

LOCAL LAW INTRO. NO. -2021

A LOCAL LAW amending the Laws of Westchester County by adding a new Chapter 581 requiring landlords to provide tenants with a flood history disclosure.

BE IT ENACTED by the County Board of the County of Westchester as follows:

Section 1. A new Chapter 581 is hereby added to the Laws of Westchester

County to read as follows:

CHAPTER 581

FLOOD HISTORY DISCLOSURE LAW

Sec. 581.01. Short Title.

Sec. 581.11. Definitions.

Sec. 581.21. Required Conduct.

Sec. 581.31. Civil Causes of Action.

Sec. 581.41. Joint and Several Liability.

Sec. 581.51. Construction.

Sec. 581.61. Severability.

Sec. 581.01. Short Title.

This Chapter shall be known as and may be cited as the “Flood History Disclosure Law.”

Sec. 581.11. Definitions.

As used in this Chapter, unless the context otherwise indicates, the following terms have the following meanings:

1. “Flood” shall mean a general or temporary condition of partial or complete inundation of leased Premises caused by:
 - a. The overflow of inland or tidal waters;

- b. The unusual and rapid accumulation of runoff or surface waters from any established water source such as a river, stream or drainage ditch; or
- c. A ponding of water at or near the place where heavy or excessive rain fell.

2. “Flood Disclosure Form” shall mean a form which shall be completed by the property owner providing information regarding the Premises’ propensity for flooding.

3. “Flood Damage” shall mean all the varieties of harm resulting from a flood including all detrimental effects on people, their health and property.

4. “Premises” shall mean the portion of real property contained within a structure to which a tenant has the exclusive right to use or the authority to store non-real property within.

Sec. 581.21. Required Conduct.

1. When the owner of real property, either directly or through an agent, seeks to lease or rent that property, or any portion thereof, for residential or commercial occupancy, prior to entering a written agreement for the leasehold of that property, the owner shall, either directly or through an agent notify the prospective tenant of the propensity for flooding of the Premises contained on such property if such flooding has occurred to such owner’s knowledge, at least one time during the ten-year period immediately preceding the date of the lease and has caused flood damage to any portion of the leased Premises.

2. In the event a tenant sublets the property, the tenant shall be required to disclose information regarding the propensity for flooding of the Premises prior to entering an agreement for the sublease of that property, if such flooding has occurred to such Tenant's knowledge, at least one time during the ten-year period immediately preceding the date of the lease and has caused flood damage to any portion of the sublet Premises.

3. The owner of the property shall provide notification of the Premises' propensity for flooding pursuant to the parameters listed in subdivision "1" of this section, by provision of a "Flood Disclosure Form" to be signed by both the owner of the property and the tenant. The owner shall also provide notification of where the water line was estimated in the Premises.

4. The Westchester County Department of Weights and Measures, Consumer Protection shall provide such "Flood Disclosure Form" on its website or by hard copy when requested.

5. This Local Law shall only apply to leaseholds or sublets entered into on or after its effective date.

Sec. 581.31. Civil Causes of Action.

In the event of a landlord's non-compliance with subdivision "1" of Section 581.21 of this Chapter, a tenant that sustains flood damage during the course of his, her or their lease may commence an action in a court of competent jurisdiction for the recovery of such damages.

Sec. 581.41. Joint and Several Liability.

If it is found in any action brought pursuant to the provisions of this Chapter, that two (2) or more named defendants acted in concert pursuant to a common plan or design to violate any provision of this Chapter, such defendants shall each be held jointly and severally liable for any damages assessed or any costs and fees awarded.

Sec. 581.51. Construction.

No provision of this Chapter shall be construed or interpreted so as to limit the right of any person or entity to seek other available criminal penalties or civil remedies.

Sec. 581.61. Severability.

If any clause, sentence, paragraph, section or part of this local law shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, section or part thereof directly involved in the controversy in which such judgment shall have been rendered.

§2. This Local Law shall take effect thirty (30) days after its adoption.