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New Flood Disclosure Requirements for New Jersey Landlords and Seller

On July 3, 2023, Governor Phil Murphy signed into law P.L. 2023, c.93, expanding property owners' flood notification obligations when renting or selling their properties and ensuring that tenants and buyers are provided with critical information about flood risks associated with the property. Pursuant to the law, beginning on **March 20**, sellers and landlords are required to use the new disclosure forms, including an updated seller's disclosure statement and a flood risk notice for landlords, both available on the Division of Consumer Affairs and Department of Community Affairs websites:

- Updated Seller's Disclosure Statement
- Flood Risk Notice for landlords

Without distinguishing between residential and commercial properties, the updated Seller's Disclosure Statement requires all sellers to disclose whether any portion of the property resides either fully or partly within FEMA's designated Special Flood Hazard Area or the "100-year floodplain," as well as whether it's situated within the Moderate Risk Flood Hazard Area or the "500-year floodplain." It also requires disclosure of whether the property is under any federal mandate to maintain flood insurance, queries about any past FEMA or federal disaster flood assistance received for the property, and asks whether there's current flood insurance coverage. Furthermore, it requests information on the availability of a FEMA elevation certificate for the property, whether there have been any flood damage claims filed, and whether the property has experienced flood damage, water seepage, or pooled water from natural flood events. For landlords, the Flood Risk Notice contains questions about the flood risk of the property based on the landlord's actual knowledge. The notice also contains basic information about flood insurance available to renters through FEMA's National Flood Insurance Program and about the effects of climate change on flood risks in New Jersey. Although the new law does not explicitly distinguish between residential and commercial leases, it does specify that for residential leases, the notice must be provided as a separate rider to the lease, signed or acknowledged by the tenant. By requiring detailed flood risk disclosures when selling and renting, New Jersey aims to protect prospective buyers and tenants from unforeseen damages and financial losses in the face of increasing climate change challenges. Should you have any questions concerning this legislation or land use matters in general, please contact the authors of this alert or any of the Day Pitney real estate team.

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