ASSEMBLY, No. 2135

STATE OF NEW JERSEY

219th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2020 SESSION

Sponsored by:
Assemblyman P. CHRISTOPHER TULLY
District 38 (Bergen and Passaic)
Assemblywoman LISA SWAIN
District 38 (Bergen and Passaic)
Assemblywoman CAROL A. MURPHY
District 7 (Burlington)

Co-Sponsored by:
Assemblywomen Vainieri Huttle and Mosquera

SYNOPSIS

Requires property condition disclosure statement to indicate presence of lead plumbing in residential property.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.

AN ACT concerning the disclosure of lead plumbing in residential properties 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 thus is new matter.

reasonable diligence to ascertain the accuracy of the information disclosed by the seller. In addition to any other question as the director shall deem necessary, the property condition disclosure statement shall include a question specifically concerning the presence of lead plumbing in the residential property.

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. This act shall take effect immediately.

STATEMENT

This bill requires property condition disclosure statements to include a question concerning the presence of lead plumbing in residential properties.

Under current law, a real estate broker, broker-salesperson, or salesperson is exempt from punitive damages and other penalties under the New Jersey Consumer Fraud Act, P.L.1960, c.39 (C.56:8-1 et seq.) when communicating the condition of a residential property if the broker, broker-salesperson, or salesperson relied on information provided in a property condition disclosure statement. The property condition disclosure statement is the form provided by the seller of residential property to the real estate broker, broker-salesperson, or salesperson in order to disclose certain information prior to the sale of the property.

The bill provides that in addition to any other question that the Director of the Division of Consumer Affairs in the Department of Law and Public Safety may require to be included, the property condition disclosure statement is required to include a question that specifically concerns whether the seller is aware of the presence of lead plumbing in the residential property. A real estate broker, broker-salesperson, or salesperson who communicates the condition of a residential property to a prospective buyer without obtaining this information from the seller could be liable for providing false, misleading, or deceptive information.