

§2
C.56:8-19.2
§3
Note to C.13:1B-3,
C.13:1D-2,
C.52:17B-120,
and C.52:27D-3
§4
Note to §§1,2

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

(CORRECTED COPY)

1 AN ACT concerning real property and flood notifications, amending
2 P.L.2001, c.313, and supplementing P.L.1960, c.39 (C.56:8-1 et
3 seq.).
4
5 **BE IT ENACTED** by the Senate and General Assembly of the State
6 of New Jersey:
7
8 1. Section 1 of P.L.2001, c.313 (C.46:8-50) is amended to read
9 as follows:
10
11 C.46:8-50 Notification, tenants, flood zone.
12 1. a. Every landlord shall notify each of the landlord's tenants
13 **【upon the event that the rental property which is the subject of a**
14 **lease has been determined to be located in a flood zone or area】**
15 ²**【whether the rental property, which is the subject of a lease, has**
16 **been or could be affected by flooding】** prior to lease signing or
17 renewal, whether a property is located in the FEMA Special Flood
18 Hazard Area (“100-year floodplain”) or Moderate Risk Flood
19 Hazard Area (“500-year floodplain”) and if the landlord has actual
20 knowledge that the rental premises or any portion of the parking
21 areas of the real property containing the rental premises has been
22 subjected to flooding². Seasonal rentals of less than 120 days shall
23 be exempt from the requirements of this section. Each new tenant
24 shall be **【notified】** provided the notices required pursuant to this
25 section in writing ²**【at the time of application】**² and prior to the
26 time **【that occupancy】** that the lease of the rental unit is **【assumed】**
27 signed. ²**【If the lease is in writing, the notice required under this**
28 **subsection may be included in the written lease or the written**
29 **renewal lease, provided that** ⁴, in the case of a residential lease, ⁴ the
30 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:

¹Senate SEN committee amendments adopted October 6, 2022.

²Senate floor amendments adopted November 21, 2022.

³Assembly floor amendments adopted January 26, 2023.

⁴Senate amendments adopted in accordance with Governor's recommendations May 22, 2023.

1 acknowledged by the tenant, and written in not less than 12-point
2 typeface.²

3 b. The Department of Community Affairs³, in consultation
4 with the Department of Environmental Protection,³ shall
5 ³["promulgate"] develop³⁴ and published on its website and in the
6 New Jersey Register⁴ a² ²["form"] model notice² to be used by
7 landlords pursuant to this section. The² ²["form"] model notice² shall
8 contain the heading "Flood Risk" and contain questions, and space
9 for landlords to answer yes, no, or unknown², based upon the
10 landlord's actual knowledge. The questions regarding the property
11 being located in a FEMA Special or Moderate Risk Flood Hazard
12 Area shall not contain the option for unknown². The² ²["form"]
13 model notice²¹ ¹["provide"] shall include¹ the following information
14 in substantially similar language:

15 (1) Is any or all of the rental property¹ ¹["is"]¹ located wholly or
16 partially in the Special Flood Hazard Area ("100-year floodplain")
17 according to FEMA's current flood insurance rate maps for the
18 leased premises' area¹ ¹?¹ ;

19 ²["(3)"] (2)² Is any or all of the rental property¹ ¹["is"]¹ located
20 wholly or partially in a Moderate Risk Flood Hazard Area ("500-
21 year floodplain") according to FEMA's current flood insurance rate
22 maps for the leased premises' area¹ ¹?¹ ; and

23 ²["(4)"] (3)² Has the rental² ²["property"] premises or any portion of
24 the parking areas of the real property containing the rental premises
25 subject to the lease² ever experienced any flood damage, water
26 seepage, or pooled water due to a natural flood event²["], such as
27 heavy rainfall, coastal storm surge, tidal inundation, or river
28 overflow.】² ?² If so, how many times?

29 c. Every residential lease shall also contain the following
30 notice to tenants: "Flood insurance⁴ ⁴["is"] may be⁴ available to
31 renters through FEMA's National Flood Insurance Program to
32 cover your personal property and contents in the event of a flood.
33 A standard renter's insurance policy does not typically cover flood
34 damage. You are encouraged to examine your policy to determine
35 whether you are covered."

36 d. The Department of Community Affairs, in consultation with
37 the Department of Environmental Protection, shall create and
38 prepare a notification that Statewide flood risks are increasing and
39 that the tenant may review these risks by going to the website that
40 the Department of Environmental Protection shall ensure is
41 managed with current and scientifically-supported information,
42 which is linked to and published on the website of the Department
43 of Community Affairs.² The Department of Environmental
44 Protection's website shall at a minimum include information that helps
45 property owners provide the disclosures enumerated in this section. The
46 website shall include access to a user-friendly look-up tool searchable

1 by mailing address that identifies if a property is in the FEMA Special
2 or Moderate Risk Flood Hazard Area. The requirement to disclose if
3 the property is in the FEMA Special or Moderate Risk Flood Hazard
4 Area, beyond actual knowledge, shall take effect after the website look-
5 up tool is in place.²

6 e. If a landlord violates this section⁴by failing to disclose that
7 the property is located in the FEMA Special or Moderate Risk
8 Flood Hazard Area⁴ and a tenant⁴ suffers a substantial loss or
9 damage to the tenant's personal property as a result of flooding**】**
10 subsequently becomes aware that the property is located in the
11 FEMA Special or Moderate Risk Flood Hazard Area⁴ , the tenant
12 may terminate the lease by giving a written notice of termination to
13 the landlord⁴**【**not later than the 30th day after the date the loss or
14 damage occurred and**】** . If a landlord violates this section and
15 flooding occurs that results in damage to a tenant's personal
16 property, affects the habitability of the leased premises, or affects
17 the tenant's access to the leased premises, the tenant⁴ may pursue
18 all legal remedies under the law to recover damages recognizing the
19 landlord's failure to disclose critical information. Termination of a
20 lease under this subsection is effective when the tenant surrenders
21 possession of the dwelling.

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

27 g. For the purposes of this section, "landlord" means any
28 person who rents or leases, for a term of at least one month,
29 commercial space or residential dwelling units other than dwelling
30 units in a premises containing not more than two such units, or in an
31 owner-occupied premises of not more than three dwelling units, or
32 in hotels, motels, or other guest houses serving transient or seasonal
33 guests defined as those who rent a property for a period of less than
34 120 days.

35
36 2. (New section) a. A seller of real property located in this State
37 shall disclose, on the property condition disclosure statement,
38 whether the property is located in the FEMA Special or Moderate
39 Risk Flood Hazard Area and² any actual knowledge of the seller
40 concerning flood risks of the property, as required pursuant to this
41 section, to the purchaser before the purchaser becomes obligated
42 under any contract for the purchase of the property.

43 b. The Division of Consumer Affairs, in consultation with the
44 Department of Environmental Protection,³ Department of
45 Community Affairs and New Jersey Real Estate Commission, in
46 addition to any other question as the director deems necessary, shall
47 add the following specific questions and information to the property

1 condition disclosure statement concerning certain flood risks to a
2 property being sold. ⁴The division shall revise the regulations
3 promulgated pursuant to subsection c. of section 1 of P.L.1999, c.76
4 (C.56:8-19.1) with which the form of the property condition
5 disclosure statement must comply to incorporate the requirements
6 of this subsection, but in advance of such rulemaking the division
7 shall make the revised form which includes the specific questions
8 and information required by this subsection and subsection c. of this
9 section, if applicable, available for use by publishing the revised
10 form on the division's website. A seller of real property shall be
11 required to use the revised form beginning on the 90th day
12 following its publication on the division's website.⁴ The additions
13 to the property condition disclosure statement shall contain the
14 heading "Flood Risk" and contain questions, and space for sellers to
15 answer yes, no, or unknown. If a seller answers yes to any
16 question, the disclosure statement shall require the seller to explain
17 the answer. The disclosure statement shall contain the following
18 questions and explanatory language:

19 (1) ²**Is any or all of the property located in a Federal**
20 **Emergency Management Agency (FEMA) designated floodplain?**

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

24 ²**(3) (2)** ²**Is any or all of the property located wholly or**
25 **partially in a Moderate Risk Flood Hazard Area ("500-year**
26 **floodplain") according to FEMA's current flood insurance rate maps**
27 **for your area?**

28 ²**(4) (3)** ²**Is the property subject to any requirement under**
29 **federal law to obtain and maintain flood insurance on the property?**
30 **Properties in the special flood hazard area, also known as high risk**
31 **flood zones, on FEMA's flood insurance rate maps with mortgages**
32 **from federally regulated or insured lenders are required to obtain**
33 **and maintain flood insurance. Even when not required, FEMA**
34 **encourages property owners in high risk, moderate risk, and low**
35 **risk flood zones to purchase flood insurance that covers the**
36 **structure and the personal property within the structure. Also note**
37 **that properties in coastal and riverine areas may be subject to**
38 **increased risk of flooding over time due to projected sea level rise**
39 **and increased extreme storms caused by climate change which may**
40 **not be reflected in current flood insurance rate maps.**

41 ²**(5) (4)** ²**Have you ever received assistance, or are you aware**
42 **of any previous owners receiving assistance, from FEMA, the U.S.**
43 **Small Business Administration, or any other federal disaster flood**
44 **assistance for flood damage to the property? For properties that**
45 **have received federal disaster assistance, the requirement to obtain**
46 **flood insurance passes down to all future owners. Failure to obtain**

1 and maintain flood insurance can result in an individual being
2 ineligible for future assistance.

3 ²[(6)] (5)² Is there flood insurance on the property? A standard
4 homeowner's insurance policy typically does not cover flood
5 damage. You are encouraged to examine your policy to determine
6 whether you are covered.

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

16 ²[(8)] (7)² Have you ever filed a claim for flood damage to the
17 property with any insurance provider, including the National Flood
18 Insurance Program? If the claim was approved, what was the
19 amount received?

20 ²[(9)] (8)² ⁴Is any or all of the property located in a designated
21 wetland?

22 ²[(10)] (9)² ⁴Has the property experienced any flood damage,
23 water seepage, or pooled water due to a natural flood event, such as
24 heavy rainfall, coastal storm surge, tidal inundation, or river
25 overflow? If so, how many times?

26 c. The ³Department of Community Affairs] Division of
27 Consumer Affairs³, in consultation with the Department of
28 Environmental Protection, shall include in the disclosure
29 requirements and form to be distributed to purchasers of real
30 property before the purchaser becomes obligated under any contract
31 for the purchase of the property, that Statewide flood risks are
32 increasing and that the purchaser may review these risks by going to
33 the website that the Department of Environmental Protection shall
34 create and ensure is managed with current and scientifically-
35 supported information, and linked to and published on the website
36 of the Department of Community Affairs. The Department of
37 Environmental Protection's website shall at a minimum include
38 information that helps property owners provide the disclosures
39 enumerated in this statute. ²The website shall include access to a
40 user-friendly look-up tool searchable by mailing address that
41 identifies if a property is in the FEMA Special or Moderate Risk
42 Flood Hazard Area. The requirement to disclose if the property is in
43 the FEMA Special or Moderate Risk Flood Hazard Area, beyond
44 actual knowledge, shall take effect after the website look-up tool is
45 in place.²

1 ¹3. (New section) ⁴~~["No later than 90 days after the date of~~
2 ~~enactment of this act, the"]~~ The⁴ Department of Community Affairs
3 ⁴~~["shall"]~~ , the Department of Environmental Protection, and the
4 Division of Consumer Affairs may⁴ adopt, pursuant to the
5 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
6 seq.), ⁴such⁴ rules and regulations ⁴as may be⁴ necessary to
7 implement this act.¹

8 ¹[3.] 4.¹ This act shall take effect ⁴~~["on"]~~ 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 after⁴ the 90th
11 day next following the ⁴~~["promulgation of regulations implementing~~
12 the requirements of this ¹~~["law"]~~ act¹ and ¹the¹ preparation of forms
13 required to implement ¹~~["the law. The appropriate State entity shall~~
14 have 90 days to publish regulations following enactment¹ 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 act¹.¹ 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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28 Requires sellers of real property and landlords to make certain
29 notifications regarding flooding.