P.L. 2023, CHAPTER 93, approved July 3, 2023
Senate, No. 3110 (Fourth Reprint)

(CORRECTED COPY)


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

1. Section 1 of P.L.2001, c.313 (C.46:8-50) is amended to read as follows:

C.46:8-50 Notification, tenants, flood zone.

1. a. Every landlord shall notify each of the landlord's tenants [upon the event that the rental property which is the subject of a lease has been determined to be located in a flood zone or area] 2 [whether the rental property, which is the subject of a lease, has been or could be affected by flooding] prior to lease signing or renewal, whether a property is located in the FEMA Special Flood Hazard Area (“100-year floodplain”) or Moderate Risk Flood Hazard Area (“500-year floodplain”) and if the landlord has actual knowledge that the rental premises or any portion of the parking areas of the real property containing the rental premises has been subjected to flooding. 2 [Seasonal rentals of less than 120 days shall be exempt from the requirements of this section. Each new tenant shall be [notified] provided the notices required pursuant to this section in writing 2 [at the time of application] 2 and prior to the time [that occupancy] that the lease of the rental unit is assumed signed. 2 If the lease is in writing, the notice required under this subsection may be included in the written lease or the written renewal lease, provided that 4, in the case of a residential lease, the notice is a separate rider, individually signed or otherwise.

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:
1 Senate SEN committee amendments adopted October 6, 2022.
2 Senate floor amendments adopted November 21, 2022.
3 Assembly floor amendments adopted January 26, 2023.
4 Senate amendments adopted in accordance with Governor’s recommendations May 22, 2023.
acknowledged by the tenant, and written in not less than 12-point
typeface. 2

b. The Department of Community Affairs 3, in consultation
with the Department of Environmental Protection, 3 shall
promulgate 4 develop 4 and published on its website and in the
New Jersey Register 4 a 4(form) 2 model notice 2 to be used by
landlords pursuant to this section. The 4(form) 2 model notice 2 shall
contain the heading “Flood Risk” and contain questions, and space
for landlords to answer yes, no, or unknown 2, based upon the
landlord’s actual knowledge. The questions regarding the property
being located in a FEMA Special or Moderate Risk Flood Hazard
Area shall not contain the option for unknown 2. The 4(form)
model notice 2 provide 2 shall include 2 the following information
in substantially similar language:

(1) Is any or all of the rental property 1(is) 1 located wholly or
partially in the Special Flood Hazard Area (“100-year floodplain”) 1
according to FEMA’s current flood insurance rate maps for the
leased premises’ area 1? 1;

(3) (2) Is any or all of the rental property 1(is) 1 located
wholly or partially in a Moderate Risk Flood Hazard Area (“500-
year floodplain”) according to FEMA’s current flood insurance rate
maps for the leased premises’ area 1? 1; and

(4) (3) Has the rental 4(property) premises or any portion of
the parking areas of the real property containing the rental premises
subject to the lease 2 ever experienced any flood damage, water
seepage, or pooled water due to a natural flood event 3, such as
heavy rainfall, coastal storm surge, tidal inundation, or river
overflow 2? 2 If so, how many times?

c. Every residential lease shall also contain the following
notice to tenants: "Flood insurance 4(is) 4 may be 4 available to
renters through FEMA’s National Flood Insurance Program to
cover your personal property and contents in the event of a flood.
A standard renter's insurance policy does not typically cover flood
damage. You are encouraged to examine your policy to determine
whether you are covered."

d. The Department of Community Affairs, in consultation with
the Department of Environmental Protection, shall create and
prepare a notification that Statewide flood risks are increasing and
that the tenant may review these risks by going to the website that
the Department of Environmental Protection shall ensure is
managed with current and scientifically-supported information,
which is linked to and published on the website of the Department
of Community Affairs. 2The Department of Environmental
Protection’s website shall at a minimum include information that helps
property owners provide the disclosures enumerated in this section. The
website shall include access to a user-friendly look-up tool searchable
by mailing address that identifies if a property is in the FEMA Special
or Moderate Risk Flood Hazard Area. The requirement to disclose if
the property is in the FEMA Special or Moderate Risk Flood Hazard
Area, beyond actual knowledge, shall take effect after the website look-
up tool is in place.¹

e. If a landlord violates this section ² by failing to disclose that
the property is located in the FEMA Special or Moderate Risk
Flood Hazard Area³ and a tenant ⁴ suffers a substantial loss or
damage to the tenant’s personal property as a result of flooding⁵
subsequently becomes aware that the property is located in the
FEMA Special or Moderate Risk Flood Hazard Area⁶, the tenant
may terminate the lease by giving a written notice of termination to
the landlord ⁷ not later than the 30th day after the date the loss or
damage occurred and ⁸. If a landlord violates this section and
flooding occurs that results in damage to a tenant’s personal
property, affects the habitability of the leased premises, or affects
the tenant’s access to the leased premises, the tenant ⁹ may pursue
all legal remedies under the law to recover damages recognizing the
landlord’s failure to disclose critical information. Termination of a
lease under this subsection is effective when the tenant surrenders
possession of the dwelling.

f. Not later than the 30th day after the effective date of the
termination of a lease under subsection f. of this section, the
landlord shall refund to the tenant all rent or other amounts paid in
advance under the lease for any period after the effective date of the
termination of the lease.

g. For the purposes of this section, "landlord" means any
person who rents or leases, for a term of at least one month,
commercial space or residential dwelling units other than dwelling
units in a premises containing not more than two such units, or in an
owner-occupied premises of not more than three dwelling units, or
in hotels, motels, or other guest houses serving transient or seasonal
guests defined as those who rent a property for a period of less than
120 days.

2. (New section) a. A seller of real property located in this State
shall disclose, on the property condition disclosure statement,
whether the property is located in the FEMA Special or Moderate
Risk Flood Hazard Area and any actual knowledge of the seller
concerning flood risks of the property, as required pursuant to this
section, to the purchaser before the purchaser becomes obligated
under any contract for the purchase of the property.

b. The Division of Consumer Affairs, in consultation with the
Department of Environmental Protection, Department of
Community Affairs and New Jersey Real Estate Commission, in
addition to any other question as the director deems necessary, shall
add the following specific questions and information to the property
condition disclosure statement concerning certain flood risks to a property being sold. The division shall revise the regulations promulgated pursuant to subsection c. of section 1 of P.L.1999, c.76 (C.56:8-19.1) with which the form of the property condition disclosure statement must comply to incorporate the requirements of this subsection, but in advance of such rulemaking the division shall make the revised form which includes the specific questions and information required by this subsection and subsection c. of this section, if applicable, available for use by publishing the revised form on the division’s website. A seller of real property shall be required to use the revised form beginning on the 90th day following its publication on the division’s website. The additions to the property condition disclosure statement shall contain the heading “Flood Risk” and contain questions, and space for sellers to answer yes, no, or unknown. If a seller answers yes to any question, the disclosure statement shall require the seller to explain the answer. The disclosure statement shall contain the following questions and explanatory language:

(1) Is any or all of the property located in a Federal Emergency Management Agency (FEMA) designated floodplain?

(2) Is any or all of the property located wholly or partially in the Special Flood Hazard Area ("100-year floodplain") according to FEMA’s current flood insurance rate maps for your area?

(3) Is any or all of the property located wholly or partially in a Moderate Risk Flood Hazard Area ("500-year floodplain") according to FEMA’s current flood insurance rate maps for your area?

(4) Is the property subject to any requirement under federal law to obtain and maintain flood insurance on the property? Properties in the special flood hazard area, also known as high risk flood zones, on FEMA’s flood insurance rate maps with mortgages from federally regulated or insured lenders are required to obtain and maintain flood insurance. Even when not required, FEMA encourages property owners in high risk, moderate risk, and low risk flood zones to purchase flood insurance that covers the structure and the personal property within the structure. Also note that properties in coastal and riverine areas may be subject to increased risk of flooding over time due to projected sea level rise and increased extreme storms caused by climate change which may not be reflected in current flood insurance rate maps.

(5) Have you ever received assistance, or are you aware of any previous owners receiving assistance, from FEMA, the U.S. Small Business Administration, or any other federal disaster flood assistance for flood damage to the property? For properties that have received federal disaster assistance, the requirement to obtain flood insurance passes down to all future owners. Failure to obtain
and maintain flood insurance can result in an individual being ineligible for future assistance.

2[(6)] (5) Is there flood insurance on the property? A standard homeowner’s insurance policy typically does not cover flood damage. You are encouraged to examine your policy to determine whether you are covered.

2[(7)] (6) Is there a FEMA elevation certificate available for the property? If so, the elevation certificate must be shared with the buyer. An elevation certificate is a FEMA form, completed by a licensed surveyor or engineer. The form provides critical information about the flood risk of the property and is used by flood insurance providers under the National Flood Insurance Program to help determine the appropriate flood insurance rating for the property. A buyer may be able to use the elevation certificate from a previous owner for their flood insurance policy.

2[(8)] (7) Have you ever filed a claim for flood damage to the property with any insurance provider, including the National Flood Insurance Program? If the claim was approved, what was the amount received?

2[(9)] (8) Is any or all of the property located in a designated wetland?

2[(10)] (9) Has the property experienced any flood damage, water seepage, or pooled water due to a natural flood event, such as heavy rainfall, coastal storm surge, tidal inundation, or river overflow? If so, how many times?

c. The 3Department of Community Affairs] Division of Consumer Affairs, in consultation with the Department of Environmental Protection, shall include in the disclosure requirements and form to be distributed to purchasers of real property before the purchaser becomes obligated under any contract for the purchase of the property, that Statewide flood risks are increasing and that the purchaser may review these risks by going to the website that the Department of Environmental Protection shall create and ensure is managed with current and scientifically-supported information, and linked to and published on the website of the Department of Community Affairs. The Department of Environmental Protection’s website shall at a minimum include information that helps property owners provide the disclosures enumerated in this statute. 2The website shall include access to a user-friendly look-up tool searchable by mailing address that identifies if a property is in the FEMA Special or Moderate Risk Flood Hazard Area. The requirement to disclose if the property is in the FEMA Special or Moderate Risk Flood Hazard Area, beyond actual knowledge, shall take effect after the website look-up tool is in place.
1 3. (New section) No later than 90 days after the date of
2 enactment of this act, the Department of Community Affairs
3 shall, the Department of Environmental Protection, and the
4 Division of Consumer Affairs may adopt, pursuant to the
5 "Administrative Procedure Act,” P.L.1968, c.410 (C.52:14B-1 et
6 seq.), such rules and regulations as may be necessary to
7 implement this act.¹
8 ¹[3.] ⁴¹ This act shall take effect immediately, but
9 section 1 of this act shall only be applicable to the signing or
10 renewal of leases of rental property occurring on or after the 90th
11 day next following the promulgation of regulations implementing
12 the requirements of this law and the preparation of forms
13 required to implement the law. The appropriate State entity shall
14 have 90 days to publish regulations following enactment this act,
15 except that the Department of Community Affairs may take
16 anticipatory administrative action, in advance thereof, as may be
17 necessary for the implementation of this act.¹] publication of the
18 model notice by the Department of Community Affairs pursuant to
19 subsection b. of section 1, and section 2 of this act shall only be
20 applicable to sales and exchanges of real property occurring on or
21 after the 90th day next following the publication of the amended
22 property condition disclosure statement by the Division of
23 Consumer Affairs pursuant to subsection b. of section 2.⁴
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27 Requires sellers of real property and landlords to make certain
28 notifications regarding flooding.