ASSEMBLY, No. 2049

STATE OF NEW JERSEY

219th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2020 SESSION

Sponsored by:
Assemblywoman ELIANA PINTOR MARIN
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SYNOPSIS

Concerns disclosure by homeowner of lead plumbing prior to home sale.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.

AN ACT concerning disclosure of lead plumbing prior to home sale and amending P.L.1999, c.76.

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

1. Section 1 of P.L.1999, c.76 (C.56:8-19.1) is amended to read as follows:

1. Notwithstanding any provision of P.L.1960, c.39 (C.56:8-1 et seq.) to the contrary, there shall be no right of recovery of punitive damages, attorney fees, or both, under section 7 of P.L.1971, c.247 (C.56:8-19), against a real estate broker, broker-salesperson or salesperson licensed under R.S.45:15-1 et seq. for the communication of any false, misleading or deceptive information provided to the real estate broker, broker-salesperson or salesperson, by or on behalf of the seller of real estate located in New Jersey, if the real estate broker, broker-salesperson or salesperson demonstrates that he:

a. Had no actual knowledge of the false, misleading or deceptive character of the information; and

b. Made a reasonable and diligent inquiry to ascertain whether the information is of a false, misleading or deceptive character. For purposes of this section, communications by a real estate broker, broker-salesperson or salesperson which shall be deemed to satisfy the requirements of a "reasonable and diligent inquiry" include, but shall not be limited to, communications which disclose information:

(1) provided in a report or upon a representation by a person, licensed or certified by the State of New Jersey, including, but not limited to, an appraiser, home inspector, plumber or electrical contractor, or an unlicensed home inspector until December 30, 2005, of a particular physical condition pertaining to the real estate derived from inspection of the real estate by that person;

(2) provided in a report or upon a representation by any governmental official or employee, if the particular information of a physical condition is likely to be within the knowledge of that governmental official or employee; or

(3) that the real estate broker, broker-salesperson or salesperson obtained from the seller in a property condition disclosure statement, which form shall comply with regulations promulgated by the director in consultation with the New Jersey Real Estate Commission, provided that the real estate broker, broker-salesperson or salesperson informed the buyer that the seller is the source of the information and that, prior to making that communication to the buyer, the real estate broker, broker-salesperson or salesperson visually inspected the property with

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 <u>thus</u> is new matter.

reasonable diligence to ascertain the accuracy of the information disclosed by the seller. The director shall include the following question within the property condition disclosure statement: Are you aware of lead plumbing within the property? If yes, state locations.

Nothing in this section shall be interpreted to affect the obligations of a real estate broker, broker-salesperson or salesperson pursuant to the "New Residential Construction Off-Site Conditions Disclosure Act," P.L.1995, c.253 (C.46:3C-1 et seq.), or any other law or regulation.

(cf: P.L.2004, c.18, s.2)

2. (New section) On or before the first day of the third month next following enactment of this act, the Director of the Division of Consumer Affairs shall, in accordance with the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), adopt rules and regulations to effectuate the purposes of this act.

3. This act shall take effect on the first day of the third month next following enactment.

STATEMENT

This bill directs the Division of Consumer Affairs to require inclusion of the following question in the property condition disclosure statement that is provided to a homeowner for completion prior to sale of the home: “Are you aware of lead plumbing within the property? If yes, state locations.”

When communicating the condition of a property to a buyer, if a real estate broker, broker-salesperson, or salesperson relies on a property condition disclosure statement, completed by the homeowner, then the real estate professional is exempt from punitive damages and recovery of attorney fees under the consumer fraud act, P.L.1960, c.39 (C.56:8-1 et seq.). By including the new question in the property condition disclosure statement, this bill intends to enhance a prospective homeowner’s awareness of any lead plumbing, and associated dangers, that may exist in the home.