

Navigating New Jersey's Enhanced Flood Disclosure Requirements

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Effective on March 20, 2024, a newly enacted New Jersey statute expanded the obligations of sellers and landlords regarding flood risk transparency. These requirements apply to both residential and commercial transactions and must be satisfied prior to contract execution. For real estate brokers and agents, compliance is no longer a matter of best practice, but a legal requirement that, if not followed, may result in contract rescission and potential liability.

Key Requirements for Sellers

Under the current law, all sellers of real property must provide a formal disclosure to a purchaser before the signing of a contract. This disclosure must include:

- Whether the property is located in a FEMA Special Flood Hazard Area (100-year floodplain) or a Moderate Risk Flood Hazard Area (500-year floodplain)
- Any actual knowledge the seller has regarding flood history, including prior water intrusion, damage, or flood insurance claims
- Whether the property is subject to a legal obligation to maintain flood insurance due to prior receipt of federal disaster assistance

Failure to provide the required flood disclosure may allow a buyer to rescind the contract at any time prior to closing. Particularly in commercial transactions, where these requirements were previously less standardized, incorporating this disclosure into the due diligence process is critical to reducing the risk of post-closing claims.

The Broker's Role in Facilitating Compliance

Brokers and agents play a critical role in ensuring that these disclosure obligations are satisfied. To protect both the client and the brokerage, real estate professionals should:

- **Verify flood zone status early:** Identify the property's flood designation during the listing phase rather than waiting for the inspection period
- **Ensure the correct disclosure form is used:** Confirm that the seller completes the official Property Condition Disclosure Statement, including the flood history section
- **Document disclosure delivery:** Maintain clear records demonstrating that the disclosure was provided to and acknowledged by the buyer prior to contract execution
- **Address insurance considerations:** If a property is in a high- or moderate-risk zone, advise clients to consult an insurance professional early to evaluate potential premium costs and financing implications

Resources for Real Estate Professionals

To determine a property's flood status, the following Geographic Information System (GIS) tools are commonly used:

- [**NJDEP Flood Indicator Tool**](#): Allows users to determine whether a property is located in a flood hazard area under New Jersey's current regulations
- [**FEMA Flood Map Service Center**](#): The official nationwide source for flood hazard data supporting the National Flood Insurance Program (NFIP)
- [**Region 2 Coastal Analysis & Mapping**](#): Provides updated Base Flood Elevation data for coastal properties in New Jersey and New York

This overview provides a general summary of the expanded flood disclosure requirements, and the role brokers and agents play in ensuring compliance with New Jersey law. Please contact Michael Shortt at Saiber LLC if you have any questions regarding flood risk disclosures, compliance obligations, or best practices for minimizing risk in real estate transactions.