

Certain Residential Leases Must Now Disclose Flood History and Risk

Effective immediately, Section 231-B of New York Real Property Law (Section 231-B) has been amended to require that every existing and prospective residential lease provide a notice to the tenant related to the leased premises's flood history and risk of flooding. The new law's reference to residential leases does not carve out cooperatives (coops) or condominiums (condos). Accordingly, Section 231-B currently applies to all proprietary leases between coops and their shareholders, subleases between shareholders and their subtenants, and leases between boards/unit owners in condos and their tenants. To clarify, because Section 231-B only applies to leases, a condominium board does not have to comply with the new flood disclosures unless the condominium board is leasing out one of the condominium apartments. A condominium unit owner, however, who is leasing his or her apartment will need to comply with the disclosure requirements of Section 231-B. The intent of this new legislation is to increase transparency regarding the risk of flood damage and the availability of insurance to incentivize tenants to obtain adequate protection for their apartments or homes.

Specifically, Section 231-B requires landlords to provide notice of the following:

1. Past history and current flood risk affecting any of the leased premises that arise from natural events such as heavy rain, coastal surges, tidal inundation, or river overflows that the lessor knows or reasonably should know has occurred to such premises and the nature of any such damage. The foregoing does not include leaks due to pipe bursts or plumbing issues.
2. Whether the leased premises are located within a (a) Federal Emergency Management Agency (FEMA) floodplain, (b) a special Flood Hazard Area, and/or (c) a Moderate Risk Flood Hazard Area. To determine whether the leased premises fall into one of these categories, landlords and boards should reference FEMA's [Flood Insurance Rate Maps](#).
3. The availability of flood insurance and limitations of typical insurance policies that do not ordinarily cover flood damage. To comply with Section 231-B, all leases must explicitly state the following: "Flood insurance is available to renters through the Federal Emergency Management Agency's (FEMA's) National Flood Insurance Program (NFIP) 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."

We recommend that all landlords, including boards of coops, consult with legal counsel to ensure compliance with Section 231-B.



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