

SENATE, No. 829

STATE OF NEW JERSEY 219th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2020 SESSION

Sponsored by:

Senator JOSEPH A. LAGANA

District 38 (Bergen and Passaic)

Senator TROY SINGLETON

District 7 (Burlington)

Co-Sponsored by:

Senators Greenstein and O'Scanlon

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.



1 AN ACT concerning the disclosure of lead plumbing in residential
2 properties and amending P.L.1999, c.76.

3

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

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

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

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

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

27 (1) provided in a report or upon a representation by a person,
28 licensed or certified by the State of New Jersey, including, but not
29 limited to, an appraiser, home inspector, plumber or electrical
30 contractor, or an unlicensed home inspector until December 30,
31 2005, of a particular physical condition pertaining to the real estate
32 derived from inspection of the real estate by that person;

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

37 (3) that the real estate broker, broker-salesperson or salesperson
38 obtained from the seller in a property condition disclosure
39 statement, which form shall comply with regulations promulgated
40 by the director in consultation with the New Jersey Real Estate
41 Commission, provided that the real estate broker, broker-
42 salesperson or salesperson informed the buyer that the seller is the
43 source of the information and that, prior to making that
44 communication to the buyer, the real estate broker, broker-
45 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.

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

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

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

12

13 2. This act shall take effect immediately.

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STATEMENT

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

21 Under current law, a real estate broker, broker-salesperson, or
22 salesperson is exempt from punitive damages and other penalties
23 under the New Jersey Consumer Fraud Act, P.L.1960, c.39 (C.56:8-
24 1 et seq.) when communicating the condition of a residential
25 property if the broker, broker-salesperson, or salesperson relied on
26 information provided in a property condition disclosure statement.
27 The property condition disclosure statement is the form provided by
28 the seller of residential property to the real estate broker, broker-
29 salesperson, or salesperson in order to disclose certain information
30 prior to the sale of the property.

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