

45:15-34 to 42

LEGISLATIVE HISTORY CHECKLIST

NJSA 45:15-34 to 45:15-42 (Real Estate Guaranty Fund)

Laws of 1976 Chapter 112

Bill No. S1068

Sponsor(s) Merlino

Date Introduced February 3, 1976

Committee: Assembly Commerce, Banking & Insurance

Senate Labor, Industry & Professions

Amended during passage Yes ~~No~~ Amendments during passage denoted by asterisks.

Date of passage: Assembly July 22, 1976

Senate April 29, 1976

Date of approval November 8, 1976

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~~

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**SENATE, No. 1068**

**STATE OF NEW JERSEY**

INTRODUCED FEBRUARY 3, 1976

By Senator MERLINO

Referred to Committee on Labor, Industry and Professions

AN ACT providing for the establishment and maintenance of a real estate guaranty fund, providing for payments thereto by real estate brokers and salesmen and for making claims against said fund.

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

1 1. A real estate guaranty fund is established as a special trust  
2 fund to be maintained by the State Treasurer and administered by  
3 the New Jersey Real Estate Commission in accordance with the  
4 provisions of this act to provide a fund from which recovery may  
5 be obtained by any person aggrieved by the embezzlement, con-  
6 version or unlawful obtaining of money or property by a licensed  
7 real estate broker or real estate salesman or an unlicensed em-  
8 ployee of a real estate broker\*; *provided, however, that the amount*  
9 *of such recovery to be obtained by any person shall not exceed*  
10 *\$10,000.00 for each claim filed\*.*

1 2. Upon the initial issuance or first renewal on and after the  
2 effective date of this act of an annual license as a real estate  
3 broker or real estate salesman the licensee shall pay to the com-  
4 mission, in addition to the license fee fixed by R. S. 45:15-15, an  
5 additional amount to be forwarded by the commission to the State  
6 Treasurer and accounted for and credited by him to the real estate  
7 guaranty fund. The additional amount payable by a broker shall  
8 be \$10.00 and by a salesman, \$5.00.

1 3. The State Treasurer shall hold, manage and through the  
2 Division of Investment, invest and reinvest funds of the real estate  
3 guaranty fund and credit all interest and other income earned  
4 thereon to the real estate guaranty fund in the same manner as  
5 provided by law with respect to investment of pension and retire-

6 ment funds administered by the State. The Real Estate Commis-  
7 sion shall keep the State Treasurer advised of the anticipated cash  
8 demands for payment of claims against the fund.

1 4. No claim shall be made for payment from the real estate  
2 guaranty fund except upon the reduction to final judgment, which  
3 shall include reasonable attorney fees and costs, of a civil action  
4 against the broker or salesman, the issuance of a writ of execution  
5 thereon and its return unsatisfied in whole or in part and a court  
6 order directing the Real Estate Commission to make payment from  
7 the fund. No such order shall authorize a payment to the spouse  
8 or personal representative of the spouse of the judgment debtor.

9 Upon delivery by the Real Estate Commission to the State  
10 Treasurer of a certified copy of the court order together with an  
11 assignment to the Real Estate Commission of the judgment  
12 creditor's right, title and interest in the judgment to the extent of  
13 the amount of the court order, the State Treasurer shall make  
14 payment to the claimant from the real estate guaranty fund.

1 5. Any civil action which may result in a court order for pay-  
2 ment from the real estate guaranty fund shall be instituted within  
3 2 years of the accrual of the cause of action and the New Jersey  
4 Real Estate Commission shall be joined as a necessary party to  
5 any such civil action. Nothing in this section shall affect the right  
6 of any aggrieved person to pursue other rights or remedies  
7 authorized by law.

1 6. Any person to whom is issued a license to be a real estate  
2 broker or salesman shall, by the securing of said license, make and  
3 constitute the Commissioner of Insurance as agent for the  
4 acceptance of process in any civil proceeding hereunder.

1 7. a. If at any time the funds available in the real estate guaranty  
2 fund are insufficient to satisfy in full court orders for payment  
3 therefrom, payment shall be made in the order in which such court  
4 orders were issued; and the Real Estate Commission shall by  
5 regulation impose further additional amounts to be paid by brokers  
6 and salesmen to replenish the guaranty fund. No such additional  
7 amount assessed at any one time shall exceed the amounts specified  
8 in section 2 of this act.

9 b. If at any time the funds available in the real estate guaranty  
10 fund are, in the opinion of the Real Estate Commission, in excess  
11 of amounts anticipated to be necessary to meet claims for a period  
12 of at least 2 years, the commission may, with the approval of the  
13 Commissioner of Insurance, allocate and receive from the guaranty  
14 fund a specified amount thereof for research and educational

15 projects to increase the proficiency and competency of real estate  
16 brokers and salesmen.

1 8. Upon the issuance of a court order for payment from the real  
2 estate guaranty fund the license of the broker or salesman, whose  
3 acts gave rise to the claim, shall be revoked and no such broker or  
4 salesman shall be eligible for reinstatement of his license until he  
5 shall have satisfied the judgment in full including reimbursement  
6 of the real estate guaranty fund together with interest.

1 9. The Real Estate Commission is authorized to issue rules and  
2 regulations to implement the provisions of this act.

1 10. This act shall take effect on the first day of the calendar  
2 month occurring not less than 60 days after enactment.

1 8. Upon the issuance of a court order for payment from the real  
2 estate guaranty fund the license of the broker or salesman, whose  
3 acts gave rise to the claim, shall be revoked and no such broker or  
4 salesman shall be eligible for reinstatement of his license until he  
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#### STATEMENT

This legislation is designed to assist a person who receives a valid judgment in any court of competent jurisdiction against a real estate broker or a real estate salesman for the return of moneys or property and said order is returned unsatisfied in whole or in part.

For instance, the licensee could have fled the jurisdiction and there are no assets the court could find to satisfy the judgment or when the licensee is present in the State without assets or the assets may not be sufficient to satisfy the judgment.

The person who has proven the claim has won the battle and lost the war . . . or more appropriate he has lost deposit money or property the licensee may have converted illegally.

This bill would assist these individuals to recover in full or part from the Real Estate Guaranty Fund.

The guarantee fund would be created by an assessment against the Real Estate Licensees:

\$10.00 per broker;

\$5.00 per salesman.

Presently there are 13,500 licensed brokers and 34,500 licensed salesmen in New Jersey. A fund of \$307,500 would be created under this bill.

ASSEMBLY COMMERCE, BANKING AND INSURANCE  
COMMITTEE

STATEMENT TO

**SENATE, No. 1068**

with Assembly committee amendments

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**STATE OF NEW JERSEY**

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DATED: MAY 27, 1976

This legislation establishes a Real Estate Guaranty Fund to be created by assessing real estate brokers in the amount of \$10.00 and real estate salesmen in the amount of \$5.00 upon the initial issuance or first renewal of a license after the effective date of the act. The fund would be maintained by the State Treasurer and administered by the New Jersey Real Estate Commission. The act provides for recovery from the fund for any person aggrieved by the embezzlement, conversion, or unlawful obtaining of money or property by a licensed real estate broker or real estate salesman or an unlicensed employee of a real estate broker.

An aggrieved party could recover from fund after a civil action against the broker or salesman resulted in an unsatisfied judgment and the court then ordered the Real Estate Guaranty Fund to pay. Any civil action which would result in a payment from the fund would have to be instituted within 2 years of the accrual of the cause of action, and the Real Estate Commission would be joined as a necessary party to the action.

The bill provides that any applicant for a real estate broker's or salesmen's license would be required to make the Commissioner of Insurance the agent for the service of process as a condition of receiving the license. Upon issuance of a court order for payment from the fund, the license of the broker or salesman whose acts gave rise to the claim would be revoked, and no such individual would be eligible for reinstatement of his license until the judgment was satisfied in full, including reimbursement of the Real Estate Guaranty Fund together with interest.

The bill also provides that if the Real Estate Guaranty Fund is insufficient to pay the claims against it, the Real Estate Commission may, by regulation, assess real estate brokers and salesmen further to replenish the fund.

The Assembly Commerce, Banking and Insurance Committee has amended this legislation to provide for a \$10,000.00 limitation on recovery for any one claim against the fund. The committee felt that such a limitation was necessary in view of the fact that the legislation does not differentiate between claims for residential property and for commercial and industrial property. A large claim in either of the two latter categories, the committee felt, could seriously deplete the fund.

SENATE LABOR, INDUSTRY AND  
PROFESSIONS COMMITTEE

STATEMENT TO

**SENATE, No. 1068**

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**STATE OF NEW JERSEY**

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DATED: MARCH 31, 1976

Senate Bill No. 1068 would establish a real estate guaranty fund as a special trust maintained by the State Treasurer and administered by the Real Estate Commission to compensate persons who have suffered financial loss because of the unscrupulous or unlawful acts of a licensed real estate salesman, broker, or broker's employee.

The fund would be financed by an additional \$10.00 for a broker's license and \$5.00 for a salesman's license first issued or first renewed after the effective date of the act.

The funds held by the Treasurer would be invested by the Division of Investments as are pension and retirement funds. Shortages in the fund would be covered by additional amounts determined by the commission to be paid by licensees, and anticipated excesses over 2 years would be used for research and educational projects for real estate brokers and salesmen.

Claims would be made after judicial settlement and upon court order to the Real Estate Commission.



FROM THE OFFICE OF THE GOVERNOR

FOR IMMEDIATE RELEASE

NOVEMBER 8, 1976

FOR FURTHER INFORMATION

KATHY FORSYTH

Governor Brendan Byrne signed a bill Monday establishing a Real Estate Guaranty Fund, which will be used to pay claims of up to \$10,000 brought by consumers who, through dealings with a licensed real estate broker or salesman, suffered a financial loss brought about by embezzlement, misappropriation or misuse of funds.

The bill, S-1068 was sponsored by Senator Joseph P. Merlino (D-Mercer).

The Real Estate Guaranty Fund will be maintained by the Department of the Treasury and administered by the Real Estate Commission. It will be created by assessing each licensed New Jersey real estate broker \$10 and each salesman \$5.

The bill also provides that upon payment of a consumer claim from the fund, the license of the broker or salesman involved will be revoked by the Real Estate Commission and will not be eligible for reinstatement until the amount of the claim is repaid with interest.