

SENATE, No. 1047

STATE OF NEW JERSEY 219th LEGISLATURE

INTRODUCED JANUARY 30, 2020

Sponsored by:

Senator JOSEPH P. CRYAN

District 20 (Union)

Senator NELLIE POU

District 35 (Bergen and Passaic)

SYNOPSIS

Concerns disclosure of certain information prior to sale of real estate.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 2/11/2021)

1 AN ACT concerning disclosure of certain information prior to the
2 sale of real estate and amending P.L.1999, c.76.

3
4 BE IT ENACTED by the Senate and General Assembly of the State
5 of New Jersey:

6
7 1. Section 1 of P.L.1999, c.76 (C.56:8-19.1) is amended to read
8 as follows:

9 1. Notwithstanding any provision of P.L.1960, c.39 (C.56:8-1
10 et seq.) to the contrary, there shall be no right of recovery [of
11 punitive damages, attorney fees, or both, under section 7 of
12 P.L.1971, c.247 (C.56:8-19),] against a real estate broker, broker-
13 salesperson or salesperson licensed under R.S.45:15-1 et seq. for
14 the communication of any false, misleading or deceptive
15 information provided to the real estate broker, broker-salesperson or
16 salesperson, [by or on behalf of the seller of] regarding real estate
17 located in New Jersey, if the real estate broker, broker-salesperson
18 or salesperson demonstrates that he:

19 a. Had no actual knowledge of the false, misleading or
20 deceptive character of the information; and

21 b. Made a reasonable and diligent inquiry to ascertain whether
22 the information is of a false, misleading or deceptive character. For
23 purposes of this section, communications by a real estate broker,
24 broker-salesperson or salesperson which shall be deemed to satisfy
25 the requirements of a "reasonable and diligent inquiry" include, but
26 shall not be limited to, communications which disclose information:

27 (1) provided in a report or upon a representation by a person,
28 licensed or certified by the State of New Jersey, including, but not
29 limited to, an appraiser, home inspector, plumber or electrical
30 contractor, or an unlicensed home inspector until December 30,
31 2005, of a particular physical condition pertaining to the real estate
32 derived from inspection of the real estate by that person;

33 (2) provided in a report or upon a representation by any
34 governmental official or employee, if the particular information of a
35 physical condition is likely to be within the knowledge of that
36 governmental official or employee; or

37 (3) that the real estate broker, broker-salesperson or salesperson
38 obtained from the seller in a property condition disclosure
39 statement, which form shall comply with regulations promulgated
40 by the director in consultation with the New Jersey Real Estate
41 Commission, provided that the real estate broker, broker-
42 salesperson or salesperson informed the buyer that the seller is the
43 source of the information and that, prior to making that
44 communication to the buyer, the real estate broker, broker-
45 salesperson or salesperson visually inspected the property with

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.

1 reasonable diligence to ascertain the accuracy of the information
2 disclosed by the seller.

3 Nothing in this section shall be interpreted to affect the
4 obligations of a real estate broker, broker-salesperson or
5 salesperson pursuant to the "New Residential Construction Off-Site
6 Conditions Disclosure Act," P.L.1995, c.253 (C.46:3C-1 et seq.), or
7 any other law or regulation.
8 (cf: P.L.2004, c.18, s.2)

9
10 2. This act shall take effect immediately.

11

12

13

STATEMENT

14

15 This bill amends the law exempting certain real estate licensees
16 from certain damages under the consumer fraud law. Specifically,
17 this bill broadens the current exemption for real estate brokers,
18 broker-salespersons, or salespersons from a right of recovery by
19 persons who suffer any ascertainable loss of money or property, real
20 or personal, by eliminating the current limitation with respect to the
21 right of recovery to punitive damages and attorney's fees.

22 Current law prevents a person from recovering punitive damages
23 or attorney fees from a real estate broker, broker-salesperson, or
24 salesperson for the communication of any false, misleading, or
25 deceptive information provided to the real estate broker, broker-
26 salesperson, or salesperson by or on behalf of the seller of real
27 estate located in New Jersey, if the real estate broker, broker-
28 salesperson, or salesperson demonstrates that he had no actual
29 knowledge of the false, misleading, or deceptive character of the
30 information and made a reasonable and diligent inquiry to ascertain
31 whether the information is of a false, misleading, or deceptive
32 character.

33 This bill broadens the exemption to prohibit recovery of any
34 damages if those conditions are met. This bill further eliminates the
35 provision in the current restriction that requires that the
36 communication to real estate brokers, broker-salespersons, or
37 salespersons is made by or on behalf of the seller, and instead, it
38 provides that the communication need only be regarding the real
39 estate.