

SENATE ENVIRONMENT AND ENERGY COMMITTEE

STATEMENT TO

SENATE, No. 697

with committee amendments

STATE OF NEW JERSEY

DATED: MAY 11, 2021

The Senate Environment and Energy Committee favorably reports Senate Bill No. 697 with committee amendments.

The bill, as amended, would allow common law public nuisance suits under P.L.1971, c.366 (C.24:14A-1 et seq., and known as the “lead paint act”), and exempt the Attorney General from certain elements of a public nuisance claim when pursuing a public nuisance lead paint claim.

Specifically, the Attorney General would be permitted to bring an action for damages, abatement, and other appropriate legal or equitable relief, not limited to injunctive relief, against a former or present lead paint manufacturer or an entity that produced, promoted, or distributed lead pigments for use in residential paints or coatings pursuant to a common law theory of public nuisance. Under the bill, the Attorney General would not be required to demonstrate that a defendant physically controls lead paint, or real property that contains lead paint, to prevail on a public nuisance claim based upon the distribution of lead paint, nor demonstrate a special injury in order to prevail in those actions. Additionally, the bill would provide that the exemption that already applies to environmental tort actions in the law regulating product liability actions, P.L.1987, c.197 (C.2A:58C-1 et seq.) would also apply to actions concerning lead paint or lead pigments used in residential paints or coatings, when brought by the Attorney General.

The committee amendments would:

(1) expand the authority given to the Attorney General by the bill to include actions for damages, abatement, or any other appropriate legal or equitable relief against an entity that has produced, promoted, or distributed lead pigments for use in residential paints or coatings;

(2) include new language in sections 2 and 3 clarifying that the bill’s provisions would not deny, abrogate, or impair any common law or statutory right, remedy, or prohibition otherwise available to the Attorney General in any action; and

(3) provide that the bill’s provisions would apply to all actions pending, including those on appeal, on the date of the bill’s enactment and any action filed on or after the date of enactment.

This bill was pre-filed for introduction in the 2020-2021 session pending technical review. The bill includes changes required by technical review, which has been performed.