

[First Reprint]

SENATE, No. 697

STATE OF NEW JERSEY
219th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2020 SESSION

Sponsored by:

Senator M. TERESA RUIZ

District 29 (Essex)

Senator SHIRLEY K. TURNER

District 15 (Hunterdon and Mercer)

SYNOPSIS

Authorizes common law public nuisance suits regarding lead paint under State law; exempts Attorney General from certain aspects of public nuisance claims when pursuing lead paint actions.

CURRENT VERSION OF TEXT

As reported by the Senate Environment and Energy Committee on May 11, 2021, with amendments.



(Sponsorship Updated As Of: 9/17/2020)

1 AN ACT concerning public nuisance actions related to lead paint,
2 supplementing P.L.1971, c.366 (C.24:14A-1 et seq.), and
3 amending P.L.1987, c.197.
4

5 **BE IT ENACTED** by the Senate and General Assembly of the State
6 of New Jersey:
7

8 1. (New section) Nothing in P.L.1971, c.366 (C.24:14A-1 et
9 seq.) shall preclude recourse to any other remedy available pursuant
10 to common law for a violation of P.L.1971, c.366 (C.24:14A-1 et
11 seq.) or for damages ¹**caused by** , abatement, or any other
12 appropriate legal or equitable relief related to¹ the ¹manufacture,¹
13 sale ¹**or** ¹, distribution ¹, or use in dwellings¹ of lead paint ¹**and**
14 the subsequent use of such lead paint in dwellings or the
15 production, promotion, or distribution of lead pigments for use in
16 residential paints or coatings¹.
17

18 2. (New section) The Attorney General may bring an action for
19 damages ¹, abatement, and any other appropriate legal or equitable
20 relief¹ against a former or present lead paint manufacturer ¹or an
21 entity that produced, promoted, or distributed lead pigments for use
22 in residential paints or coatings¹ pursuant to a common law theory
23 of public nuisance, and shall not be limited to injunctive relief. The
24 Attorney General need not demonstrate that a defendant physically
25 controls lead paint, or real property that contains lead paint, in order
26 to prevail in a common law public nuisance claim based upon the
27 sale or distribution of lead paint, nor demonstrate a special injury in
28 order to recover damages or prevail in such an action. ¹Nothing in
29 this section shall be construed to deny, abrogate, or impair any
30 common law or statutory right, remedy, or prohibition otherwise
31 available to the Attorney General in any action, including, but not
32 limited to, public nuisance claims.¹
33

34 3. Section 6 of P.L.1987, c.197 (C.2A:58C-6) is amended to
35 read as follows:

36 6. The provisions of this act shall not apply to :

37 a. any environmental tort action ; or

38 b. a public nuisance claim brought ¹**or** ¹pursuant to common law¹
39 by the Attorney General concerning lead paint ¹or lead pigments
40 used in residential paints or coatings.

41 Nothing in this section shall be construed to deny, abrogate, or
42 impair any common law or statutory right, remedy, or prohibition
43 otherwise available to the Attorney General in any claims not

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.

Matter enclosed in superscript numerals has been adopted as follows:

¹Senate SEN committee amendments adopted May 11, 2021.

1 concerning lead paint, including, but not limited to, public nuisance
2 claims¹.

3 (cf: P.L.1987, c.197, s.6)

4

5 4. This bill shall take effect immediately and shall apply to
6 ¹**【causes of action】** all actions pending, including those on appeal,
7 on the date of enactment and to any action¹ filed on or after the date
8 of enactment ¹, except that judgments entered or awards made
9 pursuant to law for which no appeal is pending on the date of
10 enactment shall not be affected by the provisions of this act¹.