplementing P.L.1960, c.39 (C.56:8-1 et
3 seq.).

4
5 **BE IT ENACTED** by the Senate and General Assembly of the State
6 of New Jersey:

7
8 1. Section 1 of P.L.2001, c.313 (C.46:8-50) is amended to read
9 as follows:

10 1. a. Every landlord shall notify each of the landlord's tenants
11 **[upon the event that the rental property which is the subject of a**
12 **lease has been determined to be located in a flood zone or area]**
13 whether the rental property, which is the subject of a lease, has been
14 or could be affected by flooding. Seasonal rentals of less than 120
15 days shall be exempt from the requirements of this section. Each
16 new tenant shall be [notified] provided the notices required
17 pursuant to this section in writing at the time of application and
18 prior to the time [that occupancy] that the lease of the rental unit is
19 [assumed] signed.

20 b. The Department of Community Affairs shall promulgate a
21 form to be used by landlords pursuant to this section. The form
22 shall contain the heading "Flood Risk" and contain questions, and
23 space for landlords to answer yes, no, or unknown. The form
24 provide the following information in substantially similar language:

25 (1) Is any or all of the rental property is located in a Federal
26 Emergency Management Agency (FEMA) designated floodplain;

27 (2) Is any or all of the rental property is located wholly or
28 partially in the Special Flood Hazard Area ("100-year floodplain")
29 according to FEMA's current flood insurance rate maps for the
30 leased premises' area;

31 (3) Is any or all of the rental property is located wholly or
32 partially in a Moderate Risk Flood Hazard Area ("500-year
33 floodplain") according to FEMA's current flood insurance rate maps
34 for the leased premises' area; and

35 (4) Has the rental property ever experienced any flood damage,
36 water seepage, or pooled water due to a natural flood event, such as
37 heavy rainfall, coastal storm surge, tidal inundation, or river
38 overflow. If so, how many times?

39 c. Every residential lease shall also contain the following
40 notice to tenants: "Flood insurance is available to renters through
41 FEMA's National Flood Insurance Program to cover your personal
42 property and contents in the event of a flood. A standard renter's
43 insurance policy does not typically cover flood damage. You are
44 encouraged to examine your policy to determine whether you are
45 covered."

EXPLANATION – Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 d. The Department of Community Affairs, in consultation with
2 the Department of Environmental Protection, shall create and
3 prepare a notification that Statewide flood risks are increasing and
4 that the tenant may review these risks by going to the website that
5 the Department of Environmental Protection shall ensure is
6 managed with current and scientifically-supported information,
7 which is linked to and published on the website of the Department
8 of Community Affairs.

9 e. If a landlord violates this section and a tenant suffers a
10 substantial loss or damage to the tenant's personal property as a
11 result of flooding, the tenant may terminate the lease by giving a
12 written notice of termination to the landlord not later than the 30th
13 day after the date the loss or damage occurred and may pursue all
14 legal remedies under the law to recover damages recognizing the
15 landlord's failure to disclose critical information. For purposes of
16 this subsection, a tenant suffers a substantial loss or damage to
17 personal property if the total cost of repairs to or replacement of the
18 personal property is 50 percent or more of the personal property's
19 market value on the date the flooding occurred. Termination of a
20 lease under this subsection is effective when the tenant surrenders
21 possession of the dwelling.

22 f. Not later than the 30th day after the effective date of the
23 termination of a lease under subsection f. of this section, the
24 landlord shall refund to the tenant all rent or other amounts paid in
25 advance under the lease for any period after the effective date of the
26 termination of the lease.

27 g. For the purposes of this section, "landlord" means any
28 person who rents or leases, for a term of at least one month,
29 commercial space or residential dwelling units other than dwelling
30 units in a premises containing not more than two such units, or in an
31 owner-occupied premises of not more than three dwelling units, or
32 in hotels, motels, or other guest houses serving transient or seasonal
33 guests defined as those who rent a property for a period of less than
34 120 days.

35 (cf: P.L.2001, c.313, s.1)

36

37 2. (New section) a. A seller of real property located in this
38 State shall disclose, on the property condition disclosure statement,
39 any actual knowledge of the seller concerning flood risks of the
40 property, as required pursuant to this section, to the purchaser
41 before the purchaser becomes obligated under any contract for the
42 purchase of the property.

43 b. The Division of Consumer Affairs, in consultation with the
44 Department of Community Affairs and New Jersey Real Estate
45 Commission, in addition to any other question as the director deems
46 necessary, shall add the following specific questions and
47 information to the property condition disclosure statement
48 concerning certain flood risks to a property being sold. The

1 additions to the property condition disclosure statement shall
2 contain the heading "Flood Risk" and contain questions, and space
3 for sellers to answer yes, no, or unknown. If a seller answers yes to
4 any question, the disclosure statement shall require the seller to
5 explain the answer. The disclosure statement shall contain the
6 following questions and explanatory language:

7 (1) Is any or all of the property located in a Federal Emergency
8 Management Agency (FEMA) designated floodplain?

9 (2) Is any or all of the property located wholly or partially in the
10 Special Flood Hazard Area ("100-year floodplain") according to
11 FEMA's current flood insurance rate maps for your area?

12 (3) Is any or all of the property located wholly or partially in a
13 Moderate Risk Flood Hazard Area ("500-year floodplain")
14 according to FEMA's current flood insurance rate maps for your
15 area?

16 (4) Is the property subject to any requirement under federal law
17 to obtain and maintain flood insurance on the property? Properties
18 in the special flood hazard area, also known as high risk flood
19 zones, on FEMA's flood insurance rate maps with mortgages from
20 federally regulated or insured lenders are required to obtain and
21 maintain flood insurance. Even when not required, FEMA
22 encourages property owners in high risk, moderate risk, and low
23 risk flood zones to purchase flood insurance that covers the
24 structure and the personal property within the structure. Also note
25 that properties in coastal and riverine areas may be subject to
26 increased risk of flooding over time due to projected sea level rise
27 and increased extreme storms caused by climate change which may
28 not be reflected in current flood insurance rate maps.

29 (5) Have you ever received assistance, or are you aware of any
30 previous owners receiving assistance, from FEMA, the U.S. Small
31 Business Administration, or any other federal disaster flood
32 assistance for flood damage to the property? For properties that
33 have received federal disaster assistance, the requirement to obtain
34 flood insurance passes down to all future owners. Failure to obtain
35 and maintain flood insurance can result in an individual being
36 ineligible for future assistance.

37 (6) Is there flood insurance on the property? A standard
38 homeowner's insurance policy typically does not cover flood
39 damage. You are encouraged to examine your policy to determine
40 whether you are covered.

41 (7) Is there a FEMA elevation certificate available for the
42 property? If so, the elevation certificate must be shared with the
43 buyer. An elevation certificate is a FEMA form, completed by a
44 licensed surveyor or engineer. The form provides critical
45 information about the flood risk of the property and is used by flood
46 insurance providers under the National Flood Insurance Program to
47 help determine the appropriate flood insurance rating for the

1 property. A buyer may be able to use the elevation certificate from
2 a previous owner for their flood insurance policy.

3 (8) Have you ever filed a claim for flood damage to the property
4 with any insurance provider, including the National Flood Insurance
5 Program? If the claim was approved, what was the amount
6 received?

7 (9) Is any or all of the property located in a designated wetland?

8 (10) Has the property experienced any flood damage, water
9 seepage, or pooled water due to a natural flood event, such as heavy
10 rainfall, costal storm surge, tidal inundation, or river overflow? If
11 so, how many times?

12 c. The Department of Community Affairs, in consultation with
13 the Department of Environmental Protection, shall include in the
14 disclosure requirements and form to be distributed to purchasers of
15 real property before the purchaser becomes obligated under any
16 contract for the purchase of the property, that Statewide flood risks
17 are increasing and that the purchaser may review these risks by
18 going to the website that the Department of Environmental
19 Protection shall create and ensure is managed with current and
20 scientifically-supported information, and linked to and published on
21 the website of the Department of Community Affairs. The
22 Department of Environmental Protection's website shall at a
23 minimum include information that helps property owners provide
24 the disclosures enumerated in this statute.

25
26 3. This act shall take effect on the 90th day next following the
27 promulgation of regulations implementing the requirements of this
28 law and preparation of forms required to implement the law. The
29 appropriate State entity shall have 90 days to publish regulations
30 following enactment.

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STATEMENT

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35 This bill requires sellers of real property and landlords to make
36 certain notifications regarding flooding.

37 The bill requires landlords to notify their tenants if the leased
38 premises has been determined to be located in a flood zone or area
39 or has experienced any flood damage, water seepage, or pooled
40 water due to a natural flood event, such as heavy rainfall, coastal
41 storm surge, tidal inundation, or river overflow. The bill requires
42 the Department of Community Affairs to promulgate a form to be
43 used by landlords to provide prospective tenants with information
44 concerning flood information and risks.

45 The bill requires landlords to notify tenants of the availability of
46 insurance available for renters through the National Flood Insurance
47 Program.

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1 The bill requires sellers of real property located in this State to
2 disclose, in writing, any actual knowledge of the seller of the
3 property regarding flood risks that are present on the property. The
4 bill requires the Department of Community Affairs add to existing
5 disclosure requirements and form used by sellers of real property to
6 provide purchasers of property with information concerning flood
7 information and risks.

8 The bill requires the Department of Community Affairs, in
9 consultation with the Department of Environmental Protection, to
10 prepare a notification, to be distributed to purchasers of real
11 property and in the State, that Statewide flood risks are increasing
12 and that the purchaser or tenant may review these risks by going to
13 a website that the Department of Environmental Protection shall
14 create and ensure is managed with current and scientifically-
15 supported information, and is to be linked to and published on the
16 website of the Department of Community Affairs.

17 All notifications required pursuant to the bill are to be provided
18 to the purchaser or tenant in writing before the purchaser or tenant
19 becomes obligated under any contract for the purchase or lease of
20 the property.