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NJ Senate Passes Bill Expanding Flood Notice Obligations for Landlords and Sellers

On March 20, the New Jersey Senate passed S3110/A4783 to amend the Truth-in-Renting Act (*N.J.S.A. §§ 46:8-43–46:51).* The bill, which was passed by the General Assembly on February 27 and is now ready to be sent to Gov. Phil Murphy's desk, expands property owners' flood notification obligations when renting or selling their properties and ensures that prospective tenants and buyers are provided with critical information about flood risks associated with the property. The amendment applies to residential and commercial properties, except for short-term leases of less than one month or guesthouse leases serving transient or seasonal guests.

The bill states that New Jersey, a coastal state with many rivers and streams, has experienced increasingly frequent and severe flooding due to climate change and rising sea levels in recent years. If enacted, the bill will offer New Jersey renters and buyers more transparency in evaluating the potential impact of flooding when entering into real estate transactions. Specifically, the bill requires landlords to notify potential tenants, at the time of application, if the leased premises has been or could be affected by flooding and whether the rental property has experienced any damage due to a natural flood event, such as heavy rainfall, coastal storm surge or river overflow.

Landlord disclosures must be made using a standard form promulgated by the Department of Community Affairs (DCA). Furthermore, if a landlord fails to disclose flood risk information and their tenant suffers a substantial loss or damage to their personal property due to flooding, the tenant may terminate the lease and pursue all available legal remedies. The legal recourse offered under the bill will encourage landlords to be more transparent about flood risk and incentivize them to take necessary steps to notify their tenants.

The bill imposes similar notification obligations on sellers of real property. For example, before entering into a contract with a prospective buyer, a seller will be required to disclose, in writing, any actual knowledge regarding flood risks that are present on the property. It also requires the DCA to expand the existing seller disclosure forms to incorporate additional questions specifically designed to provide purchasers with more information concerning flood risks.

Moreover, the bill adds layers of protection for renters and buyers by providing them with easy access to relevant flood information when considering renting or purchasing real estate. It requires the DCA to collaborate with the Department of Environmental Protection (DEP) to create a notification that must be distributed to purchasers or renters of real property in New Jersey. The notification must state that statewide flood risks are increasing and that buyers and renters may review these risks by visiting a website that the DEP is required to create and update regularly with current and scientifically supported data.

Should you have any questions concerning this legislation or land use matters in general, please contact the authors of this advisory or any of the Day Pitney real estate team.

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