

45:15-5

LEGISLATIVE HISTORY CHECKLIST

(Real estate brokers and salesmen license requirements)

RMSA 45:15-5 et al

LAWS OF 1977

CHAPTER 331

Bill No. A292

Sponsor(s) Spizziri

Date Introduced Pre-filed

Committee: Assembly Commerce, Banking & Insurance

Senate Labor, Industry & Professions

Amended during passage Yes xix

Amendments during passage denoted by asterisks

Date of Passage: Assembly April 21, 1977

Senate Sept. 29, 1977

Date of approval Jan. 11, 1978

Following statements are attached if available:

Sponsor statement Yes ~~No~~

Committee Statement: Assembly Yes ~~No~~

Senate Yes ~~No~~

Fiscal Note Yes ~~No~~

Veto Message Yes ~~No~~

Message on signing Yes ~~No~~

Following were printed:

Reports Yes ~~No~~

Hearings Yes ~~No~~

MAY 1978

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[THIRD OFFICIAL COPY REPRINT]
ASSEMBLY, No. 292

STATE OF NEW JERSEY

PRE-FILED FOR INTRODUCTION IN THE 1976 SESSION

By Assemblymen SPIZZIRI and ORECHIO

AN ACT concerning the licensing of real estate brokers and salesmen and amending R. S. 45:15-5, 45:15-9, 45:15-10, 45:15-11, 45:15-17 and P. L. 1966, c. 227, s. 1 (C. 45:15-10.1).

1 BE IT ENACTED by the Senate and General Assembly of the State
2 of New Jersey:

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

2 45:15-5. The New Jersey Real Estate Commission, hereinafter
3 in this article designated as the "commission," created and estab-
4 lished by an act entitled "An act to define, regulate and license
5 real estate brokers and salesmen, to create a State real estate
6 commission and to provide penalties for the violation of the provi-
7 sions hereof," approved April 5, 1921 (P. L. 1921, c. 141, p. 370),
8 as amended by an act approved April 23, 1929 (P. L. 1929, c. 168,
9 p. 310), is continued. The commission shall constitute the division
10 of the New Jersey Real Estate Commission in the Department of
11 **[Banking and] Insurance**. The commission shall consist of ***[five]***
12 **seven** members, **appointed by the Governor pursuant to the*
13 *provisions of P. L. 1971, c. 60 (C. 45:1-1 et seq.),** each of whom
14 shall have been a resident of this State for a period of at least 10
15 years***[**, and his vocation for a period of at least 10 years prior to
16 the date of his appointment shall have been that of a real estate
17 broker**]** **five members shall have been real estate brokers for a*
18 *period of at least 10 years; one member shall be a public member,*
19 *and one member shall be a representative of an appropriate de-*
20 *partment. The department representative shall serve at the*

EXPLANATION—Matter enclosed in bold-faced brackets **[thus]** in the above bill is not enacted and is intended to be omitted in the law.

21 *pleasure of the Governor**. Upon the expiration of the term of
 22 office of any **other** member, his successor shall be appointed by
 23 the Governor for a term of 3 years. **A majority of the voting*
 24 *members of the commission shall constitute a quorum thereof.**
 25 Each member shall hold his office until his successor has qualified.
 26 Members to fill vacancies shall be appointed by the Governor for
 27 the unexpired term. The Governor may remove any commissioner
 28 for cause, upon notice and opportunity to be heard.

1 2. R. S. 45:15-9 is amended to read as follows:

2 45:15-9. All persons desiring to become real estate brokers or
 3 real estate salesmen shall apply to the commission for a license
 4 under the provisions of this article. Every applicant for a license
 5 as a broker *or salesman* shall be of the age of **[21]** 18 years or over
 6 and a citizen of the United States, and in the case of an associa-
 7 tion or a corporation the directors thereof shall be of the age of
 8 **[21]** 18 years or over and citizens of the United States. Applica-
 9 tion for a license, whether as a real estate broker or a real estate
 10 salesman, shall be made to the commission upon forms prescribed
 11 by it and shall be accompanied by a fee of \$10.00 which *fee* shall
 12 not be refundable. Every applicant for a license as a broker shall
 13 have the equivalent of a high school education and every applicant
 14 for a license as a real estate salesman shall have the equivalent
 15 of an eighth grade school education. *The issuance of a license to*
 16 *an applicant who is a nonresident of this State shall be deemed to*
 17 *be his irrevocable consent that service of process upon him as a*
 18 *licensee in any action or proceeding may be made upon him by*
 19 *service upon the secretary of the commission or the person in*
 20 *charge of the office of the commission.* The applicant shall furnish
 21 evidence of good moral character, and in the case of an associa-
 22 tion, *partnership* or corporation, the *members, officers or directors*
 23 thereof shall furnish evidence of good moral character. *The*
 24 *commission may make such investigation and require such proof*
 25 *as it deems proper and in the public interest as to the honesty,*
 26 *trustworthiness, character and integrity of an applicant.* Every
 27 such application shall be on file with the commission at least 10
 28 days prior to the granting of a license, *except in the case of record*
 29 *changes.* Every applicant for a license as a broker shall have first
 30 served an apprenticeship of **[2]** **[3]** *2* full years as a duly
 31 licensed real estate salesman in this State immediately preceding
 32 the date of application *which requirement may be waived by the*
 33 *commission where the applicant has been the holder of a broker's*
 34 *license in another state for at least* **[2]** **[3]** *2* years immediately

35 *preceding the date of his application, meets the educational require-*
 36 *ments and qualifies by examination. No license as broker shall be*
 37 *granted to a partnership or corporation unless at least one of the*
 38 *partners or officers of said partnership or corporation qualifies as*
 39 *and holds a license as a broker* [.] *to transact business in the name*
 40 *and on behalf of said partnership or corporation as its authorized*
 41 *broker and no such authorized broker shall act as a broker on his*
 42 *own individual account unless he is also licensed as a broker in his*
 43 *individual name; the license of said partnership or corporation*
 44 *shall cease if at least one partner or officer does not hold a license*
 45 *as* [a] *its authorized broker at all times* [; and no person shall
 46 *transact business in the name and behalf of a corporation duly*
 47 *licensed as a broker unless he shall hold a license as a broker or*
 48 *salesman which permits him to act for such corporation*]. *A change*
 49 *in the status of the license of an authorized broker to an individual*
 50 *capacity or vice versa shall be effected by application to the com-*
 51 *mission accompanied by a fee of \$5.00.*

52 In event that any person to whom a broker's license has been
 53 or shall have been issued shall fail to renew such license or obtain
 54 a new license for a period of 3 consecutive years or more after
 55 the expiration of [such] *the last* license, the commission may
 56 require such person to serve the same apprenticeship [and], to
 57 pass an examination [and] *to attend school or to comply with any*
 58 *number of the same conditions on application for a broker's license*
 59 *as if he had never had [such] a broker's license issued to him or,*
 60 *in lieu thereof, the commission may grant the former licensee a*
 61 *salesman's license with or without examination.*

62 *In event that any person to whom a salesman's license has been*
 63 *or shall have been issued shall fail to renew such license or obtain*
 64 *a new license for a period of 5 consecutive years or more after the*
 65 *expiration of the last license, the commission may require such*
 66 *person to attend school and pass an examination, or either thereof,*
 67 *prior to issuance of a further license.*

1 3. R. S. 45:15-10 is amended to read as follows:

2 45:15-10. Before any such license shall be granted the applicant,
 3 and in the case of [an] *a partnership, association or corporation*
 4 *the partners, directors or officers thereof actually engaged in the*
 5 *real estate business as a broker and salesman, shall submit to an*
 6 *examination to be conducted [by] under the supervision of the com-*
 7 *mission which examination may be written or oral, or partly written*
 8 *and partly oral, and shall include reading, writing, spelling,*
 9 *elementary arithmetic, a general knowledge of the statutes of New*

10 Jersey concerning real property, conveyancing, mortgages, agree-
 11 ments of sale **[and]**, leases and of the provisions of this article
 12 *and the rules and regulations of the commission*. The commission
 13 may make rules and regulations for the conduct of such examina-
 14 tions. Upon satisfactorily passing such examination *and other*
 15 *qualifications* a license shall be granted by the commission to the
 16 successful applicant therefor as a real estate broker or a real estate
 17 salesman, and the applicant upon receiving the license is authorized
 18 to conduct in this State the business of a real estate broker or
 19 of a real estate salesman, as the case may be. Such license shall
 20 expire on the last day of the twelfth calendar month following the
 21 calendar month in which issued; provided, however, the commis-
 22 sion may, in order to stagger the expiration dates of licenses, issue
 23 or renew licenses which shall expire on a date fixed by the com-
 24 mission, with the approval of the Commissioner of Insurance,
 25 not sooner than 5 months nor later than 17 months, after the date
 26 of issue, and the fee for such licenses shall be in amounts propor-
 27 tionately less or greater than the fee fixed in R. S. 45:15-15; such
 28 license shall be renewed, without examination, annually thereafter,
 29 upon the payment of the fee fixed by R. S. 45:15-15.

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

3 1. A. As a prerequisite to admission to an examination, every
 4 individual applicant for license as a real estate salesman shall give
 5 evidence of **[30]** 45 hours satisfactory completion in the aggregate
 6 of such courses of education in real estate subjects at a school
 7 approved by the commission as the commission shall by regulation
 8 prescribe.

9 B. As a prerequisite to admission to an examination, every
 10 individual applicant for license as a real estate broker shall give
 11 evidence of **[42]** ***[120]*** *90* hours satisfactory completion in the
 12 aggregate of such courses of education in real estate ****and re-*
 13 *lated**** subjects*****[, sales psychology, business administration,**
 14 *and basic accounting]**** at **[a school approved by the commission**
 15 *as the commission shall by regulation prescribe]* ****a school ap-*
 16 *proved by the commission as the commission shall by regulation*
 17 *prescribe******[, * an accredited institution of higher education or**
 18 *by accredited certified instructors who have been certified by an*
 19 *institution of higher education or the New Jersey* **[Association**
 20 *of Realtor Boards]* **Real Estate Commission** to qualify to teach
 21 *the particular subject matter]****.

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

2 45:15-17. The commission may, upon its own motion, and shall,
3 upon the verified complaint in writing of any person, investigate
4 the actions of any real estate broker or real estate salesman, or
5 any person who assumes, *advertises or represents himself as being*
6 *authorized to act* [in either such capacity within this State; and
7 *the*] *as a real estate broker or salesman or engages in any of the*
8 *activities described in section 45:15-3 or this article without being*
9 *licensed so to do. The lapse or suspension of a license by opera-*
10 *tion of law or the voluntary surrender of a license by a licensee*
11 *shall not deprive the commission of jurisdiction to proceed with*
12 *any investigation as herein provided or prevent the commission*
13 *from taking any regulatory action against such licensee, provided,*
14 *however, that alleged charges arose while said licensee was duly*
15 *licensed. Each transaction shall be construed as a separate offense.*

16 *The commission may place on probation, suspend for a period*
17 *less than the unexpired portion of the license period, or may*
18 *revoke any license issued under the provisions of this article, or*
19 *the right of licensure when such person is no longer the holder of*
20 *a license at the time of hearing, or may impose, in addition or as*
21 *an alternative to such probation, revocation or suspension, a penalty*
22 *of not more than* [~~\$200.00~~] *\$1,000.00 for the first violation, and*
23 *a penalty of not more than* [~~\$500.00~~] *\$2,000.00 for* [a second viola-
24 *tion, and for*] *any subsequent violation* [a penalty of \$500.00],
25 *which penalty shall be sued for and recovered by and in the name*
26 *of the commission and shall be collected and enforced by summary*
27 *proceedings pursuant to the Penalty Enforcement Law (N. J. S.*
28 *2A:58-1 et seq.), where the licensee or any person, in performing*
29 *or attempting to perform any of the acts mentioned herein, is*
30 *deemed to be guilty of:*

31 a. Making any false promises or any substantial misrepresenta-
32 tion; or

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

35 c. Pursuing a flagrant and continued course of misrepresenta-
36 tion or making of false promises through agents, salesmen, adver-
37 tisements or otherwise; or

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

40 e. Any conduct which demonstrates unworthiness, incompetency,
41 bad faith or dishonesty; or

42 f. Failure to provide his client with a fully executed copy of any
43 sale or exclusive sales or rental listing contract at the time of

44 execution thereof, and failure to specify therein a definite terminal
45 date which terminal date shall not be subject to any qualifying
46 terms or conditions; or

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

51 h. Being convicted of a crime, knowledge of which the commis-
52 sion did not have at the time of last issuing a real estate license
53 to the licensee; or

54 i. Collecting a commission as a real estate broker in a transac-
55 tion, when at the same time representing either party in a trans-
56 action in a different capacity for a consideration **without full dis-*
57 *closure in writing**; or

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

60 k. Paying any rebate, profit, compensation or commission to
61 anyone not possessed of a real estate license; or

62 l. Any other conduct, whether of the same or a different character
63 than specified in this section, which constitutes fraud or dishonest
64 dealing; or

65 m. Accepting a commission or valuable consideration as a real
66 estate salesman for the performance of any of the acts specified
67 in this act, from any person, except his employing broker, who
68 must be a licensed broker; or

69 n. Procuring a real estate license, for himself or anyone else, by
70 fraud, misrepresentation or deceit; or

71 o. Commingling the money or other property of his principals
72 with his own or failure to maintain and deposit in a special account,
73 separate and apart from personal or other business accounts, all
74 moneys received by a real estate broker, acting in said capacity,
75 or as escrow agent, or the temporary custodian of the funds of
76 others, in a real estate transaction; or

77 p. Selling property in the ownership of which he is interested
78 in any manner whatsoever, unless he first discloses to the purchaser
79 his interest therein; or

80 q. For the violation of any of the provisions of this article.

81 The commission is expressly vested with the power and authority
82 to make, prescribe and enforce any and all rules and regulations
83 for the conduct of the real estate brokerage business consistent
84 with the provisions of this act.

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

2 45:15-11. Any citizen of New Jersey who has served in the
3 military or naval forces of the United States in any war, has been
4 honorably discharged, and who, having been wounded or disabled
5 in line of duty, has completed a program of courses in real estate
6 in any college or school approved by the Department of Education
7 of the State of New Jersey, and who has successfully passed an
8 examination conducted by said commission qualifying him to
9 operate as a real estate broker or a real estate salesman, may,
10 upon presentation of a certificate certifying that he has completed
11 such program of courses as aforesaid, obtain without cost from the
12 commission and **[without]** ***[with]*** **without** qualification
13 through apprenticeship, a license to operate as a real estate broker
14 or a real estate salesman, as the case may be, which licenses shall
15 be the same as other licenses issued under this article. **[New]**
16 *Renewal of licenses may be granted under this section for [each]*
17 **[2]* *each* ensuing [year] *[years]* *year**, upon request, with-
18 out annual fees therefor **[; thereafter the annual fee for renewal**
19 *of such license shall be paid]**.

1 7. Section 4 of this act shall take effect ******[July 1, 1976]******
2 ******July 1, 1978****** and the remainder of this act shall take effect
3 immediately.

16 may be granted under this section for **[each]** 2 ensuing **[year]**
17 *years*, upon request, without annual fees therefor; *thereafter the*
18 *annual fee for renewal of such license shall be paid.*

1 7. Section 4 of this act shall take effect July 1, 1976 and the
2 remainder of this act shall take effect immediately.

STATEMENT

This bill reduces the age from 21 to 18 years for applicants for a license as a real estate broker or salesman, and also increases the apprenticeship period for a broker's license from 2 to 3 years. The bill also increases educational requirements for applicants seeking to be licensed as brokers and salesmen. There is also an increase in penalties for certain violations of the statutes governing the real estate profession. Additionally, veterans seeking to be licensed hereunder will no longer be licensed without qualification through apprenticeship, nor will they receive a free license renewal after the expiration of the third year following original licensure.

ASSEMBLY COMMERCE, BANKING AND INSURANCE
COMMITTEE

STATEMENT TO
ASSEMBLY, No. 292

—•—
STATE OF NEW JERSEY
—•—

DATED: DECEMBER 6, 1976

This legislation amends the law governing the licensing of real estate brokers and salesmen, reducing the age limit from 21 to 18 years, and increases the apprenticeship period for a broker's license from 2 to 3 years. The bill would also increase the education requirements for a broker's license from 42 hours to 120 hours. Veterans who seek to be licensed would no longer be licensed without qualification through apprenticeship, nor would they receive a free license renewal after the expiration of the third year following original licensure.

The Commerce, Banking and Insurance Committee amendments to Assembly Bill No. 292 would retain the 2-year apprenticeship period for a broker's license instead of increasing the period to 3 years as contemplated by the bill. It would also retain the 2-year out-of-state license requirement for qualification as a holder of a New Jersey broker's license.

The amendments would also reduce the educational requirement for a broker's license proposed by this bill from 120 hours to 90 hours. The amendments delete the provision that courses and instructors be certified by the New Jersey Association of Realtor Boards, which is a trade association; and would permit courses to be taken at schools approved by an institution of higher education or by the New Jersey Real Estate Commission.

SENATE LABOR, INDUSTRY AND
PROFESSIONS COMMITTEE

STATEMENT TO
ASSEMBLY, No. 292

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with Senate committee amendments

STATE OF NEW JERSEY

DATED: SEPTEMBER 19, 1977

This legislation amends the law governing the licensing of real estate brokers and salesmen, reducing the age limit from 21 to 18 years, and increases the apprenticeship period for a broker's license from 2 to 3 years. The bill would also increase the education requirements for a broker's license from 42 hours to 120 hours. Veterans who seek to be licensed would no longer be licensed without qualification through apprenticeship, nor would they receive a free license renewal after the expiration of the third year following original licensure.

The Commerce, Banking and Insurance Committee amendments to Assembly Bill No. 292 would retain the 2-year apprenticeship period for a broker's license instead of increasing the period to 3 years as contemplated by the bill. It would also retain the 2-year out-of-state license requirement for qualification as a holder of a New Jersey broker's license.

The amendments would also reduce the educational requirement for a broker's license proposed by this bill from 120 hours to 90 hours. The amendments delete the provision that courses and instructors be certified by the New Jersey Association of Realtor Boards, which is a trade association; and would permit courses to be taken at schools approved by an institution of higher education or by the New Jersey Real Estate Commission.

The Senate Labor, Industry and Professions Committee further amended the bill to delete the specific requirements that the 90 hours of education include sales psychology, business administration, and basic accounting. The committee inserted the proviso, however, that courses related to real estate be included in any such educational program. The committee also amended the bill to allow only the Real Estate Commission to approve real estate schools.

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FROM THE OFFICE OF THE GOVERNOR

FOR IMMEDIATE RELEASE

FOR FURTHER INFORMATION

JANUARY 11, 1978

ANNE BURNS

Governor Brendan Byrne today signed A-292, sponsored by Assemblyman John Spizziri, which aids the licensing compliance powers of the New Jersey Real Estate Commission.

This legislation changes the law governing the licensing of real estate brokers and salesmen by increasing the existing educational requirements for salesmen from 30 to 45 hours, and for a broker from 42 to 90 hours.

To aid enforcement, the bill increases maximum fines from \$200 to \$1,000 for the first violation. Maximum fines for the second violation are increased from \$500 to \$2,000. In addition, this legislation authorizes the Commission to proceed with any investigation and take any necessary regulatory action against a broker or salesman who may have voluntarily surrendered his license or whose license may have lapsed provided any alleged charge arose while the broker or salesman was licensed.

Under this bill, the Commission can now require a broker who does not renew his license for three consecutive years to attend school or to comply with any number of the same conditions in application for a broker's license as if he never had a broker's license. The Commission will have the option to grant a broker who fails to renew his license for three years, a salesman's license without examination. Also, the Commission can require a salesman who does not renew his license for five consecutive years to attend school or pass an examination, or both, before issuing a license.

"In accordance with Senate Bill No. 1010, which I signed into law in November, I will appoint an additional public member to the Real Estate Commission for a total of two public members on the board," said the Governor.

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