New Legislation Requires New Hampshire Home Sellers to Include PFAS Notification

By Brian D. Gross

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Beginning January 1, 2025, those selling homes in New Hampshire will be required to notify potential buyers about the possibility of water contamination from per- and polyfluoroalkyl substances (PFAS), under new legislation signed this month by Governor Chris Sununu.

PFAS—also known as “forever chemicals”—are a large family of fluorinated chemicals made up of a chain of linked carbon and fluorine atoms. Recently, PFAS have been the subject of litigation and the target of regulatory efforts, largely due to their alleged links to adverse health effects.

Rep. Wendy Thomas and Rep. Nancy Murphy, two Democrats representing Hillsborough County's 21st District, co-sponsored an addition to New Hampshire House Bill 398, titled “AN ACT relative to notice of PFAS contamination prior to the sale of real property.” This addition requires “prior to the execution of any contract for the purchase and sale of any interest in real property, including a building,” the seller or seller's agents to notify buyers that PFAS have been found throughout New Hampshire in levels that exceed state and federal standards. Further, sellers must alert buyers that testing can be done to determine the potential need for a water filtration system. Moreover, PFAS will be added to the existing mandatory notification requirements about which sellers must already warn buyers, which currently include radon, lead, and arsenic. Notably, this new law does not apply to renters, although Rep. Thomas may attempt to address the rental market in a future bill.

While PFAS contamination has been detected throughout New Hampshire, it has been particularly high in the southern region of the state. According to the New Hampshire Department of Environmental Services, nearly 27% of all drinking water wells in New Hampshire have tested at PFAS levels higher than permitted under state law.

It is unclear what effect, if any, this legislation will have on property sales, property prices, or citizens' health. It is likely, however, to cause an uptick in spending on PFAS testing and water filtration systems. In addition, it certainly may lead to litigation against those that are potentially responsible for the contamination.

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