

SENATE, No. 1005

STATE OF NEW JERSEY 220th LEGISLATURE

INTRODUCED JANUARY 31, 2022

Sponsored by:
Senator M. TERESA RUIZ
District 29 (Essex)

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 introduced.



S1005 RUIZ

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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.

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

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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, abatement, or any other appropriate legal or
12 equitable relief related to the manufacture, sale, distribution, or use
13 in dwellings of lead paint or the production, promotion, or
14 distribution of lead pigments for use in residential paints or
15 coatings.

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

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

35 6. The provisions of **[this act]** P.L.1987, c.197 (C.2A:58C-1 et
36 seq.) shall not apply to:

37 a. any environmental tort action ; or

38 b. a public nuisance claim brought by the Attorney General
39 concerning lead paint or lead pigments used in residential paints or
40 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
44 concerning lead paint, including, but not limited to, public nuisance
45 claims.

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

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 4. This bill shall take effect immediately and shall apply to all
2 actions pending, including those on appeal, on the date of
3 enactment and to any action filed on or after the date of enactment,
4 except that judgments entered or awards made pursuant to law for
5 which no appeal is pending on the date of enactment shall not be
6 affected by the provisions of this act.

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STATEMENT

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

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