

## CHAPTER 93

AN ACT concerning real property and flood notifications, amending P.L.2001, c.313, and supplementing P.L.1960, c.39 (C.56:8-1 et seq.).

**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 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. Seasonal rentals of less than 120 days shall be exempt from the requirements of this section. Each new tenant shall be provided the notices required pursuant to this section in writing and prior to the time that the lease of the rental unit is signed. 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, in the case of a residential lease, the notice is a separate rider, individually signed or otherwise acknowledged by the tenant, and written in not less than 12-point typeface.

b. The Department of Community Affairs, in consultation with the Department of Environmental Protection, shall develop and published on its website and in the New Jersey Register a model notice to be used by landlords pursuant to this section. The model notice shall contain the heading "Flood Risk" and contain questions, and space for landlords to answer yes, no, or unknown, 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. The model notice shall include the following information in substantially similar language:

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

(2) Is any or all of the rental 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 the leased premises' area?; and

(3) Has the rental premises or any portion of the parking areas of the real property containing the rental premises subject to the lease ever experienced any flood damage, water seepage, or pooled water due to a natural flood event? If so, how many times?

c. Every residential lease shall also contain the following notice to tenants: "Flood insurance may be 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. The 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.

e. If a landlord violates this section by failing to disclose that the property is located in the FEMA Special or Moderate Risk Flood Hazard Area and a tenant subsequently becomes aware that the property is located in the FEMA Special or Moderate Risk Flood Hazard Area, the tenant may terminate the lease by giving a written notice of termination to the landlord. 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 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.

C.56:8-19.2 Seller, real property, disclose, property location, FEMA Special, Moderate Risk Flood Hazard Area, purchaser.

2. 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 wholly or partially in the Special Flood Hazard Area ("100-year floodplain") according to FEMA's current flood insurance rate maps for your area?

(2) 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?

(3) 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.

(4) 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.

(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.

(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.

(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?

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

c. The 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. 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.

3. The Department of Community Affairs, the Department of Environmental Protection, and the Division of Consumer Affairs may adopt, pursuant to the "Administrative Procedure

Act," P.L.1968, c.410 (C.52:14B-1 et seq.), such rules and regulations as may be necessary to implement this act.

4. This act shall take effect immediately, but section 1 of this act shall only be applicable to the signing or renewal of leases of rental property occurring on or after the 90th day next following the publication of the model notice by the Department of Community Affairs pursuant to subsection b. of section 1, and section 2 of this act shall only be applicable to sales and exchanges of real property occurring on or after the 90th day next following the publication of the amended property condition disclosure statement by the Division of Consumer Affairs pursuant to subsection b. of section 2.

Approved July 3, 2023.