

45:15-1

LEGISLATIVE HISTORY CHECKLIST
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(Real estate salespeople &
broker licensing fees)

NJSA: 45:15-1 et seq

LAWS OF: 1993 CHAPTER: 51

BILL NO: A1347

SPONSOR(S): Penn and others

DATE INTRODUCED: May 4, 1992

COMMITTEE: ASSEMBLY: Commerce
SENATE: Commerce

AMENDED DURING PASSAGE: No

DATE OF PASSAGE: ASSEMBLY: November 16, 1992
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FOLLOWING STATEMENTS ARE ATTACHED IF AVAILABLE:

SPONSOR STATEMENT: Yes

COMMITTEE STATEMENT: ASSEMBLY: Yes
SENATE: Yes

FISCAL NOTE: Yes

VETO MESSAGE: No

MESSAGE ON SIGNING: No

FOLLOWING WERE PRINTED:

REPORTS: No

HEARINGS: No

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See newspaper clipping--attached:
"Florino signs real estate, lab test bills," 2-21-93, Star Ledger.

KBP:pp

§§21,22
C.45:15-12.3
& 45:15-12.4
§§23,24
C.45:15-17.1
& 45:15-17.2
§41
C.45:15-1.2
§§42-45
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§46-57
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§58 Repealer
§ 59
Note To §§1-58

P.L.1993, CHAPTER 51, approved February 19, 1993
1992 Assembly No. 1347

1 AN ACT concerning real estate brokers and real estate
2 salespersons, amending various parts of the statutory law,
3 supplementing chapter 15 of Title 45 of the Revised Statutes,
4 and repealing R.S.45:15-22.

5
6 BE IT ENACTED by the Senate and General Assembly of the
7 State of New Jersey:

8 1. R.S.45:15-1 is amended to read as follows:

9 45:15-1. No person shall engage either directly or indirectly in
10 the business of a real estate broker, broker-salesperson or
11 [salesman] salesperson, temporarily or otherwise, and no person
12 shall advertise or represent himself as being authorized to act as
13 a real estate broker, broker-salesperson or [salesman]
14 salesperson, or to engage in any of the activities described in
15 [section] R.S.45:15-3 [of the Revised Statutes], without being
16 licensed so to do as hereinafter provided.

17 (cf: P.L.1953, c.229, s.1)

18 2. Section 1 of P.L.1978, c.5 (C.45:15-1.1) is amended to read
19 as follows:

20 1. A person employed in a participant position as a housing
21 referral aide under any program established and funded pursuant
22 to the Comprehensive Employment and Training Act of 1973,
23 Pub.L. 93-203, 29 U.S.C. 801 et seq., while performing his duties
24 in such position, shall not be deemed to be engaged in the
25 business of a real estate broker, broker-salesperson or [salesman]
26 salesperson under the provisions of chapter 15 of Title 45 of the
27 Revised Statutes.

28 (cf: P.L.1978, c.5, s.1)

29 3. R.S.45:15-3 is amended to read as follows:

30 45:15-3. A real estate broker, for the purposes of this article,
31 is defined to be a person, firm or corporation who, for a fee,
32 commission or other valuable consideration, or by reason of a
33 promise or reasonable expectation thereof, lists for sale, sells,
34 exchanges, buys or rents, or offers or attempts to negotiate a
35 sale, exchange, purchase or rental of real estate or an interest
36 therein, or collects or offers or attempts to collect rent for the
37 use of real estate or solicits for prospective purchasers or assists
38 or directs in the procuring of prospects or the negotiation or
39 closing of any transaction which does or is contemplated to result
40 in the sale, exchange, leasing, renting or auctioning of any real
41 estate or negotiates, or offers or attempts or agrees to negotiate

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 a loan secured or to be secured by mortgage or other
2 encumbrance upon or transfer of any real estate for others, or
3 any person who, for pecuniary gain or expectation of pecuniary
4 gain conducts a public or private competitive sale of lands or any
5 interest in lands. In the sale of lots pursuant to the provisions of
6 this article, the term "real estate broker" shall also include any
7 person, partnership, association or corporation employed by or on
8 behalf of the owner or owners of lots or other parcels of real
9 estate, at a stated salary, or upon a commission, or upon a salary
10 and commission, or otherwise, to sell such real estate, or any
11 parts thereof, in lots or other parcels, and who shall sell or
12 exchange, or offer or attempt or agree to negotiate the sale or
13 exchange, of any such lot or parcel of real estate.

14 A real estate [salesman] salesperson, for the purposes of this
15 article, is defined to be any person who, for compensation,
16 valuable consideration or commission, or other thing of value, or
17 by reason of a promise or reasonable expectation thereof, is
18 employed by and operates under the supervision of a licensed real
19 estate broker to sell or offer to sell, buy or offer to buy or
20 negotiate the purchase, sale or exchange of real estate, or offers
21 or attempts to negotiate a loan secured or to be secured by a
22 mortgage or other encumbrance upon or transfer of real estate,
23 or to lease or rent, or offer to lease or rent any real estate for
24 others, or to collect rents for the use of real estate, or to solicit
25 for prospective purchasers or lessees of real estate, or who is
26 employed by a licensed real estate broker to sell or offer to sell
27 lots or other parcels of real estate, at a stated salary, or upon a
28 commission, or upon a salary and commission, or otherwise to sell
29 real estate, or any parts thereof, in lots or other parcels.

30 A real estate broker-salesperson, for the purposes of this
31 amendatory and supplementary act, is defined to be any person
32 who is qualified to be licensed as a real estate broker but who,
33 for compensation, valuable consideration or commission, or other
34 thing of value, or by reason of a promise or reasonable
35 expectation thereof, is employed by and operates under the
36 supervision of a licensed real estate broker to perform the
37 functions of a real estate salesperson as defined herein.

38 No person, firm, partnership, association or corporation shall
39 bring or maintain any action in the courts of this State for the
40 collection of compensation for the performance of any of the
41 acts mentioned in this article without alleging and proving that
42 he was a duly licensed real estate broker at the time the alleged
43 cause of action arose.

44 No person claiming to be entitled to compensation as a
45 salesperson or broker-salesperson for the performance of any of
46 the acts mentioned in chapter 15 of Title 45 of the Revised
47 Statutes shall bring or maintain any action in the courts of this
48 State for the collection of compensation against any person, firm,
49 partnership or corporation other than the licensed broker with
50 whom the salesperson or broker-salesperson was employed at the
51 time the alleged cause of action arose and no action shall be
52 brought or maintained without the claimant alleging and proving
53 that he was a duly licensed real estate salesperson or
54 broker-salesperson at the time the alleged cause of action arose.
55 (cf: P.L.1953, c.229, s.2)

L. 1993, c. 51

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1 effected by application to the commission accompanied by a fee
2 of ~~[\$5.00]~~ \$25. No license as a broker shall be granted to a
3 limited partnership unless its general partner qualifies as and
4 holds a license as a broker to transact business in the name of and
5 on behalf of the limited partnership. In the event that a
6 corporation is a general partner of a limited partnership, no
7 license as a broker shall be granted to the limited partnership
8 unless the corporation is licensed as a broker and one of the
9 officers of the corporation qualifies as and holds a license as the
10 corporation's authorized broker.

11 In the event that any person to whom a broker's or
12 broker-salesperson's license has been or shall have been issued
13 shall fail to renew such license or obtain a new license for a
14 period of more than two but less than five consecutive years [or
15 more] after the expiration of the last license held, prior to issuing
16 another broker or broker-salesperson license to the person, the
17 commission shall require such person to [serve the same
18 apprenticeship] work as a licensed salesperson on a full-time
19 basis for one full year, to pass an examination, and to [attend
20 school] successfully complete a 90 hour general broker's
21 pre-licensure course at a licensed real estate school, as the
22 commission shall prescribe by regulation. In the event that any
23 person to whom a broker's or broker-salesperson's license has
24 been or shall have been issued fails to maintain or renew the
25 license or obtain a new license for a period of more than five
26 consecutive years after the expiration of the last license held,
27 prior to issuing another broker or broker-salesperson license to
28 the person the commission shall require the person to pass the
29 salesperson's license examination and then to work as a licensed
30 salesperson on a full-time basis for three years, to fulfill all of
31 the educational requirements applicable to first time applicants
32 for a broker or broker-salesperson license and to pass the
33 broker's license examination. The commission may, in its
34 discretion, approve for relicensure the former holder of a broker
35 or broker-salesperson license who has not renewed the license or
36 obtained a new license for two or more consecutive years upon a
37 sufficient showing that the applicant was medically unable to do
38 so. All applicants so approved shall pass the broker's license
39 examination prior to being relicensed. This paragraph shall not
40 apply to a person reapplying for a broker's or
41 broker-salesperson's license who was [a] licensed as a broker or
42 broker-salesperson and who allowed his license to expire due to
43 subsequent employment in a public agency in this State with
44 responsibility for dealing with matters relating to real estate if
45 the person reapplying does so within one year of termination of
46 that employment.

47 In the event that any person to whom a salesperson's license
48 has been or shall have been issued shall fail to maintain or renew
49 such license or obtain a new license for a period of two
50 consecutive years or more after the expiration of the last license
51 held, the commission shall require such person to attend [an
52 approved] a licensed school and pass the State examination prior
53 to issuance of a further license. The commission may, in its
54 discretion, approve for relicensure a salesperson applicant who

1 has not renewed his license or obtained a new license for two or
2 more consecutive years upon a sufficient showing that the
3 applicant was medically unable to do so. All salesperson
4 applicants so approved shall pass the salesperson's license
5 examination prior to being relicensed. This paragraph shall not
6 apply to a person reapplying for a salesperson's license who was a
7 licensed salesperson and who allowed his license to expire due to
8 subsequent employment in a public agency in this State with
9 responsibility for dealing with matters relating to real estate if
10 the person reapplying does so within one year of termination of
11 that employment.

12 (cf: P.L.1989, c.126, s.1)

13 8. R.S.45:15-10 is amended to read as follows:

14 45:15-10. Before any such license shall be granted the
15 applicant, and in the case of a partnership, association or
16 corporation the partners, directors or officers thereof actually
17 engaged in the real estate business as a broker,
18 broker-salesperson [and salesman] or salesperson, shall submit to
19 an examination to be conducted under the supervision of the
20 commission which examination [may be written or oral, or partly
21 written and partly oral, and shall include reading, writing,
22 spelling, elementary arithmetic, a] shall test the applicant's
23 general knowledge of the statutes of New Jersey concerning real
24 property, conveyancing, mortgages, agreements of sale, leases
25 and of the provisions of this article [and], the rules and
26 regulations of the commission and such other subjects as the
27 commission may direct. The commission may make rules and
28 regulations for the conduct of such examinations. Upon
29 satisfactorily passing such examination and fulfilling all other
30 qualifications a license shall be granted by the commission to the
31 successful applicant therefor as a real estate broker,
32 broker-salesperson or [a real estate salesman] salesperson, and
33 the applicant upon receiving the license is authorized to conduct
34 in this State the business of a real estate broker,
35 broker-salesperson or [of a real estate salesman] salesperson, as
36 the case may be. Such license shall expire on the last day of [the
37 twelfth calendar month following the calendar month in which
38 issued; provided, however, the commission may, in order to
39 stagger the expiration dates of licenses, issue or renew licenses
40 which shall expire on a date fixed by the commission, with the
41 approval of the Commissioner of Insurance, not sooner than
42 5 months nor later than 17 months, after the date of issue, and
43 the fee for such licenses shall be in amounts proportionately less
44 or greater than the fee fixed in R.S.45:15-15] a one year license
45 term as established by the commission which expiration date shall
46 be applicable to all licenses regardless of their date of issuance;
47 such license shall be renewed, without examination, annually
48 thereafter, upon the payment of the fee fixed by R.S.45:15-15.

49 (cf: P.L.1977, c.331, s.3)

50 9. Section 1 of P.L.1966, c.227 (C.45:15-10.1) is amended to
51 read as follows:

52 1. a. As a prerequisite to admission to an examination, every
53 individual applicant for [license] licensure as a real estate
54 salesperson shall give evidence of [75 hours'] satisfactory

1 completion of 75 hours in the aggregate of such courses of
2 education in real estate subjects at a school [approved] licensed
3 by the commission as the commission shall by regulation
4 prescribe. At least three hours of that course of study shall be on
5 the subject of ethics and ethical conduct in the profession of a
6 real estate salesperson.

7 b. As a prerequisite to admission to an examination, every
8 individual applicant for [license] licensure as a real estate broker
9 or broker-salesperson shall give evidence of [90 hours']
10 satisfactory completion of 150 hours in the aggregate of such
11 courses of education in real estate and related subjects at a
12 school [approved] licensed by the commission as the commission
13 shall by regulation prescribe. [At least three] Thirty hours of
14 that course of study shall be on the subject of ethics and ethical
15 conduct in the profession of a real estate broker.

16 The commission may approve courses in specialized aspects of
17 the real estate brokerage business offered by providers who are
18 not the holders of a real estate school license pursuant to section
19 47 of P.L...., G... (C....) (now pending before the Legislature as
20 this bill), the completion of which may be recognized as fulfilling
21 a portion of the total broker pre-licensure education
22 requirements.

23 (cf: P.L.1989, c.126, s.2)

24 10. Section 2 of P.L.1966, c.227 (C.45:15-10.2) is amended to
25 read as follows:

26 2. [The educational requirements adopted by the commission
27 pursuant to section 1 of this act may be waived in the case of an
28 applicant for examination who: (1) holds a real estate broker's
29 license issued by another State or (2) was previously licensed as a
30 broker in this State; provided, however, that the commission shall
31 determine that the experience of such applicant is substantially
32 equivalent to such educational requirements. In the event any
33 applicant for admission to examination for either a real estate
34 salesman's or broker's license shall present evidence of having
35 satisfactorily completed such courses in real estate subjects in
36 any college, the educational requirements adopted by the
37 commission pursuant to section 1 of this act may be waived.]

38 The commission may waive some or all of the educational
39 requirements for licensure established pursuant to subsection a.
40 of section 1 of P.L.1966, c.227 (C.45:15-10.1) in the case of an
41 applicant whose education or experience is in the judgment of the
42 commission substantially equivalent to those educational
43 requirements. The commission shall prescribe by regulation the
44 requirements which an applicant shall meet in order to qualify for
45 the waiver of educational requirements pursuant to this section.

46 (cf: P.L.1966, c.227, s.2)

47 11. R.S.45:15-11 is amended to read as follows:

48 45:15-11. Any citizen of New Jersey who has served in the
49 [military or naval] armed forces of the United States [in any war]
50 or who served as a member of the American Merchant Marine
51 during World War II and is declared by the United States
52 Department of Defense to be eligible for federal veterans'
53 benefits, who has been honorably discharged, and who, having
54 been wounded or disabled in the line of duty, has completed a

1 program of courses in real estate [in any college or school]
2 approved by the [Department of Education of the State of] New
3 Jersey Real Estate Commission, and who has successfully passed
4 an examination conducted by said commission qualifying him to
5 operate as a real estate broker, broker-salesperson or [a real
6 estate salesman] salesperson, may, upon presentation of a
7 certificate certifying that he has completed such program of
8 courses as aforesaid, obtain without cost from the commission
9 and without qualification through [apprenticeship] experience as a
10 salesperson, a license to operate as a real estate broker,
11 broker-salesperson or a real estate [salesman] salesperson, as the
12 case may be, which licenses shall be the same as other licenses
13 issued under this article. Renewal of licenses may be granted
14 under this section for each ensuing [year] license term, upon
15 request, without annual fees therefor.

16 (cf: P.L.1991, c.389, s.33)

17 12. Section 1 of P.L.1970, c.255 (C.45:15-11.3) is amended to
18 read as follows:

19 1. In the event of the death or mental or physical incapacity of
20 a licensed real estate broker where no other member or officer in
21 the agency, copartnership, association or corporation of which he
22 was a member or officer is the holder of a [broker's]
23 broker-salesperson's license or where an individual broker
24 operating as a sole proprietor dies or is mentally or physically
25 incapacitated leaving no employee holding a real estate
26 [broker's] broker-salesperson's license, then the Real Estate
27 Commission may issue a temporary broker's license on a special
28 form to another person for the purpose of enabling such other
29 person to continue the real estate activities [upon] on behalf of
30 and under the same designation of said agency, copartnership,
31 association, corporation or individual, as the case may be, upon
32 the filing of an application and a certified copy of the death
33 certificate or a certification of mental or physical incapacity
34 executed by a duly licensed physician or officer of a medical
35 institution, together with payment of the regular license fee;
36 provided such other person has been the holder of a real estate
37 [salesman's] salesperson's license for at least [2] three years
38 immediately preceding the date of the application and provided
39 that said application shall have been made within 30 days from
40 date of the demise or incapacity of said broker.

41 Such temporary license shall continue only until the licensee is
42 afforded an opportunity of pursuing the approved broker's course
43 in accordance with the provisions of paragraph (B) of section 1 of
44 chapter 227 of the laws of 1966 (C.45:15-10.1) and qualifying by
45 examination. Such license may be issued and effective for a
46 period of [6 months] one year from the date of issuance. Such
47 temporary license shall not be extended or renewed.

48 (cf: P.L.1970, c.255, s.1)

49 13. R.S.45:15-12 is amended to read as follows:

50 45:15-12. Every real estate broker shall maintain a [place of
51 business in this State except such nonresident brokers who qualify
52 for licenses under the reciprocal provisions of section 45:15-10 of
53 this article] designated main office open to the public. A real
54 estate broker's [maintained place of business] main office shall

1 have prominently displayed therein the license certificate of the
2 broker and all licensed persons in his employ and shall be deemed
3 the business address of all licensed persons for all purposes under
4 chapter 15 of Title 45 of the Revised Statutes. In case a real
5 estate broker maintains more than one place of business [within
6 this State], a [duplicate] branch office license shall be issued to
7 such broker for each branch office so maintained in this State;
8 provided, however, that the said branch office or offices are
9 under the direct supervision of a [competent licensee]
10 broker-salesperson. [Such duplicate] The branch office license or
11 licenses shall be issued upon the payment of a fee of [\$10.00] \$25
12 for each license so issued. [A real estate broker's maintained
13 places] Every place of business maintained by a real estate broker
14 shall have conspicuously displayed on the exterior thereof the
15 [broker's] name in which the broker is authorized to operate and,
16 in the case of a corporation or partnership, the name of the
17 individual licensed as its authorized broker, and the words
18 Licensed Real Estate Broker. A real estate broker whose main
19 office is located in another state shall maintain a valid real
20 estate broker's license in good standing in the state where the
21 office is located.

22 (cf: P.L.1966, c.11, s.1)

23 14. Section 8 of P.L.1953, c.29 (C.45:15-12.1) is amended to
24 read as follows:

25 8. No license shall be issued by the commission to any person
26 known by it to have been, within five years theretofore,
27 convicted of forgery, burglary, robbery, any theft offense other
28 than shoplifting, criminal conspiracy to defraud, or other like
29 offense or offenses, or to any copartnership of which such person
30 is a member, or to any association or corporation of which said
31 person is an officer, director, or employee, or in which as a
32 stockholder such person has or exercises a controlling interest
33 either directly or indirectly. [In the event of the revocation or
34 suspension of the license issued to any member of a
35 copartnership, or to any officer of an association or corporation,
36 the license issued to such copartnership, association, or
37 corporation, shall be revoked by the commission, unless, within a
38 time fixed by the commission, where a copartnership, the
39 connection therewith of the member whose license has been
40 revoked shall be severed and his interest in the copartnership and
41 his share in its activities brought to an end, or where an
42 association or corporation, the offending officer shall be
43 discharged and shall have no further participation in its activity.]

44 (cf: P.L.1989, c.126, s.6)

45 15. R.S.45:15-13 is amended to read as follows:

46 45:15-13. All licenses shall be issued by the commission in
47 such form as it shall prescribe. Each license shall show the name
48 and address of the licensee and shall have imprinted thereon the
49 seal of the commission. Notice in writing shall be given to the
50 commission by each licensed broker of any change of business
51 [location] address, whereupon the commission shall issue [a] new
52 [license] licenses to the broker and to all persons licensed through
53 the broker for the unexpired period, upon the payment of a fee of
54 \$25 for the issuance of the new broker license and a fee of \$5.00

1 for each additional new license certificate so issued. A change of
2 business [location] address without notification to the
3 commission, and without the issuance of a new broker's license,
4 shall automatically cancel the license theretofore issued.

5 (cf: P.L.1966, c.11, s.2)

6 16. R.S.45:15-14 is amended to read as follows:

7 45:15-14. All licenses issued to real estate [salesman] brokers,
8 broker-salespersons and salespersons shall be kept by the broker
9 by whom such real estate [salesman] licensee is employed, and
10 the pocket card accompanying the same shall be delivered by the
11 broker to the licensee who shall have the card in his possession at
12 all times when engaged in the business of a real estate broker,
13 broker-salesperson or salesperson. When any real estate
14 [salesman] licensee is [discharged, or terminates] terminated or
15 resigns his employment with the real estate broker by whom he
16 was employed at the time of the issuing of such license to him,
17 notice of the termination shall be given in writing by the broker
18 to the terminated licensee with the effective date of the
19 termination reflected thereon, or notice of the resignation shall
20 be given in writing by the resigning licensee to the broker with
21 the effective date of the resignation reflected thereon. Upon the
22 issuance of a written notice of termination by a broker or his
23 authorized representative, or upon receipt of a written
24 resignation by a broker or his authorized representative, such
25 employer shall [immediately] within five business days of the
26 effective date of the termination or resignation, either: a.
27 deliver, or send by registered mail, to the commission, such real
28 estate [salesman's] licensee's license. Such employer shall
29 and, at the same time [address], send a written communication to
30 such real estate [salesman] licensee at his last known residence,
31 advising him that his license has been delivered or mailed to the
32 commission [and al. A copy of such communication to the [real
33 estate salesman] licensee shall accompany the license when
34 mailed or delivered to the commission; or, b. deliver to the
35 departing licensee and to the commission any other materials as
36 the commission may prescribe by regulation to accomplish the
37 transfer of the licensee to another employing broker. No real
38 estate [salesman] licensee shall perform any of the acts
39 contemplated by this article, either directly or indirectly, under
40 the authority of such [salesman's] license, from and after the
41 effective date of [receipt of said license] the licensee's
42 termination or resignation until authorized to do so by the
43 commission. A new license may be issued to such [salesman]
44 licensee, upon the payment of a fee of [\$5.00] \$25, and upon the
45 submission of satisfactory proof that he has obtained employment
46 with another licensed broker. A [salesman] broker-salesperson or
47 salesperson must be licensed under a broker; he cannot be
48 licensed with more than one broker at the same time.

49 (cf: P.L.1966, c.11, s.3)

50 17. R.S.45:15-15 is amended to read as follows:

51 45:15-15. The annual fee for each real estate broker's license
52 shall be \$50.00, [and] the annual fee for each real estate
53 [salesman's] broker-salesperson's license shall be \$50.00 and the
54 annual fee for each real estate salesperson's license shall be

1 \$25.00. The annual fee for a branch office license shall be
2 ~~[\$10.00]~~ \$25.00. Each license granted under this article shall
3 entitle the licensee to perform all of the acts contemplated
4 herein during the period for which the license is issued, as
5 prescribed by this article. If a licensee fails to apply for a
6 renewal of his license prior to the date of expiration of such
7 license, the commission may refuse to issue a renewal license
8 except upon the payment of a late renewal fee in the amount of
9 ~~[\$5.00]~~ \$10.00 for a ~~[salesman]~~ salesperson or broker-salesperson
10 and ~~[\$10.00]~~ \$20.00 for a broker; provided, however, the
11 commission may, in its discretion, refuse to renew any license
12 upon sufficient cause being shown. The commission shall refuse
13 to renew the license of any licensee convicted of any offense
14 enumerated in section 6 of P.L.1953, c.229 (C.45:15-19.1) during
15 the term of the last license issued by the commission unless the
16 conviction was previously the subject of a revocation proceeding.
17 [New] Renewed licenses may be granted for each ensuing year
18 upon request of licensees and the payment of the [annual] full fee
19 therefor as herein required. Upon application and payment of the
20 fees provided herein, initial licenses and licenses reinstated
21 pursuant to R.S.45:15-9 may be issued, but the commission, may,
22 in its discretion, refuse to grant or reinstate any [new] license
23 upon sufficient cause being shown. The license fees for initial or
24 reinstated licenses shall be determined based upon the annual
25 fees established herein, with a full annual fee payable for the
26 license year in which application is received. The revocation or
27 suspension of a broker's license shall automatically suspend every
28 real estate [salesman's] ~~broker-salesperson's and salesperson's~~
29 license granted to employees of the broker whose license has
30 been revoked or suspended, pending a change of employer and the
31 issuance of a new license. The new license shall be issued
32 without additional charge, if the same is granted during the
33 license year in which the original license was granted.

34 A real estate broker who maintains a main office or branch
35 office licensed by the commission which is located in another
36 state shall maintain a valid real estate broker's license in good
37 standing in the state where the office is located and shall
38 maintain a real estate license in that other state for each office
39 licensed by the commission. Upon request, the real estate broker
40 shall provide a certification of his license status in the other
41 state to the commission. Any license issued by the commission to
42 a real estate broker for a main or branch office located outside
43 this State shall be automatically suspended upon the revocation,
44 suspension or refusal to renew the real estate broker's license
45 issued by the state where the office is located. The licenses
46 issued by the commission to every broker-salesperson or
47 salesperson employed by the broker shall be automatically
48 suspended pending a change of employer and the issuance of a
49 new license. The new license shall be issued without additional
50 charge if granted during the license term in which the original
51 license was granted.

52 (cf: P.L.1983, c.532, s.5)

53 18. R.S.45:15-16 is amended to read as follows:

54 45:15-16. No real estate ~~[salesman]~~ salesperson or

1 broker-salesperson shall accept a commission or valuable
2 consideration for the performance of any of the acts herein
3 specified, from any person except his employer, who must be a
4 licensed real estate broker.

5 (cf: R.S.45:15-16)

6 19. Section 1 of P.L.1955, c.238 (C.45:15-16.2) is amended to
7 read as follows:

8 1. The Division of the New Jersey Real Estate Commission in
9 the State Department of [Banking and] Insurance, within the
10 limits of appropriations available or to be made available to it for
11 the purpose, may conduct educational and information programs
12 relating to the real estate brokerage business and real estate
13 brokers, broker-salespersons and [salesmen] salespersons for the
14 information, education, guidance and protection of the general
15 public, licensees, and applicants for [license] licensure. The
16 educational and information programs may include preparation,
17 printing and distribution of publications and articles and the
18 conduct of conferences, forums, lectures, and a public
19 information service.

20 (cf: P.L.1955, c.238, s.1)

21 20. R.S.45:15-17 is amended to read as follows:

22 45:15-17. The commission may, upon its own motion, and shall,
23 upon the verified complaint in writing of any person, investigate
24 the actions of any real estate broker, broker-salesperson or [real
25 estate] salesperson, or any person who assumes, advertises or
26 represents himself as being authorized to act as a real estate
27 broker, broker-salesperson or salesperson or engages in any of the
28 activities described in R.S.45:15-3 [of this article] without being
29 licensed so to do. The lapse or suspension of a license by
30 operation of law or the voluntary surrender of a license by a
31 licensee shall not deprive the commission of jurisdiction to
32 proceed with any investigation as herein provided or prevent the
33 commission from taking any regulatory action against such
34 licensee; provided, however, that the alleged charges arose while
35 said licensee was duly licensed. Each transaction shall be
36 construed as a separate offense.

37 In conducting investigations, the commission may take
38 testimony by deposition as provided in R.S.45:15-18, require or
39 permit any person to file a statement in writing, under oath or
40 otherwise as the commission determines, as to all the facts and
41 circumstances concerning the matter under investigation, and,
42 upon its own motion or upon the request of any party, subpoena
43 witnesses, compel their attendance, take evidence, and require
44 the production of any material which is relevant to the
45 investigation, including any and all records of a licensee
46 pertaining to his activities as a real estate broker,
47 broker-salesperson or salesperson. The commission may also
48 require the provision of any information concerning the
49 existence, description, nature, custody, condition and location of
50 any books, documents, or other tangible material and the identity
51 and location of persons having knowledge of relevant facts of any
52 other matter reasonably calculated to lead to the discovery of
53 material evidence. Upon failure to obey a subpoena or to answer
54 questions posed by an investigator or legal representative of the

1 commission and upon reasonable notice to all affected persons,
2 the commission may commence an administrative action as
3 provided below or apply to the Superior Court for an order
4 compelling compliance.

5 The commission may place on probation, suspend for a period
6 less than the unexpired portion of the license period, or may
7 revoke any license issued under the provisions of this article, or
8 the right of licensure when such person is no longer the holder of
9 a license at the time of hearing, or may impose, in addition or as
10 an alternative to such probation, revocation or suspension, a
11 penalty of not more than \$5,000 for the first violation, and a
12 penalty of not more than \$10,000 for any subsequent violation,
13 which penalty shall be sued for and recovered by and in the name
14 of the commission and shall be collected and enforced by
15 summary proceedings pursuant to "the penalty enforcement law"
16 (N.J.S.2A:58-1 et seq.), where the licensee or any person, in
17 performing or attempting to perform any of the acts mentioned
18 herein, is deemed to be guilty of:

19 a. Making any false promises or any substantial
20 misrepresentation; or

21 b. Acting for more than one party in a transaction without the
22 knowledge of all parties thereto; or

23 c. Pursuing a flagrant and continued course of
24 misrepresentation or making of false promises through agents,
25 broker-salespersons or salespersons, advertisements or otherwise;
26 or

27 d. Failure to account for or to pay over any moneys belonging
28 to others, coming into the possession of the licensee; or

29 e. Any conduct which demonstrates unworthiness,
30 incompetency, bad faith or dishonesty. The failure of any person
31 to cooperate with the commission in the performance of its
32 duties or to comply with a subpoena issued by the commission
33 compelling the production of materials in the course of an
34 investigation, or the failure to give a verbal or written statement
35 concerning a matter under investigation may be construed as
36 conduct demonstrating unworthiness; or

37 f. Failure to provide his client with a fully executed copy of
38 any sale or exclusive sales or rental listing contract at the time
39 of execution thereof, [and] or failure to specify therein a definite
40 terminal date which terminal date shall not be subject to any
41 qualifying terms or conditions; or

42 g. Using any plan, scheme or method for the sale or promotion
43 of the sale of real estate which involves a lottery, a contest, a
44 game, a prize, a drawing, or the offering of a lot or parcel or lots
45 or parcels for advertising purposes; or

46 h. Being convicted of a crime, knowledge of which the
47 commission did not have at the time of last issuing a real estate
48 license to the licensee; or

49 i. Collecting a commission as a real estate broker in a
50 transaction, when at the same time representing either party in a
51 transaction in a different capacity for a consideration; or

52 j. Using any trade name or insignia of membership in any real
53 estate organization of which the licensee is not a member; or

54 k. Paying any rebate, profit, compensation or commission to

- 1 anyone not possessed of a real estate license; or
- 2 l. Any other conduct, whether of the same or a different
3 character than specified in this section, which constitutes fraud
4 or dishonest dealing; or
- 5 m. Accepting a commission or valuable consideration as a real
6 estate broker-salesperson or salesperson for the performance of
7 any of the acts specified in this act, from any person, except his
8 employing broker, who must be a licensed broker; or
- 9 n. Procuring a real estate license, for himself or anyone else,
10 by fraud, misrepresentation or deceit; or
- 11 o. Commingling the money or other property of his principals
12 with his own or failure to maintain and deposit in a special
13 account, separate and apart from personal or other business
14 accounts, all moneys received by a real estate broker, acting in
15 said capacity, or as escrow agent, or the temporary custodian of
16 the funds of others, in a real estate transaction; or
- 17 p. Selling property in the ownership of which he is interested
18 in any manner whatsoever, unless he first discloses to the
19 purchaser in the contract of sale his interest therein and his
20 status as a real estate broker, broker-salesperson or [real estate]
21 salesperson; or
- 22 q. Purchasing any property unless he first discloses to the
23 seller in the contract of sale his status as a real estate broker,
24 broker-salesperson or [real estate] salesperson; or
- 25 r. Charging or accepting any fee, commission or compensation
26 in exchange for providing information on purportedly available
27 rental housing, including lists of such units supplied verbally or in
28 written form, before a lease has been executed or, where no lease
29 is drawn, before the tenant has taken possession of the premises
30 without complying with all applicable rules promulgated by the
31 commission regulating these practices; or
- 32 s. Failing to notify the commission within 30 days of having
33 been convicted of any crime, misdemeanor or disorderly persons
34 offense, or of having been indicted, or of the filing of any formal
35 criminal charges, or of the suspension or revocation of any real
36 estate license issued by another state, or of the initiation of
37 formal disciplinary proceedings in another state affecting any
38 real estate license held, or failing to supply any documentation
39 available to the licensee that the commission may request in
40 connection with such matter; or
- 41 [r. For the] t. The violation of any of the provisions of this
42 article or of the administrative rules adopted by the
43 [commissioner] commission pursuant to the provisions of this
44 article. The commission is expressly vested with the power and
45 authority to make, prescribe and enforce any and all rules and
46 regulations for the conduct of the real estate brokerage business
47 consistent with the provisions of [this act] chapter 15 of Title 45
48 of the Revised Statutes.
- 49 If a licensee is deemed to be guilty of a third violation of any
50 of the provisions of this section, whether of the same provision or
51 of separate provisions, the commission may deem that person a
52 repeat offender, in which event the commission may direct that
53 no license as a [real estate salesperson or] real estate broker,
54 broker-salesperson or salesperson shall henceforth be issued to

1 that person.

2 (cf: P.L.1989, c.126, s.3)

3 21. (New section) A person whose license has been revoked
4 pursuant to R.S.45:15-17 or section 6 of P.L.1953, c.229
5 (C.45:15-19.1) shall not be a general partner, officer, director or
6 owner, either directly or indirectly, of a controlling interest in a
7 licensed partnership, limited partnership or corporation, nor shall
8 the person be retained or employed in any capacity, or
9 compensated in any manner by a licensee, nor shall the person
10 occupy or share office space in a licensed office location for any
11 purpose during the period of revocation.

12 22. (New section) Upon the revocation of the license issued to
13 any partner, officer, director or owner of a controlling interest in
14 any licensed partnership, limited partnership or corporation, the
15 commission shall revoke the license of the partnership or
16 corporation unless, within a period fixed by the commission, the
17 following conditions are fulfilled: a. in the case of a partnership,
18 the connection of the partner whose license has been revoked to
19 the licensee shall be severed and his interest in the licensee shall
20 be divested; b. in the case of a corporation, the officer, director
21 or owner of a controlling interest whose license has been revoked
22 shall be terminated from the position and, where an owner of a
23 controlling interest, his ownership of the interest shall be
24 divested; or c. in the case of a limited partnership, if the person
25 whose license has been revoked is the general partner, the
26 connection of that person to the licensee shall be severed and his
27 interest in the licensee shall be divested or, if the person whose
28 license was revoked is a limited partner, his interest in the
29 licensee shall be divested if it constituted a controlling interest
30 as defined herein. For the purposes of this section, the term
31 "controlling interest" means 5% or more of the equity of a
32 licensed corporation or of the ownership of a partnership.

33 23. (New section) The commission may, on its own motion,
34 enter an order temporarily suspending the license of any licensee
35 upon making a finding that prima facie evidence exists that the
36 licensee has violated subsection d. or subsection o. of
37 R.S.45:15-17. At least 24 hours prior to entering the order, the
38 commission shall give notice to the licensee of the application for
39 the order and shall provide the licensee with an opportunity to be
40 heard. The notice may be given either by telephone or in writing
41 and may be served personally or sent by certified mail to the last
42 known business address of the licensee.

43 When the commission orders the temporary suspension of a
44 license, it shall advise the licensee of the date upon which the
45 commission shall hold an evidentiary hearing on the violations
46 upon which the temporary suspension is based, which date shall be
47 no more than 30 days following the date of the order entering the
48 temporary suspension.

49 24. (New section) Upon entering an order temporarily
50 suspending the license of any broker, the commission may also
51 enter an order directing that some or all of the accounts
52 maintained by the broker in any depository institution in the
53 State be temporarily frozen. The commission shall serve copies
54 of the order upon the institution either in person or by certified

1 mail within ten days and, where a broker's trust or escrow
2 account is frozen, upon all persons known to the commission for
3 whom the broker was acting as escrow agent or trustee. In the
4 event the commission subsequently determines that the
5 suspension shall not be continued, it shall immediately notify the
6 depository institution and other interested parties that the
7 temporary freeze order is dissolved. If the commission orders
8 that the license suspension shall continue for more than 30 days
9 or that a license revocation shall be imposed, the commission
10 shall, within 10 days of that ruling, make application to Superior
11 Court for payment into the court of all funds in the accounts
12 temporarily frozen by order of the commission. The commission
13 shall provide notice of the application to the broker and all known
14 interested parties. Following payment into court, the monies or
15 any portion of them shall thereafter only be released upon court
16 order obtained by the broker or other interested party, upon
17 notice to the commission and in compliance with court rules.

18 25. R.S.45:15-18 is amended to read as follows:

19 45:15-18. [The] With the exception of a temporary suspension
20 imposed by the commission pursuant to section 23 of P.L.....,
21 c. (C.) [now pending before the Legislature as this bill],
22 the commission shall, before suspending or revoking any license,
23 and at least ten days prior to the date set for the hearing, notify
24 in writing the licensee of any charges made, and afford him an
25 opportunity to be heard in person or by counsel. Such written
26 notice may be served either personally or sent by [registered]
27 certified mail to the last known business address of the licensee.
28 If the licensee is a [salesman] broker-salesperson or salesperson,
29 the commission shall also notify the broker employing him,
30 specifying the charges made against such [salesman] licensee, by
31 sending a notice thereof by [registered] certified mail to the
32 broker's last known business address. The commission shall have
33 power to [subpoena and] bring before it any licensee or any person
34 in this State [,] pursuant to subpoena served personally or by
35 certified mail; or the commission may take testimony by
36 deposition [,] in the same manner as prescribed by law in judicial
37 proceedings in the courts of this State. Any final decision or
38 determination of the commission shall be reviewable by the
39 Appellate Division of the Superior Court [by a proceeding in lieu
40 of prerogative writ].

41 (cf: P.L.1953, c.43, s.73)

42 26. R.S.45:15-19 is amended to read as follows:

43 45:15-19. Any unlawful act or violation of any of the
44 provisions of this article, by any real estate [salesman]
45 broker-salesperson or salesperson, shall not be cause for the
46 revocation of any real estate broker's license, unless it shall
47 appear to the satisfaction of the commission that the real estate
48 broker employing such [salesman] licensee had guilty knowledge
49 thereof.

50 (cf: R.S.45:15-19)

51 27. Section 6 of P.L.1953, c.229 (C.45:15-19.1) is amended to
52 read as follows:

53 6. When, during the term of any license issued by the
54 commission, the licensee shall be convicted in a court of

1 competent jurisdiction in the State of New Jersey or any state
2 (including federal courts) of forgery, burglary, robbery, any theft
3 [and] or related offense with the exception of shoplifting,
4 criminal conspiracy to defraud, or other like offense or offenses,
5 or any crime involving, related to or arising out of the licensee's
6 activities as a real estate broker, broker-salesperson or [real
7 estate] salesperson, and a duly certified or exemplified copy of
8 the judgment of conviction shall be obtained by the commission,
9 the commission shall revoke forthwith the license by it
10 theretofore issued to the licensee so convicted.

11 (cf: P.L.1989, c.126, s.4)

12 28. Section 7 of P.L.1953, c.229 (C.45:15-19.2) is amended to
13 read as follows:

14 7. in the event that any licensee shall be indicted in the State
15 of New Jersey or any state or territory (including federal courts)
16 for murder, kidnapping, aggravated sexual assault, robbery,
17 burglary, arson, any theft offense, bribery, racketeering,
18 distribution of a controlled dangerous substance or conspiracy to
19 distribute a controlled dangerous substance, forgery, criminal
20 conspiracy to defraud, or other like offense or offenses, or any
21 crime involving, related to or arising out of the licensee's
22 activities as a real estate broker, broker-salesperson or
23 salesperson, and a certified copy of the indictment is obtained by
24 the commission, or other proper evidence thereof be to it given,
25 the commission shall have authority, in its discretion, to suspend
26 the license issued to such licensee pending trial upon such
27 indictment.

28 (cf: P.L.1989, c.126, s.5)

29 29. R.S.45:15-20 is amended to read as follows:

30 45:15-20. A nonresident may become a real estate broker,
31 broker-salesperson or [real estate salesman] salesperson by
32 conforming to all of the provisions of this article. [Any
33 nonresident real estate broker regularly engaged in the real
34 estate business as a vocation maintaining a definite place of
35 business in another State, and who has been licensed as a real
36 estate salesman or broker for a period of 2 years or more in such
37 State, which offers the same privileges to licensed brokers of this
38 State, shall, by reason of such foreign license and upon payment
39 of the license fee fixed by this article, be authorized to transact
40 the business of a real estate broker in this State during the period
41 for which his original license shall be in force.

42 Any nonresident real estate salesman licensed as such in
43 another State may, from year to year, upon payment of the
44 license fee fixed by this article, be licensed to transact the
45 business of a real estate salesman in this State, when such other
46 State offers the same privileges to licensed real estate salesmen
47 of this State. Such license may be issued and shall remain in
48 effect only under the following conditions:

49 a. During the period such salesman is regularly engaged in the
50 real estate business as a vocation in the employ of a licensed real
51 estate broker of another State;

52 b. During the period said employing real estate broker
53 maintains a definite place of business in such other State;

54 c. During the period such real estate broker is licensed as a

1 nonresident real estate broker in this State;

2 d. During the period such salesman continues to be licensed as
3 a salesman in the office of such real estate broker in such other
4 State or of another licensed real estate broker in another State
5 who is licensed as a nonresident real estate broker in this State.

6 All nonresident licenses issued by the commission shall be on a
7 special form distinguishable from licenses issued to resident
8 brokers and salesmen, and shall show the name and address of the
9 licensee and shall have imprinted thereon the seal of the
10 commission and shall contain such other matter as shall be
11 prescribed by the commission] All nonresident licenses issued by
12 the commission prior to July 1, 1994 may be renewed upon
13 payment of the renewal fees established pursuant to
14 R.S.45:15-15. All nonresident licenses so renewed shall be issued
15 by the commission in the same form as a resident license. In the
16 event that any person to whom a nonresident license is issued
17 fails to maintain or renew the license or to obtain a new license
18 from the commission for a period of two or more consecutive
19 years, the person shall be required to fulfill the requirements for
20 initial licensure established pursuant to R.S.45:15-9 prior to the
21 issuance of any further license.

22 A licensed broker whose main office is not located within this
23 State shall only provide brokerage services concerning real estate
24 located within this State either personally or through persons in
25 the broker's employ who are the holders of real estate
26 broker-salesperson or salesperson licenses issued by the
27 commission. In the event that a broker maintains one or more
28 branch offices in this State, no person shall engage in the business
29 of a real estate broker, broker-salesperson or salesperson at
30 those offices unless the person is a holder of a license issued by
31 the commission authorizing him to do so.

32 (cf: P.L.1961, c.88, s.3)

33 30. R.S.45:15-21 is amended to read as follows:

34 45:15-21. Every [nonresident] applicant for a license whose
35 business address is outside this State shall file an irrevocable
36 consent that suits and actions may be commenced against such
37 applicant by the commission or by any person in any of the courts
38 of record of this State, by the service of any process or pleading
39 authorized by the laws of this state, in any county in which the
40 plaintiff may reside, by serving the same on the secretary of the
41 commission, said consent stipulating and agreeing that such
42 service of such process or pleadings on said secretary shall be
43 taken and held in all courts to be as valid and binding as if due
44 service had been made personally upon the applicant in this
45 state. This consent shall be duly acknowledged, and, if made by a
46 corporation, shall be authenticated by its seal. [An application]
47 The consent from a corporation shall be accompanied by a duly
48 certified copy of the resolution of the board of directors,
49 authorizing the proper officers to execute it. In all cases where
50 process or pleadings shall be served, under the provisions of this
51 article, upon the secretary of the commission, such process or
52 pleadings shall be served in duplicate, one of which shall be filed
53 in the office of the commission and the other shall be forwarded
54 immediately by the secretary of the commission, by registered

1 mail, to the last known business address of the [nonresident]
2 licensee against which such process or pleadings are directed.

3 Every licensee whose business address is outside this State
4 shall, by acceptance of a license for that out-of-state address,
5 automatically and irrevocably consent to the commissions's
6 jurisdiction over and investigative authority regarding the
7 licensed business premises, and all records and conduct of the
8 licensee both within and outside of the State. The licensee shall
9 also automatically and irrevocably consent that service of any
10 pleading or subpoena issued by the secretary of the commission
11 pursuant to R.S.45:15-17 or R.S.45:15-16 which is delivered by
12 certified mail to the licensee's last known address, shall
13 constitute valid and binding service of the subpoena or pleading
14 upon the licensee as if service had been made personally upon the
15 licensee in this State.

16 (cf: R.S.45:15-21)

17 31. Section 6 of P.L.1948, c.88 (C.45:15-29.1) is amended to
18 read as follows:

19 6. Such employees of the New Jersey Real Estate Commission,
20 as the Commissioner of [Banking and] Insurance may determine
21 are needed for the proper perform of the work of the division
22 of the New Jersey Real Estate Commission in the Department of
23 [Banking and] Insurance, are hereby transferred to the
24 Department of [Banking and] Insurance. Persons so transferred
25 shall be assigned to such duties as the Commissioner of [Banking
26 and] Insurance shall determine.

27 (cf: P.L.1948, c.88, s.6)

28 32. Section 9 of P.L.1948, c.88 (C.45:15-29.3) is amended to
29 read as follows:

30 9. The orders, rules and regulations heretofore made or
31 promulgated by the New Jersey Real Estate Commission shall
32 continue with full force and effect until amended or repealed by
33 the New Jersey Real Estate Commission constituted hereunder as
34 the Division of the New Jersey Real Estate Commission in the
35 Department of [Banking and] Insurance.

36 (cf: P.L.1948, c.88, s.9)

37 33. Section 10 of P.L.1948, c.88 (C.45:15-29.4) is amended to
38 read as follows:

39 10. Whenever the term "New Jersey Real Estate Commission"
40 occurs or any reference is made thereto, in any law, contract or
41 document, the same shall be deemed to mean or refer to the New
42 Jersey Real Estate Commission constituted hereunder as the
43 Division of the New Jersey Real Estate Commission in the
44 Department of [Banking and] Insurance.

45 (cf: P.L.1948, c.88, s.10)

46 34. Section 11 of P.L.1948, c.88 (C.45:15-29.5) is amended to
47 read as follows:

48 11. This act shall not affect actions or proceedings, civil or
49 criminal, brought by or against the New Jersey Real Estate
50 Commission and pending on the effective date of this act, and
51 such actions or proceedings may be prosecuted or defended in the
52 same manner and to the same effect by the New Jersey Real
53 Estate Commission constituted hereunder as the Division of the
54 New Jersey Real Estate Commission in the Department of

1 [Banking and] insurance as if the foregoing provisions had not
2 taken effect; nor shall any of the foregoing provisions affect any
3 order or recommendation made by, or other matters or
4 proceedings before, the New Jersey Real Estate Commission; and
5 all such matters or proceedings pending before the New Jersey
6 Real Estate Commission on the effective date of this act shall be
7 continued by the New Jersey Real Estate Commission constituted
8 hereunder as the Division of the New Jersey Real Estate
9 Commission in the Department of [Banking and] Insurance.

10 (cf: P.L.1948, c.88, s.11)

11 35. Section 1 of P.L.1976, c.112 (C.45:15-34) is amended to
12 read as follows:

13 1. A real estate guaranty fund is established as a special trust
14 fund to be maintained by the State Treasurer and administered by
15 the New Jersey Real Estate Commission in accordance with the
16 provisions of this act to provide a fund from which recovery may
17 be obtained by any person aggrieved by the embezzlement,
18 conversion or unlawful obtaining of money or property in a real
19 estate brokerage transaction by a licensed real estate broker,
20 broker-salesperson or [real estate salesman] salesperson or an
21 unlicensed employee of a real estate broker; provided, however,
22 that the amount of such recovery [to be obtained by any person
23 shall not exceed \$10,000.00 for each claim filed] shall not exceed
24 in the aggregate the sum of \$10,000 in connection with any one
25 transaction regardless of the number of claims, persons
26 aggrieved, or parcels of, or interests in real estate involved in the
27 transaction. The maximum amount recoverable per transaction
28 shall be increased to \$20,000 for claims filed on the basis of
29 causes of action which accrue after the effective date of P.L.....,
30 c... (C....) (now pending before the Legislature as this bill).

31 (cf: P.L.1976, c.112, s.1)

32 36. Section 2 of P.L.1976, c.112 (C.45:15-35) is amended to
33 read as follows:

34 2. Upon the initial issuance [or first renewal on and after the
35 effective date of this act] of an annual license as a real estate
36 broker, broker-salesperson or [real estate salesman] salesperson
37 the licensee shall pay to the commission, in addition to the
38 license fee fixed by R.S.45:15-15, an additional amount to be
39 forwarded by the commission to the State Treasurer and
40 accounted for and credited by him to the real estate guaranty
41 fund. The additional amount payable by a broker or
42 broker-salesperson shall be [\$10.00] \$20 and by a [salesman]
43 salesperson, [\$5.00] \$10.

44 (cf: P.L.1976, c.112, s.2)

45 37. Section 4 of P.L.1976, c.112 (C.45:15-37) is amended to
46 read as follows:

47 4. No claim shall be made for payment from the real estate
48 guaranty fund except upon the reduction to final judgment, which
49 shall include reasonable attorney fees and costs, of a civil action
50 against the broker, broker-salesperson or [salesman] salesperson
51 or unlicensed employee of a broker, [the issuance of a writ of
52 execution thereon and its return unsatisfied in whole or in part]
53 and, where the judgment creditor has pursued all available
54 remedies, made all reasonable searches, and has been unable to

1 satisfy the judgment from the licensee's assets, the entry of a
2 court order [directing] which directs the Real Estate Commission
3 to make payment from the fund. No such order shall authorize a
4 payment to the spouse or personal representative of the spouse of
5 the judgment debtor.

6 No order shall be entered unless the claimant, either at the
7 time of filing the civil action or thereafter, files a certification
8 affirming that a criminal complaint alleging the misappropriation
9 of funds by the broker, broker-salesperson, salesperson or
10 unlicensed employee has been filed with a law enforcement
11 agency of this State or of a county or municipality in this State.
12 The criminal complaint shall refer to the same conduct to which
13 reference is made in the civil action as forming the basis for a
14 claim against the real estate guaranty fund. The certification
15 shall specify the date on which the criminal complaint was filed
16 and the law enforcement agency with which it was filed. A copy
17 of the certification shall be provided to the Real Estate
18 Commission upon its being filed. The requirement to file a
19 certification shall apply prospectively only to claims seeking
20 reimbursement from the fund filed on the basis of causes of
21 action which accrue after the effective date of P.L., c....
22 (C.....) (now pending before the Legislature as this bill).

23 Upon delivery by the Real Estate Commission to the State
24 Treasurer of a certified copy of the court order together with an
25 assignment to the Real Estate Commission of the judgment
26 creditor's right, title and interest in the judgment to the extent
27 of the amount of the court order, the State Treasurer shall make
28 payment to the claimant from the real estate guaranty fund.

29 (cf: P.L.1976, c.112, s.4)

30 38. Section 6 of P.L.1976, c.112 (C.45:15-39) is amended to
31 read as follows:

32 6. Any person to whom is issued a license to be a real estate
33 broker, broker-salesperson or [salesman] salesperson shall, by the
34 securing of said license, make and constitute the [Commissioner
35 of Insurance] secretary of the commission or the person in charge
36 of the office of the commission as agent for the acceptance of
37 process in any civil proceeding hereunder.

38 (cf: P.L.1976, c.112, s.6)

39 39. Section 7 of P.L.1976, c.112 (C.45:15-40) is amended to
40 read as follows:

41 7. a. If at any time the funds available in the real estate
42 guaranty fund are insufficient to satisfy in full court orders for
43 payment therefrom, payment shall be made in the order in which
44 such court orders were issued; and the Real Estate Commission
45 shall by regulation impose further additional amounts to be paid
46 by brokers, broker-salespersons and [salesmen] salespersons
47 to replenish the guaranty fund. No such additional amount assessed
48 at any one time shall exceed the amounts specified in section 2 of
49 this act.

50 b. If at any time the funds available in the real estate
51 guaranty fund are, in the opinion of the Real Estate Commission,
52 in excess of amounts anticipated to be necessary to meet claims
53 for a period of at least 2 years, the commission may, with the
54 approval of the Commissioner of Insurance, allocate and receive

1 from the guaranty fund a specified amount thereof for research
2 and educational projects to increase the proficiency and
3 competency of real estate [brokers and salesmen] licensees.

4 (cf: P.L.1976, c.112, s.7)

5 40. Section 8 of P.L.1976, c.112 (C.45:15-41) is amended to
6 read as follows:

7 8. Upon the issuance of a court order for payment from the
8 real estate guaranty fund the license of the broker,
9 broker-salesperson or [salesman] salesperson, whose acts gave
10 rise to the claim, shall be revoked and no such broker,
11 broker-salesperson or [salesman] salesperson shall be eligible for
12 reinstatement of his license until he shall have satisfied the
13 judgment in full including reimbursement of the real estate
14 guaranty fund together with interest.

15 (cf: P.L.1976, c.112, s.8)

16 41. (New section) Any person who, before a lease has been
17 fully executed or, where no lease is drawn, before possession is
18 taken by the tenant, charges or accepts any fee, commission or
19 compensation in exchange for providing assistance in locating
20 rental housing, including providing written lists or telephone
21 information on purportedly available rental units, without being
22 licensed pursuant to this act shall be a disorderly person and shall
23 be subject to a fine of not less than \$200 or to imprisonment for
24 not more than 30 days or both.

25 The provisions of this section shall not be construed to prohibit
26 a licensed real estate broker, or an owner of rental properties or
27 his agents and employees, from requiring the payment of a
28 deposit to reserve a particular unit or from charging and
29 accepting a fee for processing an application to rent an
30 apartment or for performing a credit check or other investigation
31 upon prospective tenants prior to the execution of a lease or the
32 taking of possession of a rental unit by a prospective tenant.

33 42. (New section) a. Every individual, partnership or
34 corporation licensed as a real estate broker shall maintain in a
35 State or federally chartered bank, savings bank, savings and loan
36 association or other depository institution physically located and
37 authorized to transact business in this State and approved by the
38 commission a special account into which the broker shall deposit
39 and maintain all monies received while acting in the capacity of a
40 real estate broker, or as escrow agent, or as the temporary
41 custodian of funds of others in real estate transactions in this
42 State. The account shall be maintained in the name in which the
43 individual, partnership or corporation is licensed to do business as
44 a broker and shall be designated as either the broker's "trust
45 account" or "escrow account" and shall be maintained separate
46 and apart from all other personal and business accounts. All
47 checks and deposit slips produced as a result of the establishment
48 of the account shall contain the words "trust account" or "escrow
49 account." The provisions of this subsection shall not apply to an
50 individual licensed as a broker-salesperson.

51 b. A real estate broker may establish a special interest bearing
52 escrow account under the broker's control in a depository
53 institution approved by the commission for the deposit of monies
54 from a specific transaction provided the account is clearly

1 identified as pertaining to that transaction. Such accounts shall
2 be maintained separate and apart from all other escrow, business
3 and personal funds.

4 43. (New section) The commission shall approve a depository
5 institution as required pursuant to section 42 of this amendatory
6 and supplementary act upon the institution providing written
7 confirmation to the commission that it shall immediately notify
8 the commission of any issuance of a notice to a licensed broker
9 that a check or other instrument written upon the broker's
10 escrow or trust account has been dishonored or returned for
11 insufficient funds.

12 44. (New section) A real estate broker acting in the capacity
13 of an escrow agent or as the temporary custodian of the funds of
14 others in any real estate transaction shall not receive, obtain or
15 use any interest earned on the funds for the broker's own
16 personal or business use.

17 45. (New section) Every real estate licensee who, in the
18 performance of any of the activities described in R.S.45:15-3,
19 receives any monies of others as a representative of a broker
20 acting as an escrow agent or as the temporary custodian of the
21 funds of others in a real estate transaction, shall only accept the
22 monies if they are in the form of cash or a negotiable instrument
23 payable to the broker through whom the individual is licensed.
24 The licensee shall, immediately upon receipt of the funds,
25 account for and deliver the funds to the broker for deposit into
26 the escrow or trust account maintained by the broker, or for such
27 other disposition as is required by the escrow agreement under
28 the terms of which the funds were provided to the licensee.

29 46. (New section) There is established within the Division of
30 the New Jersey Real Estate Commission in the Department of
31 Insurance a Bureau of Real Estate Education which shall be
32 responsible for the licensure of real estate pre-licensure schools
33 and instructors.

34 47. (New section) a. No school shall conduct real estate
35 education courses, the attendance and successful completion of
36 which shall constitute the fulfillment of the educational
37 prerequisites for licensure established pursuant to section 1 of
38 P.L.1966, c.227 (C.45:15-10.1) unless licensed as a real estate
39 school pursuant to P.L....., c.... (C....) (now pending before the
40 Legislature as this bill).

41 b. A school shall not be licensed as a real estate school unless
42 its owners, management and facilities meet all of the
43 qualifications for licensure established pursuant to this
44 amendatory and supplementary act and which the commission
45 may by regulation prescribe. An applicant for a license to
46 operate a real estate school, and in the case of a partnership or
47 corporation the members, officers, directors and owners of a
48 controlling interest thereof, shall affirmatively demonstrate their
49 good moral character to the commission. The commission may
50 make such investigation and require such proof as it deems proper
51 and in the public interest as to the honesty, trustworthiness,
52 character and integrity of an applicant.

53 48. (New section) a. No person, with the exception of a guest
54 lecturer, may teach real estate education courses, the attendance

1 and successful completion of which shall constitute the
2 fulfillment of the educational prerequisites for licensure
3 established pursuant to section 1 of P.L.1966, c.227
4 (C.45:15-10.1) unless licensed as a real estate instructor pursuant
5 to this amendatory and supplementary act.

6 b. A person shall not be licensed as a real estate instructor
7 unless the person affirmatively demonstrates to the commission
8 his good moral character, successfully completes a real estate
9 instructor course approved by the commission, successfully
10 completes a written examination conducted under the auspices of
11 the commission, and meets all other qualifications as the
12 commission may prescribe by regulation.

13 49. (New section) a. Every application for licensure as a real
14 estate school shall be accompanied by an application fee of \$50
15 and a criminal history record check fee for all individual owners,
16 members of a partnership, or officers, directors and owners of a
17 controlling interest in a corporation, which fees shall be
18 non-refundable.

19 b. All licenses issued to real estate schools shall expire on a
20 date fixed by the commission which date shall not be more than
21 two years from the date of issuance of the license. The license
22 fee for each real estate school license issued in the first 12
23 months of any two year real estate school license term
24 established by the commission shall be \$200 for the first location
25 and \$100 for each additional location licensed. The license fee
26 for each real estate school license issued in the second 12 months
27 of any two year real estate school license term established by the
28 commission shall be \$100 for the first location and \$50 for each
29 additional location licensed. The fee for the renewal of each real
30 estate school license for an additional two year license term shall
31 be \$200 for the first location and \$100 for each additional
32 location.

33 c. Any accredited college or university located in this State or
34 any public adult education program conducted by a board of
35 education in this State which otherwise qualifies for licensure as
36 a real estate school shall be issued a license without the payment
37 of any license or license renewal fee.

38 50. (New section) Every application for licensure as a real
39 estate instructor shall be accompanied by an application fee of
40 \$25 and a criminal history record check fee, which fees shall be
41 non-refundable. All licenses issued to real estate instructors
42 shall expire on a date fixed by the commission which shall be no
43 more than two years from the date of issuance of the license.
44 The license fee for each real estate instructor license issued in
45 the first 12 months of any two year real estate instructor license
46 term established by the commission shall be \$100 and the fee for
47 an instructor license issued in the second 12 months of the cycle
48 shall be \$50. The fee for the renewal of each real estate
49 instructor license for an additional two year license term shall be
50 \$50. Upon payment of the renewal fee and the submission of
51 evidence of satisfactory completion of any continuing education
52 requirements which the commission may by regulation prescribe,
53 the commission shall renew the license of a real estate instructor
54 for a two year period.

1 51. (New section) A school shall not be licensed as a real
2 estate school unless it is under the management and supervision
3 of a director who is approved by the commission and who is
4 licensed as a real estate instructor in accordance with the
5 provisions of this act. In the event of the death or mental or
6 physical incapacity of the director of a licensed real estate
7 school, which leaves no other owner or employee of the school
8 licensed as a real estate instructor and willing to assume the
9 responsibilities of the director on an interim or permanent basis,
10 the commission may issue temporary authorization to another
11 person to enable that person to carry on the duties of the director
12 until such time as either another licensed instructor is designated
13 by the school and approved by the commission as the director, or
14 until such time as the real estate courses in progress at the time
15 of the former director's death or incapacity are completed. A
16 school shall not commence any new real estate courses until a
17 qualified licensee is designated and approved as the school's
18 director.

19 The provisions of this section shall not apply to any public adult
20 education program conducted under the auspices of a board of
21 education in this State or any accredited college or university
22 licensed as real estate schools.

23 52. (New section) No public adult education program
24 conducted under the auspices of a board of education in this State
25 and no accredited college or university in this State shall be
26 licensed as a real estate school unless its real estate
27 pre-licensure education program is under the supervision of a
28 director who is a licensed real estate instructor or an individual
29 who has affirmatively demonstrated to the commission his good
30 moral character and has attended a real estate instructor course
31 approved by the commission within two years of applying to the
32 commission for approval as the director of the real estate
33 program. In the event of the death or physical or mental
34 incapacity of the director of a public adult education program or
35 the director of a college or university licensed as a real estate
36 school, which leaves no other employee licensed as a real estate
37 instructor or otherwise qualified to be the director of the
38 program and willing to assume the responsibilities of the director
39 on an interim or permanent basis, the commission may issue a
40 temporary authorization to another person to enable that person
41 to carry on the duties of the director until such time as either
42 another licensed instructor or qualified person is designated by
43 the school and approved by the commission as the director, or
44 until such time as the real estate courses in progress at the time
45 of the former director's death or incapacity are completed. New
46 courses shall not be commenced by the school until a qualified
47 person is designated and approved as the director of the school.

48 53. (New section) Upon application to the commission and
49 payment of the prescribed license fee no later than January 1,
50 1994, any school and instructor then designated by the
51 commission as an approved school or instructor shall, subject to
52 the results of the commission's investigation into the good moral
53 character of the applicant, be issued a real estate school or
54 instructor license.

1 54. (New section) The commission may suspend or revoke the
2 license of any real estate school or instructor or impose fines as
3 provided in R.S.45:15-17 upon satisfactory proof that the licensee
4 is guilty of:

- 5 a. Making any false promise or substantial misrepresentation;
- 6 b. Pursuing a flagrant and continued course of
7 misrepresentation or making false promises through agents,
8 advertisements or otherwise;
- 9 c. Engaging in any conduct which demonstrates unworthiness,
10 incompetency, bad faith or dishonesty;
- 11 d. Failing to provide a student with a copy of a written
12 agreement which designates the total tuition charges for
13 attendance at a real estate pre-licensure course offered by a
14 licensed school, or other charges imposed upon students who
15 enroll in the course, and the refund policy of the school in regard
16 to tuition and other charges;
- 17 e. Using any plan, scheme or method of attracting students to
18 enroll in a real estate pre-licensure course which involves a
19 lottery, contest, game, raffle or drawing;
- 20 f. Being convicted of a crime, knowledge of which the
21 commission did not have at the time of last issuing a license to
22 the licensee;
- 23 g. Procuring a real estate license for himself or anyone else by
24 fraud, misrepresentation or deceit;
- 25 h. Making any verbal or written statement which falsely
26 indicates that a person attended or successfully completed any
27 real estate pre-licensure course conducted by the licensee; or
- 28 i. Any other conduct whether of the same or of a different
29 character than specified in this section which constitutes fraud or
30 dishonest dealing.

31 55. (New section) A person whose license has been revoked
32 pursuant to section 54 of P.L....., c.... (C....) (now pending before
33 the Legislature as this bill) shall not be a general partner, officer,
34 director or owner, either directly or indirectly, of a controlling
35 interest in any licensed school, nor shall the person be retained or
36 employed in any capacity, or compensated in any manner by a
37 licensed school, nor shall the person occupy or share office space
38 in a licensed school location for any purpose during the period of
39 revocation.

40 56. (New section) Upon the revocation of the instructor
41 license issued to any partner, officer, director or owner of a
42 controlling interest in any licensed school, the commission shall
43 revoke the license of the school unless, within a period of time
44 fixed by the commission, the following conditions are fulfilled:
45 a. in the case of a licensed school owned by a partnership, the
46 connection of the partner whose instructor license has been
47 revoked to the school shall be severed and his interest in the
48 school shall be divested; or b. in the case of a licensed school
49 owned by a corporation, the officer, director or owner of a
50 controlling interest whose instructor license has been revoked
51 shall be terminated from the position and, where an owner of a
52 controlling interest, his ownership of the interest shall be
53 divested; or c. in the case of a limited partnership, if the person
54 whose instructor license has been revoked was a general partner,

1 his interest in the school shall be divested or, if the person whose
2 instructor license was revoked was a limited partner, his interest
3 in the school shall be divested if it constituted a controlling
4 interest as defined herein. For the purposes of this section, the
5 term "controlling interest" means 5% or more of the equity of a
6 licensed corporation or of the ownership of a partnership.

7 57. (New section) The commission is expressly vested with the
8 power and authority to promulgate and enforce all necessary
9 rules and regulations for the conduct of the business of real
10 estate schools offering pre-licensure and continuing education
11 courses consistent with the provisions of this amendatory and
12 supplementary act.

13 58. R.S.45:15-22 is repealed.

14 59. This act shall take effect 90 days following enactment
15 except that sections 4, 7, 8, 9, 10, 11, 13, 15, 16, 17, 29, 30, 46,
16 47, 48, 49, 50, 51, 52, 54, 55, and 56 shall remain inoperative until
17 July 1, 1994.

18 19 20 STATEMENT

21
22 This bill revises statutory law regarding the licensing and
23 regulation of real estate brokers, broker-salespersons and
24 salespersons, which is administered by the New Jersey Real
25 Estate Commission. The bill also imposes new fees, increases
26 miscellaneous fees, and creates a Bureau of Real Estate
27 Education in the Division of the Real Estate Commission. The
28 bill makes no changes to present licensing fees.

29 This bill adds the category of broker-salesperson to the current
30 licensing statute, which category already exists pursuant to
31 regulation. The bill increases the experience necessary to obtain
32 a license as a broker or broker-salesperson from two years to
33 three. The educational requirements for an applicant for
34 licensure as a broker or broker-salesperson increase from 90
35 hours to 150 hours of courses in real estate, which shall include
36 30 hours on ethics. The bill also increases the requirements to
37 requalify for a broker's or broker-salesperson's license after the
38 license has not been renewed for a certain period of time.

39 Under the provisions of the bill, nonresident brokers are
40 licensed in the same manner as in-State brokers and the
41 commission has jurisdiction and investigative authority regarding
42 the licensed business premises and all records and conduct of the
43 licensees both within and outside of the State.

44 There are numerous provisions in the bill concerning money
45 deposited by the consumer with a broker. Further, the amount of
46 coverage provided by the Real Estate Guaranty Fund is increased
47 from \$10,000 to \$20,000 per person.

48 In order to ensure the quality of real estate education, a
49 Bureau of Real Estate Education in the Division of the Real
50 Estate Commission is created to license real estate schools and
51 instructors. To be an instructor, a person is required to
52 successfully complete a real estate instructor course and
53 examination and to complete any continuing education
54 requirements established by the commission for renewal of an

1 instructor's license. Currently, such schools and instructors are
2 approved, but not licensed, by the commission.

3 The bill establishes licensing fees in connection with the
4 licensing of real estate schools and instructors and raises various
5 fees, including those for late renewals of licenses, branch offices
6 and changes of address. The bill also specifies fines and penalties
7 for various offenses.

8

9

10

11

12 Revises statutory law in regard to the licensing and regulation of
13 real estate brokers and salespersons.

ASSEMBLY, No. 1347
STATE OF NEW JERSEY

INTRODUCED MAY 4, 1992

By Assemblymen PENN, KAVANAUGH and DeCroce

1 AN ACT concerning real estate brokers and real estate
2 salespersons, amending various parts of the statutory law,
3 supplementing chapter 15 of Title 45 of the Revised Statutes,
4 and repealing R.S.45:15-22.

5

6 BE IT ENACTED by the Senate and General Assembly of the
7 State of New Jersey:

8 1. R.S.45:15-1 is amended to read as follows:

9 45:15-1. No person shall engage either directly or indirectly in
10 the business of a real estate broker, broker-salesperson or
11 [salesman] salesperson, temporarily or otherwise, and no person
12 shall advertise or represent himself as being authorized to act as
13 a real estate broker, broker-salesperson or [salesman]
14 salesperson, or to engage in any of the activities described in
15 [section] R.S.45:15-3 [of the Revised Statutes], without being
16 licensed so to do as hereinafter provided.

17 (cf: P.L.1953, c.229, s.1)

18 2. Section 1 of P.L.1978, c.5 (C.45:15-1.1) is amended to read
19 as follows:

20 1. A person employed in a participant position as a housing
21 referral aide under any program established and funded pursuant
22 to the Comprehensive Employment and Training Act of 1973,
23 Pub.L. 93-203, 29 U.S.C. 801 et seq., while performing his duties
24 in such position, shall not be deemed to be engaged in the
25 business of a real estate broker, broker-salesperson or [salesman]
26 salesperson under the provisions of chapter 15 of Title 45 of the
27 Revised Statutes.

28 (cf: P.L.1978, c.5, s.1)

29 3. R.S.45:15-3 is amended to read as follows:

30 45:15-3. A real estate broker, for the purposes of this article,
31 is defined to be a person, firm or corporation who, for a fee,
32 commission or other valuable consideration, or by reason of a
33 promise or reasonable expectation thereof, lists for sale, sells,
34 exchanges, buys or rents, or offers or attempts to negotiate a
35 sale, exchange, purchase or rental of real estate or an interest
36 therein, or collects or offers or attempts to collect rent for the
37 use of real estate or solicits for prospective purchasers or assists
38 or directs in the procuring of prospects or the negotiation or
39 closing of any transaction which does or is contemplated to result
40 in the sale, exchange, leasing, renting or auctioning of any real
41 estate or negotiates, or offers or attempts or agrees to negotiate
42 a loan secured or to be secured by mortgage or other
43 encumbrance upon or transfer of any real estate for others, or

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 any person who, for pecuniary gain or expectation of pecuniary
2 gain conducts a public or private competitive sale of lands or any
3 interest in lands. In the sale of lots pursuant to the provisions of
4 this article, the term "real estate broker" shall also include any
5 person, partnership, association or corporation employed by or on
6 behalf of the owner or owners of lots or other parcels of real
7 estate, at a stated salary, or upon a commission, or upon a salary
8 and commission, or otherwise, to sell such real estate, or any
9 parts thereof, in lots or other parcels, and who shall sell or
10 exchange, or offer or attempt or agree to negotiate the sale or
11 exchange, of any such lot or parcel of real estate.

12 A real estate [salesman] salesperson, for the purposes of this
13 article, is defined to be any person who, for compensation,
14 valuable consideration or commission, or other thing of value, or
15 by reason of a promise or reasonable expectation thereof, is
16 employed by and operates under the supervision of a licensed real
17 estate broker to sell or offer to sell, buy or offer to buy or
18 negotiate the purchase, sale or exchange of real estate, or offers
19 or attempts to negotiate a loan secured or to be secured by a
20 mortgage or other encumbrance upon or transfer of real estate,
21 or to lease or rent, or offer to lease or rent any real estate for
22 others, or to collect rents for the use of real estate, or to solicit
23 for prospective purchasers or lessees of real estate, or who is
24 employed by a licensed real estate broker to sell or offer to sell
25 lots or other parcels of real estate, at a stated salary, or upon a
26 commission, or upon a salary and commission, or otherwise to sell
27 real estate, or any parts thereof, in lots or other parcels.

28 A real estate broker-salesperson, for the purposes of this
29 amendatory and supplementary act, is defined to be any person
30 who is qualified to be licensed as a real estate broker but who,
31 for compensation, valuable consideration or commission, or other
32 thing of value, or by reason of a promise or reasonable
33 expectation thereof, is employed by and operates under the
34 supervision of a licensed real estate broker to perform the
35 functions of a real estate salesperson as defined herein.

36 No person, firm, partnership, association or corporation shall
37 bring or maintain any action in the courts of this State for the
38 collection of compensation for the performance of any of the
39 acts mentioned in this article without alleging and proving that
40 he was a duly licensed real estate broker at the time the alleged
41 cause of action arose.

42 No person claiming to be entitled to compensation as a
43 salesperson or broker-salesperson for the performance of any of
44 the acts mentioned in chapter 15 of Title 45 of the Revised
45 Statutes shall bring or maintain any action in the courts of this
46 State for the collection of compensation against any person, firm,
47 partnership or corporation other than the licensed broker with
48 whom the salesperson or broker-salesperson was employed at the
49 time the alleged cause of action arose and no action shall be
50 brought or maintained without the claimant alleging and proving
51 that he was a duly licensed real estate salesperson or
52 broker-salesperson at the time the alleged cause of action arose.
53 (cf: P.L.1953, c.229, s.2)

54 4. Section 1 of P.L.1979, c.322 (C.45:15-3.1) is amended to

1 read as follows:

2 1. A duly licensed real estate broker of this State may pay a
3 referral fee or referral commission to a person not licensed [as a
4 nonresident broker under R.s.45:15-20] if the person is a licensed
5 real estate broker of another jurisdiction in which the licensed
6 broker maintains a bona fide office. A licensed real estate
7 broker of another jurisdiction may make a referral, receive a
8 referral fee or referral commission, and bring or maintain an
9 action in the courts of this State against a duly licensed real
10 estate broker of this State for the collection of the fee or
11 commission.

12 For the purposes of this section, "referral" means the
13 introduction, assisting, or directing of a person by one broker to
14 another broker for real estate brokerage services, aid, or
15 information; "referral fee" or "referral commission" means the
16 compensation paid or received for the referral.

17 (cf: P.L.1979, c.322, s.1)

18 5. R.S.45:15-5 is amended to read as follows:

19 45:15-5. The New Jersey Real Estate Commission, hereinafter
20 in this article designated as the "commission," created and
21 established by an act entitled "An act to define, regulate and
22 license real estate brokers and salesmen, to create a State real
23 estate commission and to provide penalties for the violation of
24 the provisions hereof," approved April 5, 1921 (P.L.1921, c.141,
25 s.370), as amended by an act approved April 23, 1929 (P.L.1929,
26 c.168, s.310), is continued. The commission shall constitute the
27 division of the New Jersey Real Estate Commission in the
28 Department of Insurance. The commission shall consist of [seven]
29 eight members, appointed by the Governor pursuant to the
30 provisions of P.L.1971, c.60 [(C.45:1-1 et seq.)] (C.45:1-2.1 et
31 seq.), each of whom shall have been a resident of this State for a
32 period of at least 10 years [, five]. Five members shall have been
33 real estate brokers for a period of at least 10 years; [one
34 member] two members shall be [a] public [member.] members;
35 and one member shall be a representative of an appropriate
36 department. The department representative shall serve at the
37 pleasure of the Governor. Upon the expiration of the term of
38 office of any other member, his successor shall be appointed by
39 the Governor for a term of 3 years. A majority of the voting
40 members of the commission shall constitute a quorum thereof.
41 Each member shall hold his office until his successor has
42 qualified. Members to fill vacancies shall be appointed by the
43 Governor for the unexpired term. The Governor may remove any
44 commissioner for cause, upon notice and opportunity to be heard.
45 (cf. P.L.1977, c.331, s.1)

46 6. R.S.45:15-7 is amended to read as follows:

47 45:15-7. The Commissioner of [Banking and] Insurance shall
48 provide the commission with such personnel as he shall deem
49 necessary, after consultation with the commission, for the proper
50 discharge of the duties imposed by the provisions of this article.
51 The Commissioner of [Banking and] Insurance shall prescribe the
52 duties of persons thus assigned to the commission, and shall fix
53 their compensation, within the limits of available appropriations
54 therefor. The Commissioner of [Banking and] Insurance shall

1 provide the commission with such office space, furniture and
2 stationery as he shall determine, after consultation with the
3 commission, to be reasonably necessary for carrying out the
4 provisions of this article.

5 (cf: P.L.1948, c.88, s.5)

6 7. R.S.45:15-9 is amended to read as follows:

7 45:15-9. All persons desiring to become real estate brokers,
8 broker-salespersons or [real estate] salespersons shall apply to
9 the commission for a license under the provisions of this article.
10 Every applicant for a license as a broker, broker-salesperson or
11 salesperson shall be of the age of 18 years or over, and in the
12 case of an association or a corporation the directors thereof shall
13 be of the age of 18 years or over. Application for a license,
14 whether as a real estate broker, broker-salesperson or a [real
15 estate] salesperson, shall be made to the commission upon forms
16 prescribed by it and shall be accompanied by [a] an application
17 fee of [\$10.00] \$25 which fee shall not be refundable. Every
18 applicant for a license whether as a real estate broker,
19 broker-salesperson or [real estate] salesperson shall have the
20 equivalent of a high school education. The issuance of a license
21 to an applicant who is a nonresident of this State shall be deemed
22 to be his irrevocable consent that service of process upon him as
23 a licensee in any action or proceeding may be made upon him by
24 service upon the secretary of the commission or the person in
25 charge of the office of the commission. The applicant shall
26 furnish evidence of good moral character, and in the case of an
27 association, partnership or corporation, the members, officers or
28 directors thereof shall furnish evidence of good moral character.
29 The commission may make such investigation and require such
30 proof as it deems proper and in the public interest as to the
31 honesty, trustworthiness, character and integrity of an applicant.
32 Every applicant for a license as a broker or broker-salesperson
33 shall have first [served an apprenticeship of two full years as a
34 duly licensed real estate salesperson] been the holder of a New
35 Jersey real estate salesperson's license and have been actively
36 engaged on a full-time basis in the real estate brokerage business
37 in this State for three years immediately preceding the date of
38 application, which requirement may be waived by the commission
39 where the applicant has been the holder of a broker's license in
40 another state and actively engaged in the real estate brokerage
41 business for at least [two] three years immediately preceding the
42 date of his application, meets the educational requirements and
43 qualifies by examination. No license as a broker shall be granted
44 to a general partnership or corporation unless at least one of the
45 partners or officers of said general partnership or corporation
46 qualifies as and holds a license as a broker to transact business in
47 the name and on behalf of said general partnership or corporation
48 as its authorized broker and no such authorized broker shall act
49 as a broker on his own individual account unless he is also
50 licensed as a broker in his individual name; the license of said
51 general partnership or corporation shall cease if at least one
52 partner or officer does not hold a license as its authorized broker
53 at all times. A change in the status of the license of an
54 authorized broker to an individual capacity or vice versa shall be

1 effected by application to the commission accompanied by a fee
2 of ~~[\$5.00]~~ \$25. No license as a broker shall be granted to a
3 limited partnership unless its general partner qualifies as and
4 holds a license as a broker to transact business in the name of and
5 on behalf of the limited partnership. In the event that a
6 corporation is a general partner of a limited partnership, no
7 license as a broker shall be granted to the limited partnership
8 unless the corporation is licensed as a broker and one of the
9 officers of the corporation qualifies as and holds a license as the
10 corporation's authorized broker.

11 In the event that any person to whom a broker's or
12 broker-salesperson's license has been or shall have been issued
13 shall fail to renew such license or obtain a new license for a
14 period of more than two but less than five consecutive years [or
15 more] after the expiration of the last license held, prior to issuing
16 another broker or broker-salesperson license to the person, the
17 commission shall require such person to [serve the same
18 apprenticeship] work as a licensed salesperson on a full-time
19 basis for one full year, to pass an examination, and to [attend
20 school] successfully complete a 90 hour general broker's
21 pre-licensure course at a licensed real estate school, as the
22 commission shall prescribe by regulation. In the event that any
23 person to whom a broker's or broker-salesperson's license has
24 been or shall have been issued fails to maintain or renew the
25 license or obtain a new license for a period of more than five
26 consecutive years after the expiration of the last license held,
27 prior to issuing another broker or broker-salesperson license to
28 the person the commission shall require the person to pass the
29 salesperson's license examination and then to work as a licensed
30 salesperson on a full-time basis for three years, to fulfill all of
31 the educational requirements applicable to first time applicants
32 for a broker or broker-salesperson license and to pass the
33 broker's license examination. The commission may, in its
34 discretion, approve for relicensure the former holder of a broker
35 or broker-salesperson license who has not renewed the license or
36 obtained a new license for two or more consecutive years upon a
37 sufficient showing that the applicant was medically unable to do
38 so. All applicants so approved shall pass the broker's license
39 examination prior to being relicensed. This paragraph shall not
40 apply to a person reapplying for a broker's or
41 broker-salesperson's license who was [a] licensed as a broker or
42 broker-salesperson and who allowed his license to expire due to
43 subsequent employment in a public agency in this State with
44 responsibility for dealing with matters relating to real estate if
45 the person reapplying does so within one year of termination of
46 that employment.

47 In the event that any person to whom a salesperson's license
48 has been or shall have been issued shall fail to maintain or renew
49 such license or obtain a new license for a period of two
50 consecutive years or more after the expiration of the last license
51 held, the commission shall require such person to attend [an
52 approved] a licensed school and pass the State examination prior
53 to issuance of a further license. The commission may, in its
54 discretion, approve for relicensure a salesperson applicant who

1 has not renewed his license or obtained a new license for two or
2 more consecutive years upon a sufficient showing that the
3 applicant was medically unable to do so. All salesperson
4 applicants so approved shall pass the salesperson's license
5 examination prior to being relicensed. This paragraph shall not
6 apply to a person reapplying for a salesperson's license who was a
7 licensed salesperson and who allowed his license to expire due to
8 subsequent employment in a public agency in this State with
9 responsibility for dealing with matters relating to real estate if
10 the person reapplying does so within one year of termination of
11 that employment.

12 (cf: P.L.1989, c.126, s.1)

13 8. R.S.45:15-10 is amended to read as follows:

14 45:15-10. Before any such license shall be granted the
15 applicant, and in the case of a partnership, association or
16 corporation the partners, directors or officers thereof actually
17 engaged in the real estate business as a broker,
18 broker-salesperson [and salesman] or salesperson, shall submit to
19 an examination to be conducted under the supervision of the
20 commission which examination [may be written or oral, or partly
21 written and partly oral, and shall include reading, writing,
22 spelling, elementary arithmetic, a] shall test the applicant's
23 general knowledge of the statutes of New Jersey concerning real
24 property, conveyancing, mortgages, agreements of sale, leases
25 and of the provisions of this article [and], the rules and
26 regulations of the commission and such other subjects as the
27 commission may direct. The commission may make rules and
28 regulations for the conduct of such examinations. Upon
29 satisfactorily passing such examination and fulfilling all other
30 qualifications a license shall be granted by the commission to the
31 successful applicant therefor as a real estate broker,
32 broker-salesperson or [a real estate salesman] salesperson, and
33 the applicant upon receiving the license is authorized to conduct
34 in this State the business of a real estate broker,
35 broker-salesperson or [of a real estate salesman] salesperson, as
36 the case may be. Such license shall expire on the last day of [the
37 twelfth calendar month following the calendar month in which
38 issued; provided, however, the commission may, in order to
39 stagger the expiration dates of licenses, issue or renew licenses
40 which shall expire on a date fixed by the commission, with the
41 approval of the Commissioner of Insurance, not sooner than
42 5 months nor later than 17 months, after the date of issue, and
43 the fee for such licenses shall be in amounts proportionately less
44 or greater than the fee fixed in R.S.45:15-15] a one year license
45 term as established by the commission which expiration date shall
46 be applicable to all licenses regardless of their date of issuance;
47 such license shall be renewed, without examination, annually
48 thereafter, upon the payment of the fee fixed by R.S.45:15-15.

49 (cf: P.L.1977, c.331, s.3)

50 9. Section 1 of P.L.1986, c.227 (C.45:15-10.1) is amended to
51 read as follows:

52 1. a. As a prerequisite to admission to an examination, every
53 individual applicant for [license] licensure as a real estate
54 salesperson shall give evidence of [75 hours'] satisfactory

1 completion of 75 hours in the aggregate of such courses of
2 education in real estate subjects at a school [approved] licensed
3 by the commission as the commission shall by regulation
4 prescribe. At least three hours of that course of study shall be on
5 the subject of ethics and ethical conduct in the profession of a
6 real estate salesperson.

7 b. As a prerequisite to admission to an examination, every
8 individual applicant for [license] licensure as a real estate broker
9 or broker-salesperson shall give evidence of [90 hours']
10 satisfactory completion of 150 hours in the aggregate of such
11 courses of education in real estate and related subjects at a
12 school [approved] licensed by the commission as the commission
13 shall by regulation prescribe. [At least three] Thirty hours of
14 that course of study shall be on the subject of ethics and ethical
15 conduct in the profession of a real estate broker.

16 The commission may approve courses in specialized aspects of
17 the real estate brokerage business offered by providers who are
18 not the holders of a real estate school license pursuant to section
19 47 of P.L...., c... (C....) (now pending before the Legislature as
20 this bill), the completion of which may be recognized as fulfilling
21 a portion of the total broker pre-licensure education
22 requirements.

23 (cf: P.L.1989, c.126, s.2)

24 10. Section 2 of P.L.1986, c.227 (C.45:15-10.2) is amended to
25 read as follows:

26 2. [The educational requirements adopted by the commission
27 pursuant to section 1 of this act may be waived in the case of an
28 applicant for examination who: (1) holds a real estate broker's
29 license issued by another State or (2) was previously licensed as a
30 broker in this State; provided, however, that the commission shall
31 determine that the experience of such applicant is substantially
32 equivalent to such educational requirements. In the event any
33 applicant for admission to examination for either a real estate
34 salesman's or broker's license shall present evidence of having
35 satisfactorily completed such courses in real estate subjects in
36 any college, the educational requirements adopted by the
37 commission pursuant to section 1 of this act may be waived.]

38 The commission may waive some or all of the educational
39 requirements for licensure established pursuant to subsection a.
40 of section 1 of P.L.1986, c.227 (C.45:15-10.1) in the case of an
41 applicant whose education or experience is in the judgment of the
42 commission substantially equivalent to those educational
43 requirements. The commission shall prescribe by regulation the
44 requirements which an applicant shall meet in order to qualify for
45 the waiver of educational requirements pursuant to this section.

46 (cf: P.L.1986, c.227, s.2)

47 11. R.S.45:15-11 is amended to read as follows:

48 45:15-11. Any citizen of New Jersey who has served in the
49 [military or naval] armed forces of the United States [in any war]
50 or who served as a member of the American Merchant Marine
51 during World War II and is declared by the United States
52 Department of Defense to be eligible for federal veterans'
53 benefits, who has been honorably discharged, and who, having
54 been wounded or disabled in the line of duty, has completed a

1 program of courses in real estate [in any college or school]
2 approved by the [Department of Education of the State of] New
3 Jersey Real Estate Commission, and who has successfully passed
4 an examination conducted by said commission qualifying him to
5 operate as a real estate broker, broker-salesperson or [a real
6 estate salesman] salesperson, may, upon presentation of a
7 certificate certifying that he has completed such program of
8 courses as aforesaid, obtain without cost from the commission
9 and without qualification through [apprenticeship] experience as a
10 salesperson, a license to operate as a real estate broker,
11 broker-salesperson or a real estate [salesman] salesperson, as the
12 case may be, which licenses shall be the same as other licenses
13 issued under this article. Renewal of licenses may be granted
14 under this section for each ensuing [year] license term, upon
15 request, without annual fees therefor.

16 (cf: P.L.1991, c.389, s.33)

17 12. Section 1 of P.L.1970, c.255 (C.45:15-11.3) is amended to
18 read as follows:

19 1. In the event of the death or mental or physical incapacity of
20 a licensed real estate broker where no other member or officer in
21 the agency, copartnership, association or corporation of which he
22 was a member or officer is the holder of a [broker's]
23 broker-salesperson's license or where an individual broker
24 operating as a sole proprietor dies or is mentally or physically
25 incapacitated leaving no employee holding a real estate
26 [broker's] broker-salesperson's license, then the Real Estate
27 Commission may issue a temporary broker's license on a special
28 form to another person for the purpose of enabling such other
29 person to continue the real estate activities [upon] on behalf of
30 and under the same designation of said agency, copartnership,
31 association, corporation or individual, as the case may be, upon
32 the filing of an application and a certified copy of the death
33 certificate or a certification of mental or physical incapacity
34 executed by a duly licensed physician or officer of a medical
35 institution, together with payment of the regular license fee;
36 provided such other person has been the holder of a real estate
37 [salesman's] salesperson's license for at least [2] three years
38 immediately preceding the date of the application and provided
39 that said application shall have been made within 30 days from
40 date of the demise or incapacity of said broker.

41 Such temporary license shall continue only until the licensee is
42 afforded an opportunity of pursuing the approved broker's course
43 in accordance with the provisions of paragraph (B) of section 1 of
44 chapter 227 of the laws of 1966 (C.45:15-10.1) and qualifying by
45 examination. Such license may be issued and effective for a
46 period of [6 months] one year from the date of issuance. Such
47 temporary license shall not be extended or renewed.

48 (cf: P.L.1970, c.255, s.1)

49 13. R.S.45:15-12 is amended to read as follows:

50 45:15-12. Every real estate broker shall maintain a [place of
51 business in this State except such nonresident brokers who qualify
52 for licenses under the reciprocal provisions of section 45:15-20 of
53 this article] designated main office open to the public. A real
54 estate broker's [maintained place of business] main office shall

1 have prominently displayed therein the license certificate of the
2 broker and all licensed persons in his employ and shall be deemed
3 the business address of all licensed persons for all purposes under
4 chapter 15 of Title 45 of the Revised Statutes. In case a real
5 estate broker maintains more than one place of business [within
6 this State], a [duplicate] branch office license shall be issued to
7 such broker for each branch office so maintained in this State;
8 provided, however, that the said branch office or offices are
9 under the direct supervision of a [competent licensee]
10 broker-salesperson. [Such duplicate] The branch office license or
11 licenses shall be issued upon the payment of a fee of ~~[\$10.00]~~ \$25
12 for each license so issued. [A real estate broker's maintained
13 places] Every place of business maintained by a real estate broker
14 shall have conspicuously displayed on the exterior thereof the
15 [broker's] name in which the broker is authorized to operate and,
16 in the case of a corporation or partnership, the name of the
17 individual licensed as its authorized broker, and the words
18 Licensed Real Estate Broker. A real estate broker whose main
19 office is located in another state shall maintain a valid real
20 estate broker's license in good standing in the state where the
21 office is located.

22 (cf: P.L.1966, c.11, s.1)

23 14. Section 8 of P.L.1953, c.229 (C.45:15-12.1) is amended to
24 read as follows:

25 8. No license shall be issued by the commission to any person
26 known by it to have been, within five years theretofore,
27 convicted of forgery, burglary, robbery, any theft offense other
28 than shoplifting, criminal conspiracy to defraud, or other like
29 offense or offenses, or to any copartnership of which such person
30 is a member, or to any association or corporation of which said
31 person is an officer, director, or employee, or in which as a
32 stockholder such person has or exercises a controlling interest
33 either directly or indirectly. [In the event of the revocation or
34 suspension of the license issued to any member of a
35 copartnership, or to any officer of an association or corporation,
36 the license issued to such copartnership, association, or
37 corporation, shall be revoked by the commission, unless, within a
38 time fixed by the commission, where a copartnership, the
39 connection therewith of the member whose license has been
40 revoked shall be severed and his interest in the copartnership and
41 his share in its activities brought to an end, or where an
42 association or corporation, the offending officer shall be
43 discharged and shall have no further participation in its activity.]

44 (cf: P.L.1989, c.126, s.6)

45 15. R.S.45:15-13 is amended to read as follows:

46 45:15-13. All licenses shall be issued by the commission in
47 such form as it shall prescribe. Each license shall show the name
48 and address of the licensee and shall have imprinted thereon the
49 seal of the commission. Notice in writing shall be given to the
50 commission by each licensed broker of any change of business
51 [location] address, whereupon the commission shall issue [a] new
52 [license] licenses to the broker and to all persons licensed through
53 the broker for the unexpired period, upon the payment of a fee of
54 \$25 for the issuance of the new broker license and a fee of \$5.00

1 for each additional new license certificate so issued. A change of
2 business [location] address without notification to the
3 commission, and without the issuance of a new broker's license,
4 shall automatically cancel the license theretofore issued.

5 (cf: P.L.1966, c.11, s.2)

6 16. R.S.45:15-14 is amended to read as follows:

7 45:15-14. All licenses issued to real estate [salesmen] brokers,
8 broker-salespersons and salespersons shall be kept by the broker
9 by whom such real estate [salesman] licensee is employed, and
10 the pocket card accompanying the same shall be delivered by the
11 broker to the licensee who shall have the card in his possession at
12 all times when engaged in the business of a real estate broker,
13 broker-salesperson or salesperson. When any real estate
14 [salesman] licensee is [discharged, or terminates] terminated or
15 resigns his employment with the real estate broker by whom he
16 was employed at the time of the issuing of such license to him,
17 notice of the termination shall be given in writing by the broker
18 to the terminated licensee with the effective date of the
19 termination reflected thereon, or notice of the resignation shall
20 be given in writing by the resigning licensee to the broker with
21 the effective date of the resignation reflected thereon. Upon the
22 issuance of a written notice of termination by a broker or his
23 authorized representative, or upon receipt of a written
24 resignation by a broker or his authorized representative, such
25 employer shall [immediately] within five business days of the
26 effective date of the termination or resignation, either: a.
27 deliver, or send by registered mail, to the commission, such real
28 estate [salesman's] licensee's license [. Such employer shall]
29 and, at the same time [address], send a written communication to
30 such real estate [salesman] licensee at his last known residence,
31 advising him that his license has been delivered or mailed to the
32 commission [, and a]. A copy of such communication to the [real
33 estate salesman] licensee shall accompany the license when
34 mailed or delivered to the commission; or, b. deliver to the
35 departing licensee and to the commission any other materials as
36 the commission may prescribe by regulation to accomplish the
37 transfer of the licensee to another employing broker. No real
38 estate [salesman] licensee shall perform any of the acts
39 contemplated by this article, either directly or indirectly, under
40 the authority of such [salesman's] license, from and after the
41 effective date of [receipt of said license] the licensee's
42 termination or resignation until authorized to do so by the
43 commission. A new license may be issued to such [salesman]
44 licensee, upon the payment of a fee of [\$5.00] \$25, and upon the
45 submission of satisfactory proof that he has obtained employment
46 with another licensed broker. A [salesman] broker-salesperson or
47 salesperson must be licensed under a broker; he cannot be
48 licensed with more than one broker at the same time.

49 (cf: P.L.1966, c.11, s.3)

50 17. R.S.45:15-15 is amended to read as follows:

51 45:15-15. The annual fee for each real estate broker's license
52 shall be \$50.00, [and] the annual fee for each real estate
53 [salesman's] broker-salesperson's license shall be \$50.00 and the
54 annual fee for each real estate salesperson's license shall be

1 \$25.00. The annual fee for a branch office license shall be
2 ~~[\$10.00]~~ \$25.00. Each license granted under this article shall
3 entitle the licensee to perform all of the acts contemplated
4 herein during the period for which the license is issued, as
5 prescribed by this article. If a licensee fails to apply for a
6 renewal of his license prior to the date of expiration of such
7 license, the commission may refuse to issue a renewal license
8 except upon the payment of a late renewal fee in the amount of
9 ~~[\$5.00]~~ \$10.00 for a ~~[salesman]~~ salesperson or broker-salesperson
10 and ~~[\$10.00]~~ \$20.00 for a broker; provided, however, the
11 commission may, in its discretion, refuse to renew any license
12 upon sufficient cause being shown. The commission shall refuse
13 to renew the license of any licensee convicted of any offense
14 enumerated in section 6 of P.L.1953, c.229 (C.45:15-19.1) during
15 the term of the last license issued by the commission unless the
16 conviction was previously the subject of a revocation proceeding.
17 [New] Renewed licenses may be granted for each ensuing year
18 upon request of licensees and the payment of the [annual] full fee
19 therefor as herein required. Upon application and payment of the
20 fees provided herein, initial licenses and licenses reinstated
21 pursuant to R.S.45:15-9 may be issued, but the commission, may,
22 in its discretion, refuse to grant or reinstate any [new] license
23 upon sufficient cause being shown. The license fees for initial or
24 reinstated licenses shall be determined based upon the annual
25 fees established herein, with a full annual fee payable for the
26 license year in which application is received. The revocation or
27 suspension of a broker's license shall automatically suspend every
28 real estate [salesman's] broker-salesperson's and salesperson's
29 license granted to employees of the broker whose license has
30 been revoked or suspended, pending a change of employer and the
31 issuance of a new license. The new license shall be issued
32 without additional charge, if the same is granted during the
33 license year in which the original license was granted.

34 A real estate broker who maintains a main office or branch
35 office licensed by the commission which is located in another
36 state shall maintain a valid real estate broker's license in good
37 standing in the state where the office is located and shall
38 maintain a real estate license in that other state for each office
39 licensed by the commission. Upon request, the real estate broker
40 shall provide a certification of his license status in the other
41 state to the commission. Any license issued by the commission to
42 a real estate broker for a main or branch office located outside
43 this State shall be automatically suspended upon the revocation,
44 suspension or refusal to renew the real estate broker's license
45 issued by the state where the office is located. The licenses
46 issued by the commission to every broker-salesperson or
47 salesperson employed by the broker shall be automatically
48 suspended pending a change of employer and the issuance of a
49 new license. The new license shall be issued without additional
50 charge if granted during the license term in which the original
51 license was granted.

52 (cf: P.L.1983, c.532, s.6)

53 18. R.S.45:15-16 is amended to read as follows:

54 45:15-16. No real estate ~~[salesman]~~ salesperson or

1 broker-salesperson shall accept a commission or valuable
2 consideration for the performance of any of the acts herein
3 specified, from any person except his employer, who must be a
4 licensed real estate broker.

5 (cf: R.S.45:15-16)

6 19. Section 1 of P.L.1955, c.238 (C.45:15-16.2) is amended to
7 read as follows:

8 1. The Division of the New Jersey Real Estate Commission in
9 the State Department of [Banking and] Insurance, within the
10 limits of appropriations available or to be made available to it for
11 the purpose, may conduct educational and information programs
12 relating to the real estate brokerage business and real estate
13 brokers, broker-salespersons and [salesmen] salespersons for the
14 information, education, guidance and protection of the general
15 public, licensees, and applicants for [license] licensure. The
16 educational and information programs may include preparation,
17 printing and distribution of publications and articles and the
18 conduct of conferences, forums, lectures, and a public
19 information service.

20 (cf: P.L.1955, c.238, s.1)

21 20. R.S.45:15-17 is amended to read as follows:

22 45:15-17. The commission may, upon its own motion, and shall,
23 upon the verified complaint in writing of any person, investigate
24 the actions of any real estate broker, broker-salesperson or [real
25 estate] salesperson, or any person who assumes, advertises or
26 represents himself as being authorized to act as a real estate
27 broker, broker-salesperson or salesperson or engages in any of the
28 activities described in R.S.45:15-3 [of this article] without being
29 licensed so to do. The lapse or suspension of a license by
30 operation of law or the voluntary surrender of a license by a
31 licensee shall not deprive the commission of jurisdiction to
32 proceed with any investigation as herein provided or prevent the
33 commission from taking any regulatory action against such
34 licensee, provided, however, that the alleged charges arose while
35 said licensee was duly licensed. Each transaction shall be
36 construed as a separate offense.

37 In conducting investigations, the commission may take
38 testimony by deposition as provided in R.S.45:15-18, require or
39 permit any person to file a statement in writing, under oath or
40 otherwise as the commission determines, as to all the facts and
41 circumstances concerning the matter under investigation, and,
42 upon its own motion or upon the request of any party, subpoena
43 witnesses, compel their attendance, take evidence, and require
44 the production of any material which is relevant to the
45 investigation, including any and all records of a licensee
46 pertaining to his activities as a real estate broker,
47 broker-salesperson or salesperson. The commission may also
48 require the provision of any information concerning the
49 existence, description, nature, custody, condition and location of
50 any books, documents, or other tangible material and the identity
51 and location of persons having knowledge of relevant facts of any
52 other matter reasonably calculated to lead to the discovery of
53 material evidence. Upon failure to obey a subpoena or to answer
54 questions posed by an investigator or legal representative of the

1 commission and upon reasonable notice to all affected persons,
2 the commission may commence an administrative action as
3 provided below or apply to the Superior Court for an order
4 compelling compliance.

5 The commission may place on probation, suspend for a period
6 less than the unexpired portion of the license period, or may
7 revoke any license issued under the provisions of this article, or
8 the right of licensure when such person is no longer the holder of
9 a license at the time of hearing, or may impose, in addition or as
10 an alternative to such probation, revocation or suspension, a
11 penalty of not more than \$5,000 for the first violation, and a
12 penalty of not more than \$10,000 for any subsequent violation,
13 which penalty shall be sued for and recovered by and in the name
14 of the commission and shall be collected and enforced by
15 summary proceedings pursuant to "the penalty enforcement law"
16 (N.J.S.2A:58-1 et seq.), where the licensee or any person, in
17 performing or attempting to perform any of the acts mentioned
18 herein, is deemed to be guilty of:

19 a. Making any false promises or any substantial
20 misrepresentation; or

21 b. Acting for more than one party in a transaction without the
22 knowledge of all parties thereto; or

23 c. Pursuing a flagrant and continued course of
24 misrepresentation or making of false promises through agents,
25 broker-salespersons or salespersons, advertisements or otherwise;
26 or

27 d. Failure to account for or to pay over any moneys belonging
28 to others, coming into the possession of the licensee; or

29 e. Any conduct which demonstrates unworthiness,
30 incompetency, bad faith or dishonesty. The failure of any person
31 to cooperate with the commission in the performance of its
32 duties or to comply with a subpoena issued by the commission
33 compelling the production of materials in the course of an
34 investigation, or the failure to give a verbal or written statement
35 concerning a matter under investigation may be construed as
36 conduct demonstrating unworthiness; or

37 f. Failure to provide his client with a fully executed copy of
38 any sale or exclusive sales or rental listing contract at the time
39 of execution thereof, [and] or failure to specify therein a definite
40 terminal date which terminal date shall not be subject to any
41 qualifying terms or conditions; or

42 g. Using any plan, scheme or method for the sale or promotion
43 of the sale of real estate which involves a lottery, a contest, a
44 game, a prize, a drawing, or the offering of a lot or parcel or lots
45 or parcels for advertising purposes; or

46 h. Being convicted of a crime, knowledge of which the
47 commission did not have at the time of last issuing a real estate
48 license to the licensee; or

49 i. Collecting a commission as a real estate broker in a
50 transaction, when at the same time representing either party in a
51 transaction in a different capacity for a consideration; or

52 j. Using any trade name or insignia of membership in any real
53 estate organization of which the licensee is not a member; or

54 k. Paying any rebate, profit, compensation or commission to

- 1 anyone not possessed of a real estate license; or
- 2 l. Any other conduct, whether of the same or a different
3 character than specified in this section, which constitutes fraud
4 or dishonest dealing; or
- 5 m. Accepting a commission or valuable consideration as a real
6 estate broker-salesperson or salesperson for the performance of
7 any of the acts specified in this act, from any person, except his
8 employing broker, who must be a licensed broker; or
- 9 n. Procuring a real estate license, for himself or anyone else,
10 by fraud, misrepresentation or deceit; or
- 11 o. Commingling the money or other property of his principals
12 with his own or failure to maintain and deposit in a special
13 account, separate and apart from personal or other business
14 accounts, all moneys received by a real estate broker, acting in
15 said capacity, or as escrow agent, or the temporary custodian of
16 the funds of others, in a real estate transaction; or
- 17 p. Selling property in the ownership of which he is interested
18 in any manner whatsoever, unless he first discloses to the
19 purchaser in the contract of sale his interest therein and his
20 status as a real estate broker, broker-salesperson or [real estate]
21 salesperson; or
- 22 q. Purchasing any property unless he first discloses to the
23 seller in the contract of sale his status as a real estate broker,
24 broker-salesperson or [real estate] salesperson; or
- 25 r. Charging or accepting any fee, commission or compensation
26 in exchange for providing information on purportedly available
27 rental housing, including lists of such units supplied verbally or in
28 written form, before a lease has been executed or, where no lease
29 is drawn, before the tenant has taken possession of the premises
30 without complying with all applicable rules promulgated by the
31 commission regulating these practices; or
- 32 s. Failing to notify the commission within 30 days of having
33 been convicted of any crime, misdemeanor or disorderly persons
34 offense, or of having been indicted, or of the filing of any formal
35 criminal charges, or of the suspension or revocation of any real
36 estate license issued by another state, or of the initiation of
37 formal disciplinary proceedings in another state affecting any
38 real estate license held, or failing to supply any documentation
39 available to the licensee that the commission may request in
40 connection with such matter; or
- 41 [r. For the] t. The violation of any of the provisions of this
42 article or of the administrative rules adopted by the
43 [commissioner] commission pursuant to the provisions of this
44 article. The commission is expressly vested with the power and
45 authority to make, prescribe and enforce any and all rules and
46 regulations for the conduct of the real estate brokerage business
47 consistent with the provisions of [this act] chapter 15 of Title 45
48 of the Revised Statutes.
- 49 If a licensee is deemed to be guilty of a third violation of any
50 of the provisions of this section, whether of the same provision or
51 of separate provisions, the commission may deem that person a
52 repeat offender, in which event the commission may direct that
53 no license as a [real estate salesperson or] real estate broker,
54 broker-salesperson or salesperson shall henceforth be issued to

1 that person.

2 (cf: P.L.1989, c.126, s.3)

3 21. (New section) A person whose license has been revoked
4 pursuant to R.S.45:15-17 or section 6 of P.L.1953, c.229
5 (C.45:15-19.1) shall not be a general partner, officer, director or
6 owner, either directly or indirectly, of a controlling interest in a
7 licensed partnership, limited partnership or corporation, nor shall
8 the person be retained or employed in any capacity, or
9 compensated in any manner by a licensee, nor shall the person
10 occupy or share office space in a licensed office location for any
11 purpose during the period of revocation.

12 22. (New section) Upon the revocation of the license issued to
13 any partner, officer, director or owner of a controlling interest in
14 any licensed partnership, limited partnership or corporation, the
15 commission shall revoke the license of the partnership or
16 corporation unless, within a period fixed by the commission, the
17 following conditions are fulfilled: a. in the case of a partnership,
18 the connection of the partner whose license has been revoked to
19 the licensee shall be severed and his interest in the licensee shall
20 be divested; b. in the case of a corporation, the officer, director
21 or owner of a controlling interest whose license has been revoked
22 shall be terminated from the position and, where an owner of a
23 controlling interest, his ownership of the interest shall be
24 divested; or c. in the case of a limited partnership, if the person
25 whose license has been revoked is the general partner, the
26 connection of that person to the licensee shall be severed and his
27 interest in the licensee shall be divested or, if the person whose
28 license was revoked is a limited partner, his interest in the
29 licensee shall be divested if it constituted a controlling interest
30 as defined herein. For the purposes of this section, the term
31 "controlling interest" means 5% or more of the equity of a
32 licensed corporation or of the ownership of a partnership.

33 23. (New section) The commission may, on its own motion,
34 enter an order temporarily suspending the license of any licensee
35 upon making a finding that prima facie evidence exists that the
36 licensee has violated subsection d. or subsection o. of
37 R.S.45:15-17. At least 24 hours prior to entering the order, the
38 commission shall give notice to the licensee of the application for
39 the order and shall provide the licensee with an opportunity to be
40 heard. The notice may be given either by telephone or in writing
41 and may be served personally or sent by certified mail to the last
42 known business address of the licensee.

43 When the commission orders the temporary suspension of a
44 license, it shall advise the licensee of the date upon which the
45 commission shall hold an evidentiary hearing on the violations
46 upon which the temporary suspension is based, which date shall be
47 no more than 30 days following the date of the order entering the
48 temporary suspension.

49 24. (New section) Upon entering an order temporarily
50 suspending the license of any broker, the commission may also
51 enter an order directing that some or all of the accounts
52 maintained by the broker in any depository institution in the
53 State be temporarily frozen. The commission shall serve copies
54 of the order upon the institution either in person or by certified

1 mail within ten days and, where a broker's trust or escrow
2 account is frozen, upon all persons known to the commission for
3 whom the broker was acting as escrow agent or trustee. In the
4 event the commission subsequently determines that the
5 suspension shall not be continued, it shall immediately notify the
6 depository institution and other interested parties that the
7 temporary freeze order is dissolved. If the commission orders
8 that the license suspension shall continue for more than 30 days
9 or that a license revocation shall be imposed, the commission
10 shall, within 10 days of that ruling, make application to Superior
11 Court for payment into the court of all funds in the accounts
12 temporarily frozen by order of the commission. The commission
13 shall provide notice of the application to the broker and all known
14 interested parties. Following payment into court, the monies or
15 any portion of them shall thereafter only be released upon court
16 order obtained by the broker or other interested party, upon
17 notice to the commission and in compliance with court rules.

18 25. R.S.45:15-18 is amended to read as follows:

19 45:15-18. [The] With the exception of a temporary suspension
20 imposed by the commission pursuant to section 23 of P.L.....
21 c. (C.) (now pending before the Legislature as this bill),
22 the commission shall, before suspending or revoking any license,
23 and at least ten days prior to the date set for the hearing, notify
24 in writing the licensee of any charges made, and afford him an
25 opportunity to be heard in person or by counsel. Such written
26 notice may be served either personally or sent by [registered]
27 certified mail to the last known business address of the licensee.
28 If the licensee is a [salesman] broker-salesperson or salesperson,
29 the commission shall also notify the broker employing him,
30 specifying the charges made against such [salesman] licensee, by
31 sending a notice thereof by [registered] certified mail to the
32 broker's last known business address. The commission shall have
33 power to [subpoena and] bring before it any licensee or any person
34 in this State [,] pursuant to subpoena served personally or by
35 certified mail; or the commission may take testimony by
36 deposition [,] in the same manner as prescribed by law in judicial
37 proceedings in the courts of this State. Any final decision or
38 determination of the commission shall be reviewable by the
39 Appellate Division of the Superior Court [by a proceeding in lieu
40 of prerogative writ].

41 (cf: P.L.1953, c.43, s.73)

42 26. R.S.45:15-19 is amended to read as follows:

43 45:15-19. Any unlawful act or violation of any of the
44 provisions of this article, by any real estate [salesman]
45 broker-salesperson or salesperson, shall not be cause for the
46 revocation of any real estate broker's license, unless it shall
47 appear to the satisfaction of the commission that the real estate
48 broker employing such [salesman] licensee had guilty knowledge
49 thereof.

50 (cf: R.S.45:15-19)

51 27. Section 6 of P.L.1953, c.229 (C.45:15-19.1) is amended to
52 read as follows:

53 6. When, during the term of any license issued by the
54 commission, the licensee shall be convicted in a court of

1 competent jurisdiction in the State of New Jersey or any state
2 (including federal courts) of forgery, burglary, robbery, any theft
3 [and] or related offense with the exception of shoplifting,
4 criminal conspiracy to defraud, or other like offense or offenses,
5 or any crime involving, related to or arising out of the licensee's
6 activities as a real estate broker, broker-salesperson or [real
7 estate] salesperson, and a duly certified or exemplified copy of
8 the judgment of conviction shall be obtained by the commission,
9 the commission shall revoke forthwith the license by it
10 theretofore issued to the licensee so convicted.

11 (cf: P.L.1989, c.126, s.4)

12 28. Section 7 of P.L.1953, c.229 (C.45:15-19.2) is amended to
13 read as follows:

14 7. In the event that any licensee shall be indicted in the State
15 of New Jersey or any state or territory (including federal courts)
16 for murder, kidnapping, aggravated sexual assault, robbery,
17 burglary, arson, any theft offense, bribery, racketeering,
18 distribution of a controlled dangerous substance or conspiracy to
19 distribute a controlled dangerous substance, forgery, criminal
20 conspiracy to defraud, or other like offense or offenses, or any
21 crime involving, related to or arising out of the licensee's
22 activities as a real estate broker, broker-salesperson or
23 salesperson, and a certified copy of the indictment is obtained by
24 the commission, or other proper evidence thereof be to it given,
25 the commission shall have authority, in its discretion, to suspend
26 the license issued to such licensee pending trial upon such
27 indictment.

28 (cf: P.L.1989, c.126, s.5)

29 29. R.S.45:15-20 is amended to read as follows:

30 45:15-20. A nonresident may become a real estate broker,
31 broker-salesperson or [real estate salesman] salesperson by
32 conforming to all of the provisions of this article. [Any
33 nonresident real estate broker regularly engaged in the real
34 estate business as a vocation maintaining a definite place of
35 business in another State, and who has been licensed as a real
36 estate salesman or broker for a period of 2 years or more in such
37 State, which offers the same privileges to licensed brokers of this
38 State, shall, by reason of such foreign license and upon payment
39 of the license fee fixed by this article, be authorized to transact
40 the business of a real estate broker in this State during the period
41 for which his original license shall be in force.

42 Any nonresident real estate salesman licensed as such in
43 another State may, from year to year, upon payment of the
44 license fee fixed by this article, be licensed to transact the
45 business of a real estate salesman in this State, when such other
46 State offers the same privileges to licensed real estate salesmen
47 of this State. Such license may be issued and shall remain in
48 effect only under the following conditions:

49 a. During the period such salesman is regularly engaged in the
50 real estate business as a vocation in the employ of a licensed real
51 estate broker of another State;

52 b. During the period said employing real estate broker
53 maintains a definite place of business in such other State;

54 c. During the period such real estate broker is licensed as a

1 nonresident real estate broker in this State;

2 d. During the period such salesman continues to be licensed as
3 a salesman in the office of such real estate broker in such other
4 State or of another licensed real estate broker in another State
5 who is licensed as a nonresident real estate broker in this State.

6 All nonresident licenses issued by the commission shall be on a
7 special form distinguishable from licenses issued to resident
8 brokers and salesmen, and shall show the name and address of the
9 licensee and shall have imprinted thereon the seal of the
10 commission and shall contain such other matter as shall be
11 prescribed by the commission] All nonresident licenses issued by
12 the commission prior to July 1, 1994 may be renewed upon
13 payment of the renewal fees established pursuant to
14 R.S.45:15-15. All nonresident licenses so renewed shall be issued
15 by the commission in the same form as a resident license. In the
16 event that any person to whom a nonresident license is issued
17 fails to maintain or renew the license or to obtain a new license
18 from the commission for a period of two or more consecutive
19 years, the person shall be required to fulfill the requirements for
20 initial licensure established pursuant to R.S.45:15-9 prior to the
21 issuance of any further license.

22 A licensed broker whose main office is not located within this
23 State shall only provide brokerage services concerning real estate
24 located within this State either personally or through persons in
25 the broker's employ who are the holders of real estate
26 broker-salesperson or salesperson licenses issued by the
27 commission. In the event that a broker maintains one or more
28 branch offices in this State, no person shall engage in the business
29 of a real estate broker, broker-salesperson or salesperson at
30 those offices unless the person is a holder of a license issued by
31 the commission authorizing him to do so.

32 (cf: P.L.1961, c.88, s.3)

33 30. R.S.45:15-21 is amended to read as follows:

34 45:15-21. Every [nonresident] applicant for a license whose
35 business address is outside this State shall file an irrevocable
36 consent that suits and actions may be commenced against such
37 applicant by the commission or by any person in any of the courts
38 of record of this State, by the service of any process or pleading
39 authorized by the laws of this state, in any county in which the
40 plaintiff may reside, by serving the same on the secretary of the
41 commission, said consent stipulating and agreeing that such
42 service of such process or pleadings on said secretary shall be
43 taken and held in all courts to be as valid and binding as if due
44 service had been made personally upon the applicant in this
45 state. This consent shall be duly acknowledged, and, if made by a
46 corporation, shall be authenticated by its seal. [An application]
47 The consent from a corporation shall be accompanied by a duly
48 certified copy of the resolution of the board of directors,
49 authorizing the proper officers to execute it. In all cases where
50 process or pleadings shall be served, under the provisions of this
51 article, upon the secretary of the commission, such process or
52 pleadings shall be served in duplicate, one of which shall be filed
53 in the office of the commission and the other shall be forwarded
54 immediately by the secretary of the commission, by registered

1 mail, to the last known business address of the [nonresident]
2 licensee against which such process or pleadings are directed.

3 Every licensee whose business address is outside this State
4 shall, by acceptance of a license for that out-of-state address,
5 automatically and irrevocably consent to the commissions's
6 jurisdiction over and investigative authority regarding the
7 licensed business premises, and all records and conduct of the
8 licensee both within and outside of the State. The licensee shall
9 also automatically and irrevocably consent that service of any
10 pleading or subpoena issued by the secretary of the commission
11 pursuant to R.S.45:15-17 or R.S.45:15-18 which is delivered by
12 certified mail to the licensee's last known address, shall
13 constitute valid and binding service of the subpoena or pleading
14 upon the licensee as if service had been made personally upon the
15 licensee in this State.

16 (cf: R.S.45:15-21)

17 31. Section 6 of P.L.1948, c.88 (C.45:15-29.1) is amended to
18 read as follows:

19 6. Such employees of the New Jersey Real Estate Commission,
20 as the Commissioner of [Banking and] Insurance may determine
21 are needed for the proper performance of the work of the division
22 of the New Jersey Real Estate Commission in the Department of
23 [Banking and] Insurance, are hereby transferred to the
24 Department of [Banking and] Insurance. Persons so transferred
25 shall be assigned to such duties as the Commissioner of [Banking
26 and] Insurance shall determine.

27 (cf: P.L.1948, c.88, s.6)

28 32. Section 9 of P.L.1948, c.88 (C.45:15-29.3) is amended to
29 read as follows:

30 9. The orders, rules and regulations heretofore made or
31 promulgated by the New Jersey Real Estate Commission shall
32 continue with full force and effect until amended or repealed by
33 the New Jersey Real Estate Commission constituted hereunder as
34 the Division of the New Jersey Real Estate Commission in the
35 Department of [Banking and] Insurance.

36 (cf: P.L.1948, c.88, s.9)

37 33. Section 10 of P.L.1948, c.88 (C.45:15-29.4) is amended to
38 read as follows:

39 10. Whenever the term "New Jersey Real Estate Commission"
40 occurs or any reference is made thereto, in any law, contract or
41 document, the same shall be deemed to mean or refer to the New
42 Jersey Real Estate Commission constituted hereunder as the
43 Division of the New Jersey Real Estate Commission in the
44 Department of [Banking and] Insurance.

45 (cf: P.L.1948, c.88, s.10)

46 34. Section 11 of P.L.1948, c.88 (C.45:15-29.5) is amended to
47 read as follows:

48 11. This act shall not affect actions or proceedings, civil or
49 criminal, brought by or against the New Jersey Real Estate
50 Commission and pending on the effective date of this act, and
51 such actions or proceedings may be prosecuted or defended in the
52 same manner and to the same effect by the New Jersey Real
53 Estate Commission constituted hereunder as the Division of the
54 New Jersey Real Estate Commission in the Department of

1 [Banking and] Insurance as if the foregoing provisions had not
2 taken effect; nor shall any of the foregoing provisions affect any
3 order or recommendation made by, or other matters or
4 proceedings before, the New Jersey Real Estate Commission; and
5 all such matters or proceedings pending before the New Jersey
6 Real Estate Commission on the effective date of this act shall be
7 continued by the New Jersey Real Estate Commission constituted
8 hereunder as the Division of the New Jersey Real Estate
9 Commission in the Department of [Banking and] Insurance.
10 (cf: P.L.1948, c.88, s.11)

11 35. Section 1 of P.L.1976, c.112 (C.45:15-34) is amended to
12 read as follows:

13 1. A real estate guaranty fund is established as a special trust
14 fund to be maintained by the State Treasurer and administered by
15 the New Jersey Real Estate Commission in accordance with the
16 provisions of this act to provide a fund from which recovery may
17 be obtained by any person aggrieved by the embezzlement,
18 conversion or unlawful obtaining of money or property in a real
19 estate brokerage transaction by a licensed real estate broker,
20 broker-salesperson or [real estate salesman] salesperson or an
21 unlicensed employee of a real estate broker; provided, however,
22 that the amount of such recovery [to be obtained by any person
23 shall not exceed \$10,000.00 for each claim filed] shall not exceed
24 in the aggregate the sum of \$10,000 in connection with any one
25 transaction regardless of the number of claims, persons
26 aggrieved, or parcels of, or interests in real estate involved in the
27 transaction. The maximum amount recoverable per transaction
28 shall be increased to \$20,000 for claims filed on the basis of
29 causes of action which accrue after the effective date of P.L.....,
30 c... (C....) (now pending before the Legislature as this bill).

31 (cf: P.L.1976, c.112, s.1)

32 36. Section 2 of P.L.1976, c.112 (C.45:15-35) is amended to
33 read as follows:

34 2. Upon the initial issuance [or first renewal on and after the
35 effective date of this act] of an annual license as a real estate
36 broker, broker-salesperson or [real estate salesman] salesperson
37 the licensee shall pay to the commission, in addition to the
38 license fee fixed by R.S.45:15-15, an additional amount to be
39 forwarded by the commission to the State Treasurer and
40 accounted for and credited by him to the real estate guaranty
41 fund. The additional amount payable by a broker or
42 broker-salesperson shall be [\$10.00] \$20 and by a [salesman]
43 salesperson, [\$5.00] \$10.

44 (cf: P.L.1976, c.112, s.2)

45 37. Section 4 of P.L.1976, c.112 (C.45:15-37) is amended to
46 read as follows:

47 4. No claim shall be made for payment from the real estate
48 guaranty fund except upon the reduction to final judgment, which
49 shall include reasonable attorney fees and costs, of a civil action
50 against the broker, broker-salesperson or [salesman] salesperson
51 or unlicensed employee of a broker, [the issuance of a writ of
52 execution thereon and its return unsatisfied in whole or in part]
53 and, where the judgment creditor has pursued all available
54 remedies, made all reasonable searches, and has been unable to

1 satisfy the judgment from the licensee's assets, the entry of a
2 court order [directing] which directs the Real Estate Commission
3 to make payment from the fund. No such order shall authorize a
4 payment to the spouse or personal representative of the spouse of
5 the judgment debtor.

6 No order shall be entered unless the claimant, either at the
7 time of filing the civil action or thereafter, files a certification
8 affirming that a criminal complaint alleging the misappropriation
9 of funds by the broker, broker-salesperson, salesperson or
10 unlicensed employee has been filed with a law enforcement
11 agency of this State or of a county or municipality in this State.
12 The criminal complaint shall refer to the same conduct to which
13 reference is made in the civil action as forming the basis for a
14 claim against the real estate guaranty fund. The certification
15 shall specify the date on which the criminal complaint was filed
16 and the law enforcement agency with which it was filed. A copy
17 of the certification shall be provided to the Real Estate
18 Commission upon its being filed. The requirement to file a
19 certification shall apply prospectively only to claims seeking
20 reimbursement from the fund filed on the basis of causes of
21 action which accrue after the effective date of P.L., c....
22 (C....) (now pending before the Legislature as this bill).

23 Upon delivery by the Real Estate Commission to the State
24 Treasurer of a certified copy of the court order together with an
25 assignment to the Real Estate Commission of the judgment
26 creditor's right, title and interest in the judgment to the extent
27 of the amount of the court order, the State Treasurer shall make
28 payment to the claimant from the real estate guaranty fund.
29 (cf: P.L.1976, c.112, s.4)

30 38. Section 6 of P.L.1976, c.112 (C.45:15-39) is amended to
31 read as follows:

32 6. Any person to whom is issued a license to be a real estate
33 broker, broker-salesperson or [salesman] salesperson shall, by the
34 securing of said license, make and constitute the [Commissioner
35 of Insurance] secretary of the commission or the person in charge
36 of the office of the commission as agent for the acceptance of
37 process in any civil proceeding hereunder.

38 (cf: P.L.1976, c.112, s.6)

39 39. Section 7 of P.L.1976, c.112 (C.45:15-40) is amended to
40 read as follows:

41 7. a. If at any time the funds available in the real estate
42 guaranty fund are insufficient to satisfy in full court orders for
43 payment therefrom, payment shall be made in the order in which
44 such court orders were issued; and the Real Estate Commission
45 shall by regulation impose further additional amounts to be paid
46 by brokers, broker-salespersons and [salesmen] salespersons to
47 replenish the guaranty fund. No such additional amount assessed
48 at any one time shall exceed the amounts specified in section 2 of
49 this act.

50 b. If at any time the funds available in the real estate
51 guaranty fund are, in the opinion of the Real Estate Commission,
52 in excess of amounts anticipated to be necessary to meet claims
53 for a period of at least 2 years, the commission may, with the
54 approval of the Commissioner of Insurance, allocate and receive

1 from the guaranty fund a specified amount thereof for research
2 and educational projects to increase the proficiency and
3 competency of real estate [brokers and salesmen] licensees.

4 (cf: P.L.1976, c.112, s.7)

5 40. Section 8 of P.L.1976, c.112 (C.45:15-41) is amended to
6 read as follows:

7 8. Upon the issuance of a court order for payment from the
8 real estate guaranty fund the license of the broker,
9 broker-salesperson or [salesman] salesperson, whose acts gave
10 rise to the claim, shall be revoked and no such broker,
11 broker-salesperson or [salesman] salesperson shall be eligible for
12 reinstatement of his license until he shall have satisfied the
13 judgment in full including reimbursement of the real estate
14 guaranty fund together with interest.

15 (cf: P.L.1976, c.112, s.8)

16 41. (New section) Any person who, before a lease has been
17 fully executed or, where no lease is drawn, before possession is
18 taken by the tenant, charges or accepts any fee, commission or
19 compensation in exchange for providing assistance in locating
20 rental housing, including providing written lists or telephone
21 information on purportedly available rental units, without being
22 licensed pursuant to this act shall be a disorderly person and shall
23 be subject to a fine of not less than \$200 or to imprisonment for
24 not more than 30 days or both.

25 The provisions of this section shall not be construed to prohibit
26 a licensed real estate broker, or an owner of rental properties or
27 his agents and employees, from requiring the payment of a
28 deposit to reserve a particular unit or from charging and
29 accepting a fee for processing an application to rent an
30 apartment or for performing a credit check or other investigation
31 upon prospective tenants prior to the execution of a lease or the
32 taking of possession of a rental unit by a prospective tenant.

33 42. (New section) a. Every individual, partnership or
34 corporation licensed as a real estate broker shall maintain in a
35 State or federally chartered bank, savings bank, savings and loan
36 association or other depository institution physically located and
37 authorized to transact business in this State and approved by the
38 commission a special account into which the broker shall deposit
39 and maintain all monies received while acting in the capacity of a
40 real estate broker, or as escrow agent, or as the temporary
41 custodian of funds of others in real estate transactions in this
42 State. The account shall be maintained in the name in which the
43 individual, partnership or corporation is licensed to do business as
44 a broker and shall be designated as either the broker's "trust
45 account" or "escrow account" and shall be maintained separate
46 and apart from all other personal and business accounts. All
47 checks and deposit slips produced as a result of the establishment
48 of the account shall contain the words "trust account" or "escrow
49 account." The provisions of this subsection shall not apply to an
50 individual licensed as a broker-salesperson.

51 b. A real estate broker may establish a special interest bearing
52 escrow account under the broker's control in a depository
53 institution approved by the commission for the deposit of monies
54 from a specific transaction provided the account is clearly

1 identified as pertaining to that transaction. Such accounts shall
2 be maintained separate and apart from all other escrow, business
3 and personal funds.

4 43. (New section) The commission shall approve a depository
5 institution as required pursuant to section 42 of this amendatory
6 and supplementary act upon the institution providing written
7 confirmation to the commission that it shall immediately notify
8 the commission of any issuance of a notice to a licensed broker
9 that a check or other instrument written upon the broker's
10 escrow or trust account has been dishonored or returned for
11 insufficient funds.

12 44. (New section) A real estate broker acting in the capacity
13 of an escrow agent or as the temporary custodian of the funds of
14 others in any real estate transaction shall not receive, obtain or
15 use any interest earned on the funds for the broker's own
16 personal or business use.

17 45. (New section) Every real estate licensee who, in the
18 performance of any of the activities described in R.S.45:15-3,
19 receives any monies of others as a representative of a broker
20 acting as an escrow agent or as the temporary custodian of the
21 funds of others in a real estate transaction, shall only accept the
22 monies if they are in the form of cash or a negotiable instrument
23 payable to the broker through whom the individual is licensed.
24 The licensee shall, immediately upon receipt of the funds,
25 account for and deliver the funds to the broker for deposit into
26 the escrow or trust account maintained by the broker, or for such
27 other disposition as is required by the escrow agreement under
28 the terms of which the funds were provided to the licensee.

29 46. (New section) There is established within the Division of
30 the New Jersey Real Estate Commission in the Department of
31 Insurance a Bureau of Real Estate Education which shall be
32 responsible for the licensure of real estate pre-licensure schools
33 and instructors.

34 47. (New section) a. No school shall conduct real estate
35 education courses, the attendance and successful completion of
36 which shall constitute the fulfillment of the educational
37 prerequisites for licensure established pursuant to section 1 of
38 P.L.1966, c.227 (C.45:15-10.1) unless licensed as a real estate
39 school pursuant to P.L....., c.... (C....) (now pending before the
40 Legislature as this bill).

41 b. A school shall not be licensed as a real estate school unless
42 its owners, management and facilities meet all of the
43 qualifications for licensure established pursuant to this
44 amendatory and supplementary act and which the commission
45 may by regulation prescribe. An applicant for a license to
46 operate a real estate school, and in the case of a partnership or
47 corporation the members, officers, directors and owners of a
48 controlling interest thereof, shall affirmatively demonstrate their
49 good moral character to the commission. The commission may
50 make such investigation and require such proof as it deems proper
51 and in the public interest as to the honesty, trustworthiness,
52 character and integrity of an applicant.

53 48. (New section) a. No person, with the exception of a guest
54 lecturer, may teach real estate education courses, the attendance

1 and successful completion of which shall constitute the
2 fulfillment of the educational prerequisites for licensure
3 established pursuant to section 1 of P.L.1966, c.227
4 (C.45:15-10.1) unless licensed as a real estate instructor pursuant
5 to this amendatory and supplementary act.

6 b. A person shall not be licensed as a real estate instructor
7 unless the person affirmatively demonstrates to the commission
8 his good moral character, successfully completes a real estate
9 instructor course approved by the commission, successfully
10 completes a written examination conducted under the auspices of
11 the commission, and meets all other qualifications as the
12 commission may prescribe by regulation.

13 49. (New section) a. Every application for licensure as a real
14 estate school shall be accompanied by an application fee of \$50
15 and a criminal history record check fee for all individual owners,
16 members of a partnership, or officers, directors and owners of a
17 controlling interest in a corporation, which fees shall be
18 non-refundable.

19 b. All licenses issued to real estate schools shall expire on a
20 date fixed by the commission which date shall not be more than
21 two years from the date of issuance of the license. The license
22 fee for each real estate school license issued in the first 12
23 months of any two year real estate school license term
24 established by the commission shall be \$200 for the first location
25 and \$100 for each additional location licensed. The license fee
26 for each real estate school license issued in the second 12 months
27 of any two year real estate school license term established by the
28 commission shall be \$100 for the first location and \$50 for each
29 additional location licensed. The fee for the renewal of each real
30 estate school license for an additional two year license term shall
31 be \$200 for the first location and \$100 for each additional
32 location.

33 c. Any accredited college or university located in this State or
34 any public adult education program conducted by a board of
35 education in this State which otherwise qualifies for licensure as
36 a real estate school shall be issued a license without the payment
37 of any license or license renewal fee.

38 50. (New section) Every application for licensure as a real
39 estate instructor shall be accompanied by an application fee of
40 \$25 and a criminal history record check fee, which fees shall be
41 non-refundable. All licenses issued to real estate instructors
42 shall expire on a date fixed by the commission which shall be no
43 more than two years from the date of issuance of the license.
44 The license fee for each real estate instructor license issued in
45 the first 12 months of any two year real estate instructor license
46 term established by the commission shall be \$100 and the fee for
47 an instructor license issued in the second 12 months of the cycle
48 shall be \$50. The fee for the renewal of each real estate
49 instructor license for an additional two year license term shall be
50 \$50. Upon payment of the renewal fee and the submission of
51 evidence of satisfactory completion of any continuing education
52 requirements which the commission may by regulation prescribe,
53 the commission shall renew the license of a real estate instructor
54 for a two year period.

1 51. (New section) A school shall not be licensed as a real
2 estate school unless it is under the management and supervision
3 of a director who is approved by the commission and who is
4 licensed as a real estate instructor in accordance with the
5 provisions of this act. In the event of the death or mental or
6 physical incapacity of the director of a licensed real estate
7 school, which leaves no other owner or employee of the school
8 licensed as a real estate instructor and willing to assume the
9 responsibilities of the director on an interim or permanent basis,
10 the commission may issue temporary authorization to another
11 person to enable that person to carry on the duties of the director
12 until such time as either another licensed instructor is designated
13 by the school and approved by the commission as the director, or
14 until such time as the real estate courses in progress at the time
15 of the former director's death or incapacity are completed. A
16 school shall not commence any new real estate courses until a
17 qualified licensee is designated and approved as the school's
18 director.

19 The provisions of this section shall not apply to any public adult
20 education program conducted under the auspices of a board of
21 education in this State or any accredited college or university
22 licensed as real estate schools.

23 52. (New section) No public adult education program
24 conducted under the auspices of a board of education in this State
25 and no accredited college or university in this State shall be
26 licensed as a real estate school unless its real estate
27 pre-licensure education program is under the supervision of a
28 director who is a licensed real estate instructor or an individual
29 who has affirmatively demonstrated to the commission his good
30 moral character and has attended a real estate instructor course
31 approved by the commission within two years of applying to the
32 commission for approval as the director of the real estate
33 program. In the event of the death or physical or mental
34 incapacity of the director of a public adult education program or
35 the director of a college or university licensed as a real estate
36 school, which leaves no other employee licensed as a real estate
37 instructor or otherwise qualified to be the director of the
38 program and willing to assume the responsibilities of the director
39 on an interim or permanent basis, the commission may issue a
40 temporary authorization to another person to enable that person
41 to carry on the duties of the director until such time as either
42 another licensed instructor or qualified person is designated by
43 the school and approved by the commission as the director, or
44 until such time as the real estate courses in progress at the time
45 of the former director's death or incapacity are completed. New
46 courses shall not be commenced by the school until a qualified
47 person is designated and approved as the director of the school.

48 53. (New section) Upon application to the commission and
49 payment of the prescribed license fee no later than January 1,
50 1994, any school and instructor then designated by the
51 commission as an approved school or instructor shall, subject to
52 the results of the commission's investigation into the good moral
53 character of the applicant, be issued a real estate school or
54 instructor license.

1 54. (New section) The commission may suspend or revoke the
2 license of any real estate school or instructor or impose fines as
3 provided in R.S.45:15-17 upon satisfactory proof that the licensee
4 is guilty of:

5 a. Making any false promise or substantial misrepresentation;

6 b. Pursuing a flagrant and continued course of
7 misrepresentation or making false promises through agents,
8 advertisements or otherwise;

9 c. Engaging in any conduct which demonstrates unworthiness,
10 incompetency, bad faith or dishonesty;

11 d. Failing to provide a student with a copy of a written
12 agreement which designates the total tuition charges for
13 attendance at a real estate pre-licensure course offered by a
14 licensed school, or other charges imposed upon students who
15 enroll in the course, and the refund policy of the school in regard
16 to tuition and other charges;

17 e. Using any plan, scheme or method of attracting students to
18 enroll in a real estate pre-licensure course which involves a
19 lottery, contest, game, prize or drawing;

20 f. Being convicted of a crime, knowledge of which the
21 commission did not have at the time of last issuing a license to
22 the licensee;

23 g. Procuring a real estate license for himself or anyone else by
24 fraud, misrepresentation or deceit;

25 h. Making any verbal or written statement which falsely
26 indicates that a person attended or successfully completed any
27 real estate pre-licensure course conducted by the licensee; or

28 i. Any other conduct whether of the same or of a different
29 character than specified in this section which constitutes fraud or
30 dishonest dealing.

31 55. (New section) A person whose license has been revoked
32 pursuant to section 54 of P.L....., c.... (C....) (now pending before
33 the Legislature as this bill) shall not be a general partner, officer,
34 director or owner, either directly or indirectly, of a controlling
35 interest in any licensed school, nor shall the person be retained or
36 employed in any capacity, or compensated in any manner by a
37 licensed school, nor shall the person occupy or share office space
38 in a licensed school location for any purpose during the period of
39 revocation.

40 56. (New section) Upon the revocation of the instructor
41 license issued to any partner, officer, director or owner of a
42 controlling interest in any licensed school, the commission shall
43 revoke the license of the school unless, within a period of time
44 fixed by the commission, the following conditions are fulfilled:
45 a. in the case of a licensed school owned by a partnership, the
46 connection of the partner whose instructor license has been
47 revoked to the school shall be severed and his interest in the
48 school shall be divested; or b. in the case of a licensed school
49 owned by a corporation, the officer, director or owner of a
50 controlling interest whose instructor license has been revoked
51 shall be terminated from the position and, where an owner of a
52 controlling interest, his ownership of the interest shall be
53 divested; or c. in the case of a limited partnership, if the person
54 whose instructor license has been revoked was a general partner,

1 his interest in the school shall be divested or, if the person whose
2 instructor license was revoked was a limited partner, his interest
3 in the school shall be divested if it constituted a controlling
4 interest as defined herein. For the purposes of this section, the
5 term "controlling interest" means 5% or more of the equity of a
6 licensed corporation or of the ownership of a partnership.

7 57. (New section) The commission is expressly vested with the
8 power and authority to promulgate and enforce all necessary
9 rules and regulations for the conduct of the business of real
10 estate schools offering pre-licensure and continuing education
11 courses consistent with the provisions of this amendatory and
12 supplementary act.

13 58. R.S.45:15-22 is repealed.

14 59. This act shall take effect 90 days following enactment
15 except that sections 4, 7, 8, 9, 10, 11, 13, 15, 16, 17, 29, 30, 46,
16 47, 48, 49, 50, 51, 52, 54, 55, and 56 shall remain inoperative until
17 July 1, 1994.

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20 *SPONSORS'* STATEMENT

21

22 This bill revises statutory law regarding the licensing and
23 regulation of real estate brokers, broker-salespersons and
24 salespersons, which is administered by the New Jersey Real
25 Estate Commission. The bill also imposes new fees, increases
26 miscellaneous fees, and creates a Bureau of Real Estate
27 Education in the Division of the Real Estate Commission. The
28 bill makes no changes to present licensing fees.

29 This bill adds the category of broker-salesperson to the current
30 licensing statute, which category already exists pursuant to
31 regulation. The bill increases the experience necessary to obtain
32 a license as a broker or broker-salesperson from two years to
33 three. The educational requirements for an applicant for
34 licensure as a broker or broker-salesperson increase from 90
35 hours to 150 hours of courses in real estate, which shall include
36 30 hours on ethics. The bill also increases the requirements to
37 requalify for a broker's or broker-salesperson's license after the
38 license has not been renewed for a certain period of time.

39 Under the provisions of the bill, nonresident brokers are
40 licensed in the same manner as in-State brokers and the
41 commission has jurisdiction and investigative authority regarding
42 the licensed business premises and all records and conduct of the
43 licensees both within and outside of the State.

44 There are numerous provisions in the bill concerning money
45 deposited by the consumer with a broker. Further, the amount of
46 coverage provided by the Real Estate Guaranty Fund is increased
47 from \$10,000 to \$20,000 per person.

48 In order to ensure the quality of real estate education, a
49 Bureau of Real Estate Education in the Division of the Real
50 Estate Commission is created to license real estate schools and
51 instructors. To be an instructor, a person is required to
52 successfully complete a real estate instructor course and
53 examination and to complete any continuing education
54 requirements established by the commission for renewal of an

1 instructor's license. Currently, such schools and instructors are
2 approved, but not licensed, by the commission.

3 The bill establishes licensing fees in connection with the
4 licensing of real estate schools and instructors and raises various
5 fees, including those for late renewals of licenses, branch offices
6 and changes of address. The bill also specifies fines and penalties
7 for various offenses.

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12 _____
13 Revises statutory law in regard to the licensing and regulation of
real estate brokers and salespersons.

ASSEMBLY COMMERCE AND REGULATED
PROFESSIONS COMMITTEE

STATEMENT TO

ASSEMBLY, No. 1347

STATE OF NEW JERSEY

DATED: OCTOBER 1, 1992

The Assembly Commerce and Regulated Professions Committee reports favorably Assembly Bill No. 1347.

This bill revises statutory law regarding the licensing and regulation of real estate brokers, broker-salespersons and salespersons, which is administered by the New Jersey Real Estate Commission. The bill also imposes new fees, increases miscellaneous fees, and creates a Bureau of Real Estate Education in the Division of the Real Estate Commission. The bill makes no changes to present licensing fees.

This bill adds the category of broker-salesperson to the current licensing statute, which category already exists pursuant to regulation. The bill increases the experience necessary to obtain a license as a broker or broker-salesperson from two years to three. The educational requirements for an applicant for licensure as a broker or broker-salesperson increase from 90 hours to 150 hours of courses in real estate, which shall include 30 hours on ethics. The bill also increases the requirements to requalify for a broker's or broker-salesperson's license after the license has not been renewed for a certain period of time.

Under the provisions of the bill, nonresident brokers are licensed in the same manner as in-State brokers and the commission has jurisdiction and investigative authority regarding the licensed business premises and all records and conduct of the licensees both within and outside of the State.

There are numerous provisions in the bill concerning money deposited by the consumer with a broker. Further, the amount of coverage provided by the Real Estate Guaranty Fund is increased from \$10,000 to \$20,000 per person.

In order to ensure the quality of real estate education, a Bureau of Real Estate Education in the Division of the Real Estate Commission is created to license real estate schools and instructors. To be an instructor, a person is required to successfully complete a real estate instructor course and examination and to complete any continuing education requirements established by the commission for renewal of an instructor's license. Currently, such schools and instructors are approved, but not licensed, by the commission.

The bill establishes licensing fees in connection with the licensing of real estate schools and instructors and raises various fees, including those for late renewals of licenses, branch offices and changes of address. The bill also specifies fines and penalties for various offenses.

SENATE COMMERCE COMMITTEE

STATEMENT TO

ASSEMBLY, No. 1347

STATE OF NEW JERSEY

DATED: JANUARY 25, 1993

The Senate Commerce Committee reports favorably Assembly Bill No. 1347.

This bill revises statutory law in regard to the licensing and regulation of real estate brokers, broker-salespersons and salespersons. These licensees are regulated by the New Jersey Real Estate Commission. Although this bill adds the category of broker-salesperson to the current licensing statute, that category already exists pursuant to regulation. Broker-salespersons are often brokers who have stopped operating their own real estate business to become salespersons. They are persons who are qualified to be licensed as brokers but are employed instead as a real estate salesperson and supervised by a broker.

The experience necessary to obtain a license as a broker or broker-salesperson is increased by providing that the applicant must have held a New Jersey real estate salesperson license and have been actively engaged on a full-time basis in the real estate brokerage business in this State for three years immediately preceding the date of application instead of the current requirement of an apprenticeship of two full years as a duly licensed real estate salesperson.

The educational requirements for applicants for licensure as a real estate salesperson remain the same, but the educational requirements for applicants for licensure as a broker or broker-salesperson increase from 90 hours to 150 hours of courses in real estate, which shall include 30 hours on ethics instead of the current statutory requirement of three hours.

The bill increases the requirements to requalify for a broker's or broker-salesperson's license after it has not been renewed for a certain period of time. If a broker or broker-salesperson fails to renew his license for more than two years but less than five years, he would be required to: work as a licensed salesperson on a full-time basis for one full year; successfully complete a 90-hour general broker's pre-licensure course; and pass an examination. If a broker or broker-salesperson fails to renew his license for more than five years, he would be required to: pass a salesperson's license examination; work as a licensed salesperson on a full-time basis for three years; fulfill all the education requirements to become a broker or broker-salesperson; and pass the broker's licensing examination. Except in regard to passing the broker's examination, the commission may exempt licensees from these requirements if they have been medically unable to renew their licenses.

Provisions concerning nonresident brokers are modified to provide that they are licensed in a similar manner as in-State brokers and that the commission would have jurisdiction and investigative authority regarding the licensed business premises and all records and conduct of the licensees both within and outside of the State.

There are numerous provisions in the bill designed to protect the consumer and the monies he deposits with a broker. If evidence exists that a broker has failed to account for, or pay over monies belonging to others, or has commingled the monies or other property of his principals with his own, or has failed to deposit these monies in separate trust or escrow accounts, the commission may, with proper notice, enter an order temporarily suspending the broker's license and may enter an order directing that some or all of the accounts maintained by the broker in any depository institution in the State be temporarily frozen.

In addition, each trust or escrow account must be maintained in a State or federally chartered bank, savings bank, savings and loan association or other depository institution physically located in New Jersey and approved by the commission. The commission must approve a depository institution if the institution provides written confirmation to the commission that it will immediately notify the commission of any issuance of a notice to a licensed broker that a check or other instrument written upon the broker's trust or escrow account has been dishonored or returned for insufficient funds. No interest on such trust or escrow accounts may be used by the broker for his own use.

Further, the amount of coverage provided by the Real Estate Guaranty Fund is increased from \$10,000 to \$20,000. The fund reimburses consumers for losses when a broker, broker-salesperson, salesperson, or unlicensed employee of a broker misappropriates monies of others involved in a real estate transaction. The fund is supported by assessments on brokers, broker-salespersons and salespersons. Before collecting from the fund, a claimant must pursue all available remedies to recover the monies lost and must file a criminal complaint with a law enforcement agency alleging the misappropriation of funds by the broker, broker-salesperson, salesperson or unlicensed employee.

All licensees have an affirmative obligation to report any criminal offenses charged against them or convictions of a criminal offense or whether their real estate licenses have been suspended or revoked in any jurisdiction during the term of any license. Failure of a licensee to do so would, in itself, constitute grounds for the imposition of sanctions by the commission.

Licensees who charge or accept any fee for providing information on purportedly available rental housing, including lists of such housing, before a lease has been executed or, if no lease is drawn, before the tenant has taken possession of the premises, without complying with all applicable rules promulgated by the commission regulating these practices, would be subject to sanctions by the commission. In addition, any person, other than a broker, broker-salesperson or salesperson, who charges or accepts a fee for providing information on purportedly available rental

housing, including lists of such housing, before a lease has been executed or, if no lease is drawn, before the tenant has taken possession of the premises, is a disorderly person and subject to a fine of not less than \$200 or to imprisonment for not more than 30 days, or both.

In the same way that a broker is barred from bringing suit under current law for the collection of commissions from a client if he was not licensed at the time the alleged cause of action arose, the bill prohibits a broker-salesperson or salesperson from bringing suit claiming compensation against anyone other than the broker who employed him and only if he was licensed at the time the alleged cause of action arose.

The bill provides that every real estate broker must maintain a designated office open to the public and may have one or more branch offices which must be under the direct supervision of a broker-salesperson. These offices must be licensed by the commission whether they are in-State or out-of-State and the broker must maintain a broker's license in the state in which the out-of-State offices are located.

In order to insure the quality of real estate education, a Bureau of Real Estate Education in the Division of the Real Estate Commission is created to license real estate schools and instructors. To be an instructor, a person is required to successfully complete a real estate instructor course and examination and to complete any continuing education requirements established by the commission for renewal of an instructor's license. The provisions of the bill concerning the licensing of schools and instructors become effective on July 1, 1994, and any school or instructor which makes application at least six months prior to that effective date and is an approved school or instructor would be grandfathered as a licensed school or instructor. Currently, such schools and instructors are approved, but not licensed, by the commission.

The bill establishes licensing fees in connection with the licensing of real estate schools and instructors and raises various miscellaneous fees, including those for late renewals of licenses, branch offices and changes of address.

The bill makes several technical changes such as changing the statute to reflect that there are two public members on the commission. These two public members were mandated by another law.

The bill repeals R.S.45:15-22. That section requires the commission to provide a list of licensees to all county clerks. It appears that provision is a historical anomaly that mainly creates unnecessary paper work. Information about real estate licensees is readily available by phone contact with the commission.

LEGISLATIVE FISCAL ESTIMATE TO
ASSEMBLY, No. 1347

STATE OF NEW JERSEY

DATED: March 3, 1993

Assembly Bill No. 1347 of 1992 revises statutory law regarding the licensing and regulation of real estate brokers, broker-salespersons and salespersons by the New Jersey Real Estate Commission. The bill imposes new fees, increases miscellaneous application fees, and creates a Bureau of Real Estate Education in the Division of the Real Estate Commission. The bill establishes licensing fees in connection with the licensing of real estate schools and instructors and raises various fees, including those for late renewals of licenses, branch offices and changes of address. The bill also specifies fines and penalties for various offenses.

The Department of the Treasury, Office of Management and Budget and the Department of Insurance have not provided a formal estimate regarding the fiscal impact of the bill. A representative from the department's Management and Budget Office estimated, however, that approximately an additional \$500,000 would be raised as a result of the various fee increases, fines and penalties included in the bill's provisions. The department representative also indicated that additional staff would not be needed to implement the bill's provisions and that costs needed to upgrade the computer system to accommodate the changes necessitated by the bill's provisions would be absorbed in the funds allocated for the Office of Telecommunications and Information Systems (OTIS) budget.

The Office of Legislative Services (OLS) concurs with the above revenue and expenditure estimates provided by the department representative and notes that in FY 1993 the anticipated revenue for the Real Estate Commission is expected to be between \$3.4 and \$3.6 million. If the additional \$500,000 referenced above is raised and is not needed for operations of the Real Estate Commission, the \$500,000 would be deposited into the General Fund and applied to State operations.

This legislative fiscal estimate has been produced by the Office of Legislative Services due to the failure of the Executive Branch to respond to our request for a fiscal note.

This fiscal estimate has been prepared pursuant to P.L.1980, c.67.