

SENATE, No. 4209

STATE OF NEW JERSEY
219th LEGISLATURE

INTRODUCED DECEMBER 2, 2021

Sponsored by:

Senator BRIAN P. STACK

District 33 (Hudson)

SYNOPSIS

Concerns information on property condition disclosure statement.

CURRENT VERSION OF TEXT

As introduced.



1 **AN ACT** concerning the disclosure of certain information prior to
2 the sale of real estate 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:*

6

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

9 1. Notwithstanding any provision of P.L.1960, c.39 (C.56:8-
10 1 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,
16 or 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.
23 For purposes of this section, communications by a real estate
24 broker, broker-salesperson, or salesperson which shall be deemed to
25 satisfy the requirements of a "reasonable and diligent inquiry"
26 include, but shall not be limited to, communications which disclose
27 information:

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

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

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

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 salesperson, or salesperson visually inspected the property with
2 reasonable diligence to ascertain the accuracy of the information
3 disclosed by the seller. The director shall require that if a property
4 condition disclosure statement contains information indicating the
5 seller's awareness of water leakage, accumulation or dampness, the
6 presence of mold or other similar natural substance, or repairs or
7 other attempts to control any water or dampness problem on the real
8 property, the real estate broker, broker-salesperson, or salesperson
9 shall refer the buyer of the real property to the "Mold Guidelines
10 for New Jersey Residents" pamphlet on the Department of Health
11 Internet website, or other pamphlet or guidelines deemed
12 appropriate by the director. If requested by the buyer, the real estate
13 broker, broker-salesperson, or salesperson shall provide the buyer
14 with a physical copy of the pamphlet.

15 Nothing in this section shall be interpreted to affect the
16 obligations of a real estate broker, broker-salesperson, or
17 salesperson pursuant to the "New Residential Construction Off-Site
18 Conditions Disclosure Act," P.L.1995, c.253 (C.46:3C-1 et seq.), or
19 any other law or regulation.
20 (cf: P.L.2004, c.18, s.2)

21
22 2. This act shall take effect on the first day of the third month
23 next following enactment.
24

25 26 STATEMENT 27

28 This bill requires that if a property condition disclosure
29 statement contains information indicating the seller's awareness of
30 water leakage, accumulation or dampness, the presence of mold or
31 other similar natural substance, or repairs or other attempts to
32 control any water or dampness problem on the real property, the
33 real estate broker, broker-salesperson, or salesperson is to refer the
34 buyer of the real property to the "Mold Guidelines for New Jersey
35 Residents" pamphlet on the Department of Health Internet website,
36 or other pamphlet or guidelines deemed appropriate by the director.
37 However, under the amended bill, the real estate broker, broker-
38 salesperson, or salesperson is required to provide the buyer with a
39 physical copy of the pamphlet if requested by the buyer.