

45:15-3.2 & 45:15-19.3 LEGISLATIVE HISTORY CHECKLIST

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LAWS OF: 2018 **CHAPTER:** 71
NJSA: 45:15-3.2 & 45:15-19.3 (Concerns certain real estate licensees.)
BILL NO: S430 (Substituted for A2726)
SPONSOR(S) Pou, Nellie and others
DATE INTRODUCED: 1/9/2018
COMMITTEE: **ASSEMBLY:** Regulated Professions
 SENATE: Commerce
 Budget & Appropriations
AMENDED DURING PASSAGE: Yes
DATE OF PASSAGE: **ASSEMBLY:** 3/26/2018
 SENATE: 6/21/2018
DATE OF APPROVAL: 8/10/2018

FOLLOWING ARE ATTACHED IF AVAILABLE:

FINAL TEXT OF BILL (First Reprint enacted) Yes

S430

SPONSOR'S STATEMENT: (Begins on page 25 of introduced bill) Yes

COMMITTEE STATEMENT: **ASSEMBLY:** Yes Regulated Professions

SENATE: Yes Commerce
Budget & Appropriations

(Audio archived recordings of the committee meetings, corresponding to the date of the committee statement, *may possibly* be found at www.njleg.state.nj.us)

FLOOR AMENDMENT STATEMENT: No

LEGISLATIVE FISCAL ESTIMATE: Yes

A2726

SPONSOR'S STATEMENT: (Begins on page 25 of introduced bill) Yes

COMMITTEE STATEMENT: **ASSEMBLY:** Yes

SENATE: No

(Audio archived recordings of the committee meetings, corresponding to the date of the committee statement, *may possibly* be found at www.njleg.state.nj.us)

FLOOR AMENDMENT STATEMENT: No

LEGISLATIVE FISCAL ESTIMATE: Yes

(continued)

VETO MESSAGE:	No
GOVERNOR'S PRESS RELEASE ON SIGNING:	Yes
FOLLOWING WERE PRINTED:	
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CL/CL

§3 - C.45:15-3.2
§21 –
C.45:15-19.3
§29 - Note

P.L. 2018, CHAPTER 71, *approved August 10, 2018*
Senate, No. 430 (*First Reprint*)

1 AN ACT concerning certain real estate licensees, supplementing
2 chapter 15 of Title 45 of the Revised Statutes, and revising
3 various parts of the statutory law.

4

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

7

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 salesperson **[or referral agent]**, temporarily or otherwise, and no
12 person shall advertise or represent himself as being authorized to
13 act as a real estate broker, broker-salesperson, or salesperson **[or**
14 referral agent], or to engage in any of the activities described in
15 R.S.45:15-3, without being licensed so to do as hereinafter
16 provided.

17 (cf: P.L.2009, c.238, s.1)

18

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

20 45:15-3. A real estate broker, for the purposes of R.S.45:15-1
21 et seq., is defined to be a person, firm or corporation who, for a fee,
22 commission or other valuable consideration, or by reason of a
23 promise or reasonable expectation thereof, lists for sale, sells,
24 exchanges, buys or rents, or offers or attempts to negotiate a sale,
25 exchange, purchase or rental of real estate or an interest therein, or
26 collects or offers or attempts to collect rent for the use of real estate
27 or solicits for prospective purchasers or assists or directs in the
28 procuring of prospects or the negotiation or closing of any
29 transaction which does or is contemplated to result in the sale,
30 exchange, leasing, renting or auctioning of any real estate or
31 negotiates, or offers or attempts or agrees to negotiate a loan
32 secured or to be secured by mortgage or other encumbrance upon or
33 transfer of any real estate for others, or any person who, for
34 pecuniary gain or expectation of pecuniary gain conducts a public
35 or private competitive sale of lands or any interest in lands. In the
36 sale of lots pursuant to the provisions of R.S.45:15-1 et seq., the
37 term "real estate broker" shall also include any person, partnership,

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.

Matter enclosed in superscript numerals has been adopted as follows:

¹Senate SCM committee amendments adopted February 15, 2018.

1 association or corporation employed or contracted by or on behalf
2 of the owner or owners of lots or other parcels of real estate, at a
3 stated salary, or upon a commission, or upon a salary and
4 commission, or otherwise, to sell such real estate, or any parts
5 thereof, in lots or other parcels, and who shall sell or exchange, or
6 offer or attempt or agree to negotiate the sale or exchange, of any
7 such lot or parcel of real estate. A real estate broker shall also
8 include any person, firm, or corporation who supervises a real estate
9 referral company.

10 A real estate salesperson, for the purposes of R.S.45:15-1 et seq.,
11 is defined to be any natural person who, for compensation, valuable
12 consideration or commission, or other thing of value, or by reason
13 of a promise or reasonable expectation thereof, is employed or
14 contracted by and operates under the supervision of a licensed real
15 estate broker to sell or offer to sell, buy or offer to buy or negotiate
16 the purchase, sale or exchange of real estate, or offers or attempts to
17 negotiate a loan secured or to be secured by a mortgage or other
18 encumbrance upon or transfer of real estate, or to lease or rent, or
19 offer to lease or rent any real estate for others, or to collect rents for
20 the use of real estate, or to solicit for prospective purchasers or
21 lessees of real estate, or who is employed or contracted by a
22 licensed real estate broker to sell or offer to sell lots or other parcels
23 of real estate, at a stated salary, or upon a commission, or upon a
24 salary and commission, or otherwise to sell real estate, or any parts
25 thereof, in lots or other parcels, or in the case of a salesperson
26 licensed with a real estate referral company refers prospective
27 consumers of real estate brokerage services to a particular broker.
28 For the purposes of R.S.45:15-1 et seq., the definition of real estate
29 salesperson shall include a salesperson licensed with a real estate
30 referral company unless otherwise indicated.

31 A real estate broker-salesperson, for the purposes of R.S.45:15-1
32 et seq., is defined to be any natural person who is qualified to be
33 licensed as a real estate broker but who, for compensation, valuable
34 consideration or commission, or other thing of value, or by reason
35 of a promise or reasonable expectation thereof, is employed or
36 contracted by and operates under the supervision of a licensed real
37 estate broker to perform the functions of a real estate salesperson as
38 defined herein.

39 A real estate **【referral agent】** salesperson licensed with a real
40 estate referral company, for the purposes of R.S.45:15-1 et seq., is
41 defined to be any natural person employed or contracted by and
42 operating under the supervision of a licensed real estate broker
43 through a real estate referral company whose real estate brokerage-
44 related activities are limited to referring prospects for the sale,
45 purchase, exchange, leasing or rental of real estate or an interest
46 therein. **【Referral agent licensees】** Salespersons licensed with a
47 real estate referral company shall only refer such prospects to the
48 real estate broker who supervises the real estate referral company

1 through whom they are licensed **【as a referral agent】** and shall only
2 accept compensation for their activity **【as a referral agent】** from
3 that broker. A **【referral agent】** salesperson licensed with a real
4 estate referral company shall not be employed or contracted by or
5 licensed with more than one real estate broker or real estate referral
6 company at any given time. No **【person】** salesperson licensed with
7 a real estate referral company may simultaneously be licensed as a
8 **【referral agent and a】** real estate broker**【,】** or broker-salesperson
9 **【or salesperson】** and no **【person】** salesperson licensed **【as a**
10 **referral agent】** with a real estate referral company may engage in
11 the business of a real estate broker**【,】** or broker-salesperson **【or**
12 **salesperson】** to an extent beyond that authorized by their status as a
13 licensed **【real estate agent】** salesperson.

14 A real estate referral company, for the purposes of R.S.45:15-1 et
15 seq., is defined to be a business entity established and supervised by
16 a licensed real estate broker, separate and apart from any business
17 entity maintained by the licensed real estate broker to conduct real
18 estate brokerage-related activities other than the referral of
19 prospective consumers of real estate brokerage services to that
20 broker, for the purpose of employing or contracting licensed
21 salespersons who strictly engage in the referral of prospects for the
22 sale, purchase, exchange, leasing or rental of real estate or an
23 interest therein solely on behalf of the supervising real estate
24 broker.

25 No person, firm, partnership, association or corporation shall
26 bring or maintain any action in the courts of this State for the
27 collection of compensation for the performance of any of the acts
28 mentioned in R.S.45:15-1 et seq. without alleging and proving that
29 he was a duly licensed real estate broker at the time the alleged
30 cause of action arose.

31 No person claiming to be entitled to compensation as a **【referral**
32 **agent,】** salesperson or broker-salesperson for the performance of
33 any of the acts mentioned in R.S.45:15-1 et seq. shall bring or
34 maintain any action in the courts of this State for the collection of
35 compensation against any person, firm, partnership or corporation
36 other than the licensed broker with whom the **【referral agent,】**
37 salesperson or broker-salesperson was employed or contracted
38 at the time the alleged cause of action arose and no action shall be
39 brought or maintained without the claimant alleging and proving
40 that he was a duly licensed real estate **【referral agent,】** salesperson
41 or broker-salesperson at the time the alleged cause of action arose.
42 (cf: P.L.2009, c.238, s.2)

43

44 3. (New section) a. No broker-salesperson or salesperson shall
45 commence business activity for a broker and no broker shall
46 authorize a broker-salesperson or salesperson to act on the broker's
47 behalf until a written agreement, as provided in this subsection, has

1 been signed by the broker and broker-salesperson or salesperson.
2 Prior to an individual's commencement of business activity as a
3 broker-salesperson or salesperson under the authority of a broker,
4 the broker and broker-salesperson or salesperson shall both sign a
5 written agreement which recites the terms under which the services
6 of the broker-salesperson or salesperson have been retained by the
7 broker.

8 b. Notwithstanding any provision of R.S.45:15-1 et seq. or any
9 other law, rule, or regulation to the contrary, a business affiliation
10 between a broker and a broker-salesperson or salesperson may be
11 that of an employment relationship or the provision of services by
12 an independent contractor. The nature of the business affiliation
13 shall be defined in the written agreement required pursuant to
14 subsection a. of this section.

15

16 4. R.S.45:15-9 is amended to read as follows:

17 45:15-9. a. All persons desiring to become real estate brokers,
18 broker-salespersons, or salespersons **【or referral agents】** shall apply to
19 the commission for a license under the provisions of R.S.45:15-1 et
20 seq. Every applicant for a license as a broker, broker-salesperson, or
21 salesperson **【or referral agent】** shall be of the age of 18 years or over,
22 and in the case of an association or a corporation the directors thereof
23 shall be of the age of 18 years or over. Application for a license,
24 whether as a real estate broker, broker-salesperson, or salesperson **【or**
25 **referral agent】**, shall be made to the commission upon forms
26 prescribed by it and shall be accompanied by an application fee of \$50
27 which fee shall not be refundable. Every applicant for a license
28 whether as a real estate broker, broker-salesperson, or salesperson **【or**
29 **referral agent】** shall have the equivalent of a high school education.
30 The issuance of a license to an applicant who is a nonresident of this
31 State shall be deemed to be his irrevocable consent that service of
32 process upon him as a licensee in any action or proceeding may be
33 made upon him by service upon the secretary of the commission or the
34 person in charge of the office of the commission. The applicant shall
35 furnish evidence of good moral character, and in the case of an
36 association, partnership or corporation, the members, officers or
37 directors thereof shall furnish evidence of good moral character. The
38 commission may make such investigation and require such proof as it
39 deems proper and in the public interest as to the honesty,
40 trustworthiness, character and integrity of an applicant. Any applicant
41 for licensure pursuant to this section and any officer, director, partner
42 or owner of a controlling interest of a corporation or partnership filing
43 for licensure pursuant to this section shall submit to the commission
44 the applicant's name, address, fingerprints and written consent for a
45 criminal history record background check to be performed. The
46 commission is hereby authorized to exchange fingerprint data with and
47 receive criminal history record information from the State Bureau of

1 Identification in the Division of State Police and the Federal Bureau of
2 Investigation consistent with applicable State and federal laws, rules
3 and regulations, for the purposes of facilitating determinations
4 concerning licensure eligibility. The applicant shall bear the cost for
5 the criminal history record background check, including all costs of
6 administering and processing the check. The Division of State Police
7 shall promptly notify the commissioner in the event a current holder of
8 a license or prospective applicant, who was the subject of a criminal
9 history record background check pursuant to this section, is arrested
10 for a crime or offense in this State after the date the background check
11 was performed. Every applicant for a license as a broker or broker-
12 salesperson shall have first been the holder of a New Jersey real estate
13 salesperson's license and have been actively engaged on a full-time
14 basis in the real estate brokerage business in this State as a real estate
15 salesperson for three years immediately preceding the date of
16 application, which requirement may be waived by the commission
17 where the applicant has been the holder of a broker's license in another
18 state and actively engaged in the real estate brokerage business for at
19 least three years immediately preceding the date of his application,
20 meets the educational requirements and qualifies by examination. No
21 license as a broker shall be granted to a general partnership or
22 corporation unless at least one of the partners or officers of said
23 general partnership or corporation qualifies as and holds a license as a
24 broker to transact business in the name and on behalf of said general
25 partnership or corporation as its authorized broker and no such
26 authorized broker shall act as a broker on his own individual account
27 unless he is also licensed as a broker in his individual name; the
28 license of said general partnership or corporation shall cease if at least
29 one partner or officer does not hold a license as its authorized broker at
30 all times. A change in the status of the license of an authorized broker
31 to an individual capacity or vice versa shall be effected by application
32 to the commission accompanied by a fee of \$50. No license as a broker
33 shall be granted to a limited partnership unless its general partner
34 qualifies as and holds a license as a broker to transact business in the
35 name of and on behalf of the limited partnership. In the event that a
36 corporation is a general partner of a limited partnership, no license as a
37 broker shall be granted to the limited partnership unless the
38 corporation is licensed as a broker and one of the officers of the
39 corporation qualifies as and holds a license as the corporation's
40 authorized broker.

41 b. An application for licensure as a **[referral agent]** salesperson
42 licensed with a real estate referral company and for any renewal
43 thereof shall include a certification signed by the licensed real estate
44 broker by whom the applicant is or will be employed or contracted, on
45 a form and in a manner prescribed by the commission, which
46 certification shall confirm that: the broker and the applicant or
47 renewing **[referral agent]** salesperson licensed with a real estate
48 referral company have reviewed the restrictions imposed by law upon

1 the activities of a **【referral agent】** salesperson licensed with a real
2 estate referral company; and the applicant or **【referral agent】**
3 salesperson licensed with a real estate referral company has
4 acknowledged that he is aware that such activity is limited to referring
5 prospective consumers of real estate brokerage services to that broker.

6 c. In the event that a person who held a broker, broker-
7 salesperson or salesperson license fails to renew that license and then,
8 in the two years immediately following the expiration date of the last
9 license held, seeks to reinstate such license, the commission shall
10 require, as a condition to such reinstatement during that two-year
11 period, that the applicant submit proof of having completed the
12 continuing education requirement applicable to that license type in the
13 preceding license term.

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

1 e. In the event that any person to whom a salesperson's **[or a**
2 **referral agent's]** license, including a salesperson's license with a real
3 estate referral company, has been or shall have been issued shall fail to
4 maintain or renew such license or obtain a new license for a period of
5 two consecutive years or more after the expiration of the last license
6 held, the commission shall require such person to attend a licensed
7 school and pass the State examination prior to issuance of a further
8 license. The commission may, in its discretion, approve for
9 relicensure a salesperson **[or a referral agent]** applicant, including a
10 salesperson applicant licensed with a real estate referral company, who
11 has not renewed his license or obtained a new license for two or more
12 consecutive years upon a sufficient showing that the applicant was
13 medically unable to do so. All salesperson **[or referral agent]**
14 applicants, including salesperson applicants licensed with a real estate
15 referral company, so approved shall pass the salesperson's license
16 examination and, with respect to salespersons, except those
17 salespersons licensed with a real estate referral company, complete the
18 continuing education requirements applicable to salesperson licensees
19 in the preceding licensure term prior to being relicensed. Nothing in
20 this section shall be construed to require a salesperson licensed with a
21 real estate referral company to complete the continuing education
22 requirements applicable to salesperson licensees as a condition of
23 license renewal under this section or section 23 of P.L.2009, c.238
24 (C.45:15-16.2a). This **[paragraph]** subsection shall not apply to a
25 person reapplying for a salesperson's **[or referral agent's]** license,
26 including a salesperson reapplying for licensure with a real estate
27 referral company, who was a licensed salesperson **[or referral agent]** ,
28 including a salesperson licensed with a real estate referral company,
29 and who allowed his license to expire due to subsequent employment
30 in a public agency in this State with responsibility for dealing with
31 matters relating to real estate if the person reapplying does so within
32 one year of termination of that employment.

33 f. A salesperson licensed **[referral agent]** with a real estate
34 referral company who was not previously licensed as a broker, broker-
35 salesperson, or salesperson and who has been a salesperson licensed
36 **[as]** with a [referral agent] real estate referral company for the six
37 immediately preceding years or any lesser period of time shall, in
38 order to qualify for licensure as a salesperson, complete up to 30 hours
39 of continuing education as prescribed by commission rule. ¹**[A person**
40 **who was previously licensed as a broker, broker-salesperson or**
41 **salesperson and who has been a salesperson licensed [as] with a**
42 **[referral agent] real estate referral company** for the six immediately
43 preceding years or any lesser period of time shall, in order to qualify
44 for the reissuance of a broker, broker-salesperson or salesperson
45 license, as applicable, complete up to 30 hours of continuing education
46 as prescribed by commission rule.]¹

1 g. A salesperson licensed **【referral agent】** with a real estate
2 referral company who was not previously licensed as a broker, broker-
3 salesperson or salesperson and who has been a salesperson licensed
4 **【as】** with a 【referral agent】 real estate referral company for more than
5 the six immediately preceding years shall, in order to qualify for
6 licensure as a salesperson, be required to complete the pre-licensure
7 education requirement applicable to candidates for licensure as a
8 salesperson and pass the State license examination. A person who was
9 previously licensed as a broker, broker-salesperson or salesperson and
10 who has been a salesperson licensed **【as】** with a **【referral agent】** real
11 estate referral company ¹**【for more than the six immediately preceding**
12 **years】**¹ shall, in order to qualify for relicensure as a broker, broker-
13 salesperson or salesperson, as applicable, complete up to 30 hours of
14 continuing education as prescribed by commission rule ¹**【and pass the**
15 **broker license examination or the salesperson license examination, as**
16 **applicable】**¹.

17 h. Any **【referral agent】** salesperson licensed with a real estate
18 referral company seeking licensure as a real estate broker, broker-
19 salesperson or salesperson shall make application for such license on a
20 form as prescribed by the commission, pay all application and
21 licensure fees as set forth herein, furnish to the commission evidence
22 of the **【referral agent's】** salesperson's good moral character, and be
23 subject to investigation by and required to produce to the commission
24 such proof of the **【referral agent's】** salesperson's honesty,
25 trustworthiness and integrity as the commission deems proper and in
26 the public interest.

27 i. Upon the effective date of P.L. c. (C.) (pending before the
28 Legislature as this bill), any person licensed as a referral agent through
29 a real estate referral company shall be deemed to be a salesperson
30 licensed with a real estate referral company until the next renewal of
31 licenses by the commission. All requirements set forth in subsections
32 f., g., and h. of this section with respect to licensure and length of
33 experience as a salesperson licensed with a real estate referral
34 company shall include licensure and length of experience as a referral
35 agent licensed with a real estate referral company.
36 (cf: P.L.2009, c.238, s.3)

37
38 5. R.S.45:15-10 is amended to read as follows:

39 45:15-10. Before any such license shall be granted, the
40 applicant, and in the case of a partnership, association or
41 corporation, the partners, directors or officers thereof actually
42 engaged in the real estate business as a broker, broker-salesperson,
43 or salesperson, **【or referral agent,】** shall submit to an examination
44 to be conducted under the supervision of the commission which
45 examination shall test the applicant's general knowledge of the
46 statutes of New Jersey concerning real property, conveyancing,
47 mortgages, agreements of sale, leases and of the provisions of

1 R.S.45:15-1 et seq., the rules and regulations of the commission and
2 such other subjects as the commission may direct. The commission
3 may make rules and regulations for the conduct of such
4 examinations. Upon satisfactorily passing such examination and
5 fulfilling all other qualifications a license shall be granted by the
6 commission to the successful applicant therefor as a real estate
7 broker, broker-salesperson, or salesperson, **【or referral agent】** and
8 the applicant upon receiving the license is authorized to conduct in
9 this State the business of a real estate broker, broker-salesperson, or
10 salesperson, **【or referral agent,】** as the case may be. Such license
11 shall expire on the last day of a two-year license term as established
12 by the commission; such license shall be renewed, without
13 examination, biennially thereafter, upon the payment of the fee
14 fixed by R.S.45:15-15, and in the case of a broker, broker-
15 salesperson or salesperson license, upon completion of the
16 continuing education requirements applicable to the holders of such
17 licenses, except that a salesperson licensed with a real estate referral
18 company shall not be required to complete the continuing education
19 requirements as a condition of license renewal under this section or
20 section 23 of P.L.2009, c.238 (C.45:15-16.2a).
21 (cf: P.L.2009, c.238, s.4)

22
23 6. Section 1 of P.L.1966, c.277 (C.45:15-10.1) is amended to
24 read as follows:

25 1. a. As a prerequisite to admission to an examination, every
26 individual applicant for licensure as a real estate salesperson **【or a**
27 **real estate referral agent】** shall give evidence of satisfactory
28 completion of 75 hours in the aggregate of such courses of
29 education in real estate subjects at a school licensed by the
30 commission as the commission shall by regulation prescribe. At
31 least three hours of that course of study shall be on the subject of
32 ethics and ethical conduct in the profession of a real estate
33 salesperson.

34 b. As a prerequisite to admission to an examination, every
35 individual applicant for licensure as a real estate broker or broker-
36 salesperson shall give evidence of satisfactory completion of 150
37 hours in the aggregate of such courses of education in real estate
38 and related subjects at a school licensed by the commission as the
39 commission shall by regulation prescribe. Thirty hours of that
40 course of study shall be on the subject of ethics and ethical conduct
41 in the profession of a real estate broker.

42 The commission may approve courses in specialized aspects of
43 the real estate brokerage business offered by providers who are not
44 the holders of a real estate school license pursuant to section 47 of
45 P.L.1993, c.51 (C.45:15-10.4), the completion of which may be
46 recognized as fulfilling a portion of the total broker pre-licensure
47 education requirements.

48 (cf: P.L.2009, c.238, s.5)

1 7. 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 armed forces of the United States or who served as a member of the
4 American Merchant Marine during World War II and is declared by
5 the United States Department of Defense to be eligible for federal
6 veterans' benefits, who has been honorably discharged, and who,
7 having been wounded or disabled in the line of duty, has completed
8 a program of courses in real estate approved by the New Jersey Real
9 Estate Commission, and who has successfully passed an
10 examination conducted by said commission qualifying him to
11 operate as a real estate broker, broker-salesperson, or salesperson
12 **[or referral agent]**, may, upon presentation of a certificate
13 certifying that he has completed such program of courses as
14 aforesaid, obtain without cost from the commission and without
15 qualification through experience as a salesperson, a license to
16 operate as a real estate broker, broker-salesperson, or a real estate
17 salesperson **[or referral agent]**, as the case may be, which licenses
18 shall be the same as other licenses issued under R.S.45:15-1 et seq.
19 Renewal of licenses may be granted under this section for each
20 ensuing license term, upon request, without fees therefor.
21 (cf: P.L.2009, c.238, s.7)

22

23 8. R.S.45:15-12 is amended to read as follows:

24 45:15-12. Every real estate broker shall maintain a designated
25 main office open to the public. A real estate broker's main office
26 shall have prominently displayed therein the license certificate of
27 the broker and all licensed persons in his employ and shall be
28 deemed the business address of all licensed persons for all purposes
29 under chapter 15 of Title 45 of the Revised Statutes. In case a real
30 estate broker maintains more than one place of business, a branch
31 office license shall be issued to such broker for each branch office
32 so maintained in this State; provided, however, that the said branch
33 office or offices are under the direct supervision of a broker-
34 salesperson. The branch office license or licenses shall be issued
35 upon the payment of a fee of \$50 for each license so issued. Every
36 place of business maintained by a real estate broker shall have
37 conspicuously displayed on the exterior thereof the name in which
38 the broker is authorized to operate and, in the case of a corporation
39 or partnership, the name of the individual licensed as its authorized
40 broker, and the words Licensed Real Estate Broker. A real estate
41 broker whose main office is located in another state shall maintain a
42 valid real estate broker's license in good standing in the state where
43 the office is located.

44 The provisions of this section shall apply to any real estate
45 broker who supervises a real estate referral company as defined
46 under R.S.45:15-3.

47 (cf: P.L.2003, c.117, s.34)

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

3 8. No license shall be issued by the commission to any person
4 known by it to have been, within five years theretofore, convicted
5 of forgery, burglary, robbery, any theft offense other than
6 shoplifting, criminal conspiracy to defraud, or other like offense or
7 offenses, or to any copartnership of which such person is a member,
8 or to any association or corporation of which said person is an
9 officer, director, or employee, or in which as a stockholder such
10 person has or exercises a controlling interest either directly or
11 indirectly. No license shall be issued or renewed by the
12 commission to any person known by it to have been convicted of
13 any sex offense that would qualify the person for registration
14 pursuant to section 2 of P.L.1994, c.133 (C.2C:7-2) or under an
15 equivalent statute of another state or jurisdiction.
16 (cf: P.L.1993, c.51, s.14)

17
18 10. R.S.45:15-14 is amended to read as follows:

19 45:15-14. All licenses issued to real estate brokers, broker-
20 salespersons, and salespersons **【and referral agents】** shall be kept
21 by the broker by whom such real estate licensee is employed or
22 contracted, and the pocket card accompanying the same shall be
23 delivered by the broker to the licensee who shall have the card in
24 his possession at all times when engaged in the business of a real
25 estate broker, broker-salesperson, or salesperson **【or referral agent】**.
26 When any real estate licensee is terminated or resigns his
27 employment with the real estate broker by whom he was employed
28 or contracted at the time of the issuing of such license to him,
29 notice of the termination shall be given in writing by the broker to
30 the terminated licensee with the effective date of the termination
31 reflected thereon, or notice of the resignation shall be given in
32 writing by the resigning licensee to the broker with the effective
33 date of the resignation reflected thereon. Upon the issuance of a
34 written notice of termination by a broker or his authorized
35 representative, or upon receipt of a written resignation by a broker
36 or his authorized representative, such employer or contracting
37 broker shall within five business days of the effective date of the
38 termination or resignation, either: a. deliver, or send by registered
39 mail, to the commission, such real estate licensee's license and, at
40 the same time, send a written communication to such real estate
41 licensee at his last known residence, advising him that his license
42 has been delivered or mailed to the commission. A copy of such
43 communication to the licensee shall accompany the license when
44 mailed or delivered to the commission; or, b. deliver to the
45 departing licensee and to the commission any other materials as the
46 commission may prescribe by regulation to accomplish the transfer
47 of the licensee to another employing or contracting broker. No real
48 estate licensee shall perform any of the acts contemplated by

1 R.S.45:15-1 et seq., either directly or indirectly, under the authority
2 of such license, from and after the effective date of the licensee's
3 termination or resignation until authorized to do so by the
4 commission. A new license may be issued to such licensee, upon
5 the payment of a fee of \$25, and upon the submission of satisfactory
6 proof that he has obtained employment or contracted with another
7 licensed broker. A broker-salesperson~~[,]~~ or salesperson ~~【or~~
8 referral agent must~~】~~ shall be licensed under a broker; he cannot be
9 licensed with more than one broker at the same time.
10 (cf: P.L.2009, c.238, s.8)

11

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

13 45:15-15. The biennial fee for each real estate broker's license
14 shall be \$200, the biennial fee for each real estate broker-
15 salesperson's license shall be \$200 and the biennial fee for each real
16 estate salesperson's license ~~【and each real estate referral agent's~~
17 license~~】~~ shall be \$100. The biennial fee for a branch office license
18 shall be \$100. Each license granted under R.S.45:15-1 et seq. shall
19 entitle the licensee to perform all of the acts contemplated herein
20 during the period for which the license is issued, as prescribed by
21 R.S.45:15-1 et seq. If a licensee fails to apply for a renewal of his
22 license prior to the date of expiration of such license, the
23 commission may refuse to issue a renewal license except upon the
24 payment of a late renewal fee in the amount of \$20 for a ~~【referral~~
25 agent,~~】~~ salesperson or broker-salesperson and \$40 for a broker;
26 provided, however, the commission may, in its discretion, refuse to
27 renew any license upon sufficient cause being shown. The
28 commission shall refuse to renew the license of any licensee
29 convicted of any offense enumerated in section 6 of P.L.1953, c.229
30 (C.45:15-19.1) during the term of the last license issued by the
31 commission unless the conviction was previously the subject of a
32 revocation proceeding. Renewed licenses may be granted for each
33 ensuing two years upon request of licensees and the payment of the
34 full fee therefor as herein required. Upon application and payment
35 of the fees provided herein, initial licenses and licenses reinstated
36 pursuant to R.S.45:15-9 may be issued, but the commission may, in
37 its discretion, refuse to grant or reinstate any license upon sufficient
38 cause being shown. The license fees for initial or reinstated
39 licenses shall be determined based upon the biennial fees
40 established herein, with a full biennial fee payable for the license
41 term in which application is received. The revocation or suspension
42 of a broker's license shall automatically suspend every real estate
43 broker-salesperson's~~[,]~~ and salesperson's ~~【and referral agent's】~~
44 license granted to employees or contractors of the broker whose
45 license has been revoked or suspended, pending a change of
46 employer or contracting broker and the issuance of a new license.
47 The new license shall be issued without additional charge, if the

1 same is granted during the license term in which the original license
2 was granted. Any renewal fee in this section shall be billed by the
3 commission at or before the time of the submission of a renewal
4 application by a licensee.

5 A real estate broker who maintains a main office or branch office
6 licensed by the commission which is located in another state shall
7 maintain a valid real estate broker's license in good standing in the
8 state where the office is located and shall maintain a real estate
9 license in that other state for each office licensed by the
10 commission. Upon request, the real estate broker shall provide a
11 certification of his license status in the other state to the
12 commission. Any license issued by the commission to a real estate
13 broker for a main or branch office located outside this State shall be
14 automatically suspended upon the revocation, suspension or refusal
15 to renew the real estate broker's license issued by the state where
16 the office is located. The licenses issued by the commission to
17 every broker-salesperson~~[,]~~ and salesperson ~~[or referral agent]~~
18 employed or contracted by the broker shall be automatically
19 suspended pending a change of employer or contracting broker and
20 the issuance of a new license. The new license shall be issued
21 without additional charge if granted during the license term in
22 which the original license was granted.

23 (cf: P.L.2009, c.238, s.9)

24

25 12. R.S.45:15-16 is amended to read as follows:

26 45:15-16. No real estate salesperson~~[,]~~ or broker-salesperson
27 ~~[or referral agent]~~ shall accept a commission or valuable
28 consideration for the performance of any of the acts herein
29 specified, from any person except his employer or contracting
30 broker, who must be a licensed real estate broker.

31 (cf: P.L.2009, c.238, s.10)

32

33 13. Section 23 of P.L.2009, c.238 (C.45:15-16.2a) is amended to
34 read as follows:

35 23 a. The New Jersey Real Estate Commission shall require each
36 natural person licensed as a real estate broker, broker-salesperson or
37 salesperson, as a condition of biennial license renewal pursuant to
38 R.S.45:15-10, to complete not more than 16 hours of continuing
39 education requirements imposed by the commission pursuant to this
40 section and sections 24 through 28 of ¹ ~~[this amendatory and~~
41 ~~supplementary act]~~ P.L.2009, c.238 (C.45:15-16.2a through 45:15-
42 16.2f)¹ , except that a salesperson licensed with a real estate referral
43 company shall not be required to complete the continuing education
44 requirements as a condition of biennial license renewal. ¹This
45 subsection shall not apply to any real estate broker or broker-
46 salesperson who has been a real estate broker or broker-salesperson for

1 40 years or more, which shall include any equivalent experience in any
2 other jurisdiction as determined by the commission.¹

3 b. The commission shall:

4 (1) (a) Approve continuing education courses, course providers,
5 and instructors recommended to the commission by the Volunteer
6 Advisory Committee created pursuant to subparagraph (b) of this
7 paragraph. Schools licensed by the commission as real estate schools
8 pursuant to section 47 of P.L.1993, c.51 (C.45:15-10.4) shall be
9 deemed approved providers of continuing education courses. Persons
10 licensed by the commission as real estate instructors pursuant to
11 section 48 of P.L.1993, c.51 (C.45:15-10.5) shall be deemed approved
12 instructors of continuing education courses in core topics as set forth
13 in section 27 of P.L.2009, c.238 (C.45:15-16.2e). Real estate trade
14 associations that qualify under the standards to be established by
15 commission rule as approved providers may offer approved continuing
16 education courses.

17 (b) There is hereby created a Volunteer Advisory Committee
18 which shall consist of 14 members to be comprised of real estate
19 licensees and other subject matter experts, whose members shall be
20 appointed by and serve at the pleasure of the Commissioner of
21 Banking and Insurance. One real estate licensee shall be selected upon
22 the recommendation of the President of the Senate and one real estate
23 licensee shall be selected upon the recommendation of the Speaker of
24 the General Assembly. Three members of the advisory committee
25 shall be members of the commission or their designees, and not less
26 than eight of the members, other than the commission members, shall
27 be real estate licensees. Members shall be appointed to effect balanced
28 geographic representation from the central, northern and southern
29 areas of the State, with not less than three members serving from each
30 of these areas at any time on the advisory committee.

31 Members shall be appointed by the Commissioner of Banking and
32 Insurance no later than 60 days following the enactment date of this
33 act. The first meeting of the advisory committee shall be held no later
34 than 30 days from the date the commission adopts initial regulations
35 for the effectuation of this act.

36 (2) Confer continuing education credits for courses completed in
37 other states on topics approved by the commission as appropriate for
38 elective courses, provided that such courses have been approved as
39 continuing education courses by the agency exercising regulatory
40 authority over the real estate licensees of another state and that
41 satisfactory evidence of licensees' attendance at and completion of
42 such courses is provided to the commission by the course provider.

43 (3) Confer continuing education credits for courses completed and
44 offered in this State on topics deemed of a timely nature which have
45 not been granted prior approval by the advisory committee, provided
46 that such courses are advertised prior to the time of offering as not
47 having been approved; that the course provider shall submit such
48 course offering for approval and the course is subsequently approved

1 as provided in subparagraph (a) of paragraph (1) of this subsection;
2 and that satisfactory evidence of licensees' attendance at and
3 completion of such courses is provided to the commission by the
4 course provider.

5 (4) Set parameters for the auditing and monitoring of course
6 providers.

7 (5) Establish, by regulation, the amounts of application fees
8 payable by persons seeking approval as continuing education course
9 providers, persons seeking approval of continuing education courses,
10 and persons other than instructors of pre-licensure real estate education
11 courses licensed by the commission pursuant to section 48 of
12 P.L.1993, c.51 (C.45:15-10.5), seeking approval as instructors of
13 continuing education courses. These fees shall be non-refundable and
14 shall be in amounts which do not exceed the costs incurred by the
15 commission to review these applications.

16 (6) Have the authority to waive continuing education requirements,
17 in whole or in part, on the grounds of illness, emergency, hardship or
18 active duty military service.

19 (7) Confer continuing education credits upon a person who is
20 licensed by the commission as a real estate instructor or as a broker,
21 broker-salesperson or salesperson for teaching an approved continuing
22 education course offered by an approved provider. Regardless of the
23 number of times during a biennial license term that the same approved
24 course is taught by that person, the person shall receive credit toward
25 the continuing education requirement for the renewal of the person's
26 broker, broker-salesperson or salesperson license, as applicable, only
27 in the number of credit hours conferred upon licensees who attend and
28 complete that course one time during that biennial license term.
29 (cf: P.L.2017, c.200, s.1)

30

31 14. Section 24 of P.L.2009, c.238 (C.45:15-16.2b) is amended to
32 read as follows:

33 24. Continuing education courses may be delivered in a
34 classroom setting or via the Internet[, distance learning,
35 correspondence] or video modalities, subject to the approval by the
36 New Jersey Real Estate Commission of the providers and the
37 content of such courses and of the measures utilized to ensure the
38 security and integrity of the course delivery process. The
39 commission may approve continuing education courses which
40 include periodic progress assessments and the achievement of a
41 satisfactory level of performance by the licensee on such progress
42 assessments as a condition to continuing to a succeeding segment of
43 the course. The commission shall not require, as a condition of the
44 receipt of credit for attendance at any continuing education course,
45 that a licensee pass a comprehensive examination testing the
46 licensee's knowledge of the entire course content.

47 (cf: P.L.2009, c.238, s.24)

1 15. Section 27 of P.L.2009, c.238 (C.45:15-16.2e) is amended to
2 read as follows:

3 27. a. Not less than 50 percent of the continuing education
4 courses of study that a broker, broker-salesperson or salesperson are
5 required to complete as a condition for license renewal shall be
6 comprised of one or more of the following core topics:

- 7 (1) Agency;
- 8 (2) Disclosure;
- 9 (3) Legal issues;
- 10 (4) Ethics, which shall not be less than two hours;
- 11 (5) Fair housing;
- 12 (6) Rules and regulations; **[and]**
- 13 (7) Real estate licensee safety;
- 14 (8) Financial literacy and planning; and
- 15 (9) Any other core topics that the New Jersey Real Estate
16 Commission may prescribe by rule.

17 In no event shall the commission require that courses in these
18 core topics comprise more than 60 percent of the total continuing
19 education hours required for the renewal of any license.

20 b. In the case of continuing education courses and programs,
21 each hour of instruction shall be equivalent to one credit.

22 (cf: P.L.2009, c.238, s.27)

23

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

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

40 In conducting investigations, the commission may take testimony
41 by deposition as provided in R.S.45:15-18, require or permit any
42 person to file a statement in writing, under oath or otherwise as the
43 commission determines, as to all the facts and circumstances
44 concerning the matter under investigation, and, upon its own motion
45 or upon the request of any party, subpoena witnesses, compel their
46 attendance, take evidence, and require the production of any
47 material which is relevant to the investigation, including any and all
48 records of a licensee pertaining to his activities as a real estate

1 broker, broker-salesperson, or salesperson **[or referral agent]**. The
2 commission may also require the provision of any information
3 concerning the existence, description, nature, custody, condition
4 and location of any books, documents, or other tangible material
5 and the identity and location of persons having knowledge of
6 relevant facts of any other matter reasonably calculated to lead to
7 the discovery of material evidence. Upon failure to obey a
8 subpoena or to answer questions posed by an investigator or legal
9 representative of the commission and upon reasonable notice to all
10 affected persons, the commission may commence an administrative
11 action as provided below or apply to the Superior Court for an order
12 compelling compliance.

13 The commission may place on probation, suspend for a period
14 less than the unexpired portion of the license period, or may revoke
15 any license issued under the provisions of R.S.45:15-1 et seq., or
16 the right of licensure when such person is no longer the holder of a
17 license at the time of hearing, or may impose, in addition or as an
18 alternative to such probation, revocation or suspension, a penalty of
19 not more than \$5,000 for the first violation, and a penalty of not
20 more than \$10,000 for any subsequent violation, which penalty
21 shall be sued for and recovered by and in the name of the
22 commission and shall be collected and enforced by summary
23 proceedings pursuant to the "Penalty Enforcement Law of 1999,"
24 P.L.1999, c.274 (C.2A:58-10 et seq.), where the licensee or any
25 person, in performing or attempting to perform any of the acts
26 mentioned herein, is deemed to be guilty of:

27 a. Making any false promises or any substantial
28 misrepresentation; or

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

31 c. Pursuing a flagrant and continued course of
32 misrepresentation or making of false promises through agents,
33 broker-salespersons, or salespersons **[or referral agents]**,
34 advertisements or otherwise; or

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

37 e. Any conduct which demonstrates unworthiness,
38 incompetency, bad faith or dishonesty. The failure of any person to
39 cooperate with the commission in the performance of its duties or to
40 comply with a subpoena issued by the commission compelling the
41 production of materials in the course of an investigation, or the
42 failure to give a verbal or written statement concerning a matter
43 under investigation may be construed as conduct demonstrating
44 unworthiness; or

45 f. Failure to provide his client with a fully executed copy of
46 any sale or exclusive sales or rental listing contract at the time of
47 execution thereof, or failure to specify therein a definite terminal

- 1 date which terminal date shall not be subject to any qualifying
2 terms or conditions; or
- 3 g. Using any plan, scheme or method for the sale or promotion
4 of the sale of real estate which involves a lottery, a contest, a game,
5 a prize, a drawing, or the offering of a lot or parcel or lots or parcels
6 for advertising purposes, provided, however, that a promotion or
7 offer of free, discounted or other services or products which does
8 not require that the recipient of any free, discounted or other
9 services or products enter into a sale, listing or other real estate
10 contract as a condition of the promotion or offer shall not constitute
11 a violation of this subsection if that promotion or offering does not
12 involve a lottery, a contest, a game, a drawing or the offering of a
13 lot or parcel or lots or parcels for advertising purposes. A broker
14 shall disclose in writing any compensation received for such
15 promotion or offer in the form and substance as required by the
16 federal "Real Estate Settlement Procedures Act of 1974," 12 U.S.C.
17 ss.2601 et seq., except that, notwithstanding the provisions of that
18 federal act, written disclosure shall be provided no later than when
19 the promotion or offer is extended by the broker to the consumer; or
- 20 h. Being convicted of a crime, knowledge of which the
21 commission did not have at the time of last issuing a real estate
22 license to the licensee; or
- 23 i. Collecting a commission as a real estate broker in a
24 transaction, when at the same time representing either party in a
25 transaction in a different capacity for a consideration; or
- 26 j. Using any trade name or insignia of membership in any real
27 estate organization of which the licensee is not a member; or
- 28 k. Paying any rebate, profit, compensation or commission to
29 anyone not possessed of a real estate license, except that: (1) free,
30 discounted or other services or products provided for in subsection
31 g. of this section shall not constitute a violation of this subsection;
32 and (2) a real estate broker may provide a purchaser of residential
33 real property, but no other third party a rebate of a portion of the
34 commission paid to the broker in a transaction, so long as: the
35 broker and the purchaser contract for such a rebate at the onset of
36 the broker relationship in a written document, electronic document
37 or a buyer agency agreement; the broker complies with any State or
38 federal requirements with respect to the disclosure of the payment
39 of the rebate; and the broker recommends to the purchaser that the
40 purchaser contact a tax professional concerning the tax implications
41 of receiving that rebate. The rebate paid to the purchaser shall be in
42 the form of a credit, reducing the amount of the commission
43 payable to the broker, or a check paid by the closing agent and shall
44 be made at the time of closing; or
- 45 l. Any other conduct, whether of the same or a different
46 character than specified in this section, which constitutes fraud or
47 dishonest dealing; or

- 1 m. Accepting a commission or valuable consideration as a real
2 estate broker-salesperson~~[,]~~ or salesperson ~~【or referral agent】~~ for
3 the performance of any of the acts specified in this act, from any
4 person, except his employing or contracting broker, who must be a
5 licensed broker; or
- 6 n. Procuring a real estate license, for himself or anyone else, by
7 fraud, misrepresentation or deceit; or
- 8 o. Commingling the money or other property of his principals
9 with his own or failure to maintain and deposit in a special account,
10 separate and apart from personal or other business accounts, all
11 moneys received by a real estate broker, acting in said capacity, or
12 as escrow agent, or the temporary custodian of the funds of others,
13 in a real estate transaction; or
- 14 p. Selling property in the ownership of which he is interested in
15 any manner whatsoever, unless he first discloses to the purchaser in
16 the contract of sale his interest therein and his status as a real estate
17 broker, broker-salesperson, or salesperson ~~【or referral agent】~~; or
- 18 q. Purchasing any property unless he first discloses to the seller
19 in the contract of sale his status as a real estate broker, broker-
20 salesperson, or salesperson ~~【or referral agent】~~; or
- 21 r. Charging or accepting any fee, commission or compensation
22 in exchange for providing information on purportedly available
23 rental housing, including lists of such units supplied verbally or in
24 written form, before a lease has been executed or, where no lease is
25 drawn, before the tenant has taken possession of the premises
26 without complying with all applicable rules promulgated by the
27 commission regulating these practices; or
- 28 s. Failing to notify the commission within 30 days of having
29 been convicted of any crime, including any sex offense that would
30 qualify the licensee for registration pursuant to section 2 of
31 P.L.1994, c.133 (C.2C:7-2) or under an equivalent statute of
32 another state or jurisdiction, misdemeanor or disorderly persons
33 offense, or of having been indicted, or of the filing of any formal
34 criminal charges, or of the suspension or revocation of any real
35 estate license issued by another state, or of the initiation of formal
36 disciplinary proceedings in another state affecting any real estate
37 license held, or failing to supply any documentation available to the
38 licensee that the commission may request in connection with such
39 matter; or
- 40 t. The violation of any of the provisions of R.S.45:15-1 et seq.
41 or of the administrative rules adopted by the commission pursuant
42 to the provisions of R.S.45:15-1 et seq. The commission is
43 expressly vested with the power and authority to make, prescribe
44 and enforce any and all rules and regulations for the conduct of the
45 real estate brokerage business consistent with the provisions of
46 chapter 15 of Title 45 of the Revised Statutes.
- 47 If a licensee is deemed to be guilty of a third violation of any of
48 the provisions of this section, whether of the same provision or of

1 separate provisions, the commission may deem that person a repeat
2 offender, in which event the commission may direct that no license
3 as a real estate broker, broker-salesperson, or salesperson **【or**
4 **referral agent】** shall henceforth be issued to that person.

5 (cf: P.L.2009, c.273, s.1)

6
7 17. R.S.45:15-18 is amended to read as follows:

8 45:15-18. With the exception of a temporary suspension
9 imposed by the commission pursuant to section 23 of P.L.1993,
10 c.51 (C.45:15-17.1), the commission shall, before suspending or
11 revoking any license, and at least ten days prior to the date set for
12 the hearing, notify in writing the licensee of any charges made, and
13 afford him an opportunity to be heard in person or by counsel.
14 Such written notice may be served either personally or sent by
15 certified mail to the last known business address of the licensee. If
16 the licensee is a broker-salesperson**【,】** or salesperson **【or referral**
17 **agent】**, the commission shall also notify the broker employing or
18 contracting with him, specifying the charges made against such
19 licensee, by sending a notice thereof by certified mail to the
20 broker's last known business address. The commission shall have
21 power to bring before it any licensee or any person in this State
22 pursuant to subpoena served personally or by certified mail; or the
23 commission may take testimony by deposition in the same manner
24 as prescribed by law in judicial proceedings in the courts of this
25 State. Any final decision or determination of the commission shall
26 be reviewable by the Appellate Division of the Superior Court.

27 (cf: P.L.2009, c.238, s.12)

28
29 18. R.S.45:15-19 is amended to read as follows:

30 45:15-19. Any unlawful act or violation of any of the provisions
31 of R.S.45:15-1 et seq., by any real estate broker-salesperson**【,】** or
32 salesperson **【or referral agent】**, shall not be cause for the revocation
33 of any real estate broker's license, unless it shall appear to the
34 satisfaction of the commission that the real estate broker employing
35 or contracting with such licensee had guilty knowledge thereof.

36 (cf: P.L.2009, c.238, s.13)

37
38 19. Section 6 of P.L.1953, c.229 (C.45:15-19.1) is amended to
39 read as follows:

40 6. When, during the term of any license issued by the
41 commission, the licensee shall be convicted in a court of competent
42 jurisdiction in the State of New Jersey or any state (including
43 federal courts) of forgery, burglary, robbery, any theft or related
44 offense with the exception of shoplifting, criminal conspiracy to
45 defraud, or other like offense or offenses, or any crime involving,
46 related to or arising out of the licensee's activities as a real estate
47 broker, broker-salesperson, or salesperson **【or referral agent】**, and a

1 duly certified or exemplified copy of the judgment of conviction
2 shall be obtained by the commission, the commission shall revoke
3 forthwith the license by it theretofore issued to the licensee so
4 convicted. The commission shall revoke the license of any licensee
5 convicted of any sex offense that would qualify the licensee for
6 registration pursuant to section 2 of P.L.1994, c.133 (C.2C:7-2) or
7 under an equivalent statute of another state or jurisdiction.
8 (cf: P.L.2009, c.238, s.14)
9

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

12 7. In the event that any licensee shall be indicted in the State of
13 New Jersey or any state or territory (including federal courts) for
14 murder, kidnapping, aggravated sexual assault or any sex offense
15 that would qualify the licensee for registration pursuant to section 2
16 of P.L.1994, c.133 (C.2C:7-2) or under an equivalent statute of
17 another state or jurisdiction, robbery, burglary, arson, any theft
18 offense, bribery, racketeering, distribution of a controlled dangerous
19 substance or conspiracy to distribute a controlled dangerous
20 substance, forgery, criminal conspiracy to defraud, or other like
21 offense or offenses, or any crime involving, related to or arising out
22 of the licensee's activities as a real estate broker, broker-
23 salesperson, or salesperson **【or referral agent】**, and a certified copy
24 of the indictment is obtained by the commission, or other proper
25 evidence thereof be to it given, the commission shall have authority,
26 in its discretion, to suspend the license issued to such licensee
27 pending trial upon such indictment.

28 (cf: P.L.2009, c.238, s.15)
29

30 21. (New section) No provision of R.S.45:15-1 et seq., or any
31 amendment or supplement thereof, shall be deemed to supersede
32 P.L.1968, c.282 (C.2A:168A-1 et seq.).
33

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

35 45:15-20. A nonresident may become a real estate broker,
36 broker-salesperson, or salesperson **【or referral agent】** by
37 conforming to all of the provisions of R.S.45:15-1 et seq. All
38 nonresident licenses issued by the commission prior to July 1, 1994
39 may be renewed upon payment of the renewal fees established
40 pursuant to R.S.45:15-15. All nonresident licenses so renewed shall
41 be issued by the commission in the same form as a resident license.
42 In the event that any person to whom a nonresident license is issued
43 fails to maintain or renew the license or to obtain a new license
44 from the commission for a period of two or more consecutive years,
45 the person shall be required to fulfill the requirements for initial
46 licensure established pursuant to R.S.45:15-9 prior to the issuance
47 of any further license.

1 A licensed broker whose main office is not located within this
2 State shall only provide brokerage services concerning real estate
3 located within this State either personally or through persons in the
4 broker's employ or with whom the broker has contracted who are
5 the holders of real estate broker-salesperson~~[,]~~ or salesperson ~~【~~
6 referral agent~~】~~ licenses issued by the commission. In the event that
7 a broker maintains one or more branch offices in this State, no
8 person shall engage in the business of a real estate broker, broker-
9 salesperson, or salesperson ~~【~~or referral agent~~】~~ at those offices
10 unless the person is a holder of a license issued by the commission
11 authorizing him to do so.

12 (cf: P.L.2009, c.238, s.16)

13

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

16 1. A real estate guaranty fund is established as a special trust
17 fund to be maintained by the State Treasurer and administered by
18 the New Jersey Real Estate Commission in accordance with the
19 provisions of this act to provide a fund from which recovery may be
20 obtained by any person aggrieved by the embezzlement, conversion
21 or unlawful obtaining of money or property in a real estate
22 brokerage transaction by a licensed real estate broker, broker-
23 salesperson, or salesperson ~~【~~or referral agent~~】~~ or an unlicensed
24 employee of a real estate broker; provided, however, that the
25 amount of such recovery shall not exceed in the aggregate the sum
26 of \$10,000 in connection with any one transaction regardless of the
27 number of claims, persons aggrieved, or parcels of, or interests in
28 real estate involved in the transaction. The maximum amount
29 recoverable per transaction shall be increased to \$20,000 for claims
30 filed on the basis of causes of action which accrue after the
31 effective date of P.L.1993, c.51 (C.45:15-12.3 et al.).

32 (cf: P.L.2009, c.238, s.17)

33

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

36 2. Upon the initial issuance of a biennial license as a real estate
37 broker, broker-salesperson, or salesperson ~~【~~or referral agent~~】~~ the
38 licensee shall pay to the commission, in addition to the license fee
39 fixed by R.S.45:15-15, an additional amount to be forwarded by the
40 commission to the State Treasurer and accounted for and credited
41 by him to the real estate guaranty fund. The additional amount
42 payable by a broker or broker-salesperson shall be \$20 and by a
43 salesperson ~~【~~or referral agent~~】~~, \$10.

44 (cf: P.L.2009, c.238, s.18)

45

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

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, broker-salesperson, or salesperson【, referral
5 agent】 or unlicensed employee of a broker, and, where the
6 judgment creditor has pursued all available remedies, made all
7 reasonable searches, and has been unable to satisfy the judgment
8 from the licensee's assets, the entry of a court order which directs
9 the New Jersey Real Estate Commission to make payment from the
10 fund. No such order shall authorize a payment to the spouse or
11 personal representative of the spouse of the judgment debtor.

12 No order shall be entered unless the claimant, either at the time
13 of filing the civil action or thereafter, files a certification affirming
14 that a criminal complaint alleging the misappropriation of funds by
15 the broker, broker-salesperson, or salesperson【, referral agent】 or
16 unlicensed employee has been filed with a law enforcement agency
17 of this State or of a county or municipality in this State. The
18 criminal complaint shall refer to the same conduct to which
19 reference is made in the civil action as forming the basis for a claim
20 against the real estate guaranty fund. The certification shall specify
21 the date on which the criminal complaint was filed and the law
22 enforcement agency with which it was filed. A copy of the
23 certification shall be provided to the New Jersey Real Estate
24 Commission upon its being filed. The requirement to file a
25 certification shall apply prospectively only to claims seeking
26 reimbursement from the fund filed on the basis of causes of action
27 which accrue after the effective date of P.L.1993, c.51 (C.45:15-
28 12.3 et al.).

29 Upon delivery by the New Jersey Real Estate Commission to the
30 State Treasurer of a certified copy of the court order together with
31 an assignment to the New Jersey Real Estate Commission of the
32 judgment creditor's right, title and interest in the judgment to the
33 extent of the amount of the court order, the State Treasurer shall
34 make payment to the claimant from the real estate guaranty fund.
35 (cf: P.L.2009, c.238, s.19)

36

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

39 6. Any person to whom is issued a license to be a real estate
40 broker, broker-salesperson, or salesperson 【or referral agent】 shall,
41 by the securing of said license, make and constitute the secretary of
42 the commission or the person in charge of the office of the
43 commission as agent for the acceptance of process in any civil
44 proceeding hereunder.

45 (cf: P.L.2009, c.238, s.20)

46

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

1 7. a. If at any time the funds available in the real estate
2 guaranty fund are insufficient to satisfy in full court orders for
3 payment therefrom, payment shall be made in the order in which
4 such court orders were issued; and the New Jersey Real Estate
5 Commission shall by regulation impose further additional amounts
6 to be paid by brokers, broker-salespersons, or salespersons **【and**
7 **referral agents】** to replenish the guaranty fund. No such additional
8 amount assessed at any one time shall exceed the amounts specified
9 in section 2 of P.L.1976, c.112 (C.45:15-35).

10 b. If at any time the funds available in the real estate guaranty
11 fund are, in the opinion of the New Jersey Real Estate Commission,
12 in excess of amounts anticipated to be necessary to meet claims for
13 a period of at least two years, the commission may, with the
14 approval of the Commissioner of Banking and Insurance, allocate
15 and receive from the guaranty fund a specified amount thereof for
16 research and educational projects to increase the proficiency and
17 competency of real estate licensees.
18 (cf: P.L.2009, c.238, s.21)

19
20 28. Section 8 of P.L.1976, c.112 (C.45:15-41) is amended to
21 read as follows:

22 8. Upon the issuance of a court order for payment from the real
23 estate guaranty fund the license of the broker, broker-salesperson,
24 or salesperson **【or referral agent】**, whose acts gave rise to the claim,
25 shall be revoked and no such broker, broker-salesperson, or
26 salesperson **【or referral agent】** shall be eligible for reinstatement of
27 his license until he shall have satisfied the judgment in full
28 including reimbursement of the real estate guaranty fund together
29 with interest.
30 (cf: P.L.2009, c.238, s.22)

31
32 29. Section 3 of this act shall take effect immediately and the
33 remainder of this act shall take effect on January 1, 2018, except the
34 New Jersey Real Estate Commission may take any anticipatory
35 administrative action in advance as shall be necessary for the
36 implementation of this act.

37

38

39

40

41 _____

Concerns certain real estate licensees.

SENATE, No. 430

STATE OF NEW JERSEY 218th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2018 SESSION

Sponsored by:

Senator NELLIE POU

District 35 (Bergen and Passaic)

SYNOPSIS

Concerns certain real estate licensees.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.



S430 POU

2

1 AN ACT concerning certain real estate licensees, supplementing
2 chapter 15 of Title 45 of the Revised Statutes, and revising
3 various parts of the statutory law.
4

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

7
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 salesperson **[or referral agent]**, temporarily or otherwise, and no
12 person shall advertise or represent himself as being authorized to
13 act as a real estate broker, broker-salesperson, or salesperson **[or**
14 referral agent**]**, or to engage in any of the activities described in
15 R.S.45:15-3, without being licensed so to do as hereinafter
16 provided.

17 (cf: P.L.2009, c.238, s.1)
18

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

20 45:15-3. A real estate broker, for the purposes of R.S.45:15-1
21 et seq., is defined to be a person, firm or corporation who, for a fee,
22 commission or other valuable consideration, or by reason of a
23 promise or reasonable expectation thereof, lists for sale, sells,
24 exchanges, buys or rents, or offers or attempts to negotiate a sale,
25 exchange, purchase or rental of real estate or an interest therein, or
26 collects or offers or attempts to collect rent for the use of real estate
27 or solicits for prospective purchasers or assists or directs in the
28 procuring of prospects or the negotiation or closing of any
29 transaction which does or is contemplated to result in the sale,
30 exchange, leasing, renting or auctioning of any real estate or
31 negotiates, or offers or attempts or agrees to negotiate a loan
32 secured or to be secured by mortgage or other encumbrance upon or
33 transfer of any real estate for others, or any person who, for
34 pecuniary gain or expectation of pecuniary gain conducts a public
35 or private competitive sale of lands or any interest in lands. In the
36 sale of lots pursuant to the provisions of R.S.45:15-1 et seq., the
37 term "real estate broker" shall also include any person, partnership,
38 association or corporation employed or contracted by or on behalf
39 of the owner or owners of lots or other parcels of real estate, at a
40 stated salary, or upon a commission, or upon a salary and
41 commission, or otherwise, to sell such real estate, or any parts
42 thereof, in lots or other parcels, and who shall sell or exchange, or
43 offer or attempt or agree to negotiate the sale or exchange, of any
44 such lot or parcel of real estate. A real estate broker shall also

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 include any person, firm, or corporation who supervises a real estate
2 referral company.

3 A real estate salesperson, for the purposes of R.S.45:15-1 et seq.,
4 is defined to be any natural person who, for compensation, valuable
5 consideration or commission, or other thing of value, or by reason
6 of a promise or reasonable expectation thereof, is employed or
7 contracted by and operates under the supervision of a licensed real
8 estate broker to sell or offer to sell, buy or offer to buy or negotiate
9 the purchase, sale or exchange of real estate, or offers or attempts to
10 negotiate a loan secured or to be secured by a mortgage or other
11 encumbrance upon or transfer of real estate, or to lease or rent, or
12 offer to lease or rent any real estate for others, or to collect rents for
13 the use of real estate, or to solicit for prospective purchasers or
14 lessees of real estate, or who is employed or contracted by a
15 licensed real estate broker to sell or offer to sell lots or other parcels
16 of real estate, at a stated salary, or upon a commission, or upon a
17 salary and commission, or otherwise to sell real estate, or any parts
18 thereof, in lots or other parcels, or in the case of a salesperson
19 licensed with a real estate referral company refers prospective
20 consumers of real estate brokerage services to a particular broker.
21 For the purposes of R.S.45:15-1 et seq., the definition of real estate
22 salesperson shall include a salesperson licensed with a real estate
23 referral company unless otherwise indicated.

24 A real estate broker-salesperson, for the purposes of R.S.45:15-1
25 et seq., is defined to be any natural person who is qualified to be
26 licensed as a real estate broker but who, for compensation, valuable
27 consideration or commission, or other thing of value, or by reason
28 of a promise or reasonable expectation thereof, is employed or
29 contracted by and operates under the supervision of a licensed real
30 estate broker to perform the functions of a real estate salesperson as
31 defined herein.

32 A real estate **【referral agent】** salesperson licensed with a real
33 estate referral company, for the purposes of R.S.45:15-1 et seq., is
34 defined to be any natural person employed or contracted by and
35 operating under the supervision of a licensed real estate broker
36 through a real estate referral company whose real estate brokerage-
37 related activities are limited to referring prospects for the sale,
38 purchase, exchange, leasing or rental of real estate or an interest
39 therein. **【Referral agent licensees】** Salespersons licensed with a
40 real estate referral company shall only refer such prospects to the
41 real estate broker who supervises the real estate referral company
42 through whom they are licensed **【as a referral agent】** and shall only
43 accept compensation for their activity **【as a referral agent】** from
44 that broker. A **【referral agent】** salesperson licensed with a real
45 estate referral company shall not be employed or contracted by or
46 licensed with more than one real estate broker or real estate referral
47 company at any given time. No **【person】** salesperson licensed with

1 a real estate referral company may simultaneously be licensed as a
2 [referral agent and a] real estate broker[,] or broker-salesperson
3 [or salesperson] and no [person] salesperson licensed [as a
4 referral agent] with a real estate referral company may engage in
5 the business of a real estate broker[,] or broker-salesperson [or
6 salesperson] to an extent beyond that authorized by their status as a
7 licensed [real estate agent] salesperson.

8 A real estate referral company, for the purposes of R.S.45:15-1 et
9 seq., is defined to be a business entity established and supervised by
10 a licensed real estate broker, separate and apart from any business
11 entity maintained by the licensed real estate broker to conduct real
12 estate brokerage-related activities other than the referral of
13 prospective consumers of real estate brokerage services to that
14 broker, for the purpose of employing or contracting licensed
15 salespersons who strictly engage in the referral of prospects for the
16 sale, purchase, exchange, leasing or rental of real estate or an
17 interest therein solely on behalf of the supervising real estate
18 broker.

19 No person, firm, partnership, association or corporation shall
20 bring or maintain any action in the courts of this State for the
21 collection of compensation for the performance of any of the acts
22 mentioned in R.S.45:15-1 et seq. without alleging and proving that
23 he was a duly licensed real estate broker at the time the alleged
24 cause of action arose.

25 No person claiming to be entitled to compensation as a [referral
26 agent,] salesperson or broker-salesperson for the performance of
27 any of the acts mentioned in R.S.45:15-1 et seq. shall bring or
28 maintain any action in the courts of this State for the collection of
29 compensation against any person, firm, partnership or corporation
30 other than the licensed broker with whom the [referral agent,]
31 salesperson or broker-salesperson was employed or contracted
32 at the time the alleged cause of action arose and no action shall be
33 brought or maintained without the claimant alleging and proving
34 that he was a duly licensed real estate [referral agent,] salesperson
35 or broker-salesperson at the time the alleged cause of action arose.
36 (cf: P.L.2009, c.238, s.2)

37
38 3. (New section) a. No broker-salesperson or salesperson shall
39 commence business activity for a broker and no broker shall
40 authorize a broker-salesperson or salesperson to act on the broker's
41 behalf until a written agreement, as provided in this subsection, has
42 been signed by the broker and broker-salesperson or salesperson.
43 Prior to an individual's commencement of business activity as a
44 broker-salesperson or salesperson under the authority of a broker,
45 the broker and broker-salesperson or salesperson shall both sign a
46 written agreement which recites the terms under which the services

1 of the broker-salesperson or salesperson have been retained by the
2 broker.

3 b. Notwithstanding any provision of R.S.45:15-1 et seq. or any
4 other law, rule, or regulation to the contrary, a business affiliation
5 between a broker and a broker-salesperson or salesperson may be
6 that of an employment relationship or the provision of services by
7 an independent contractor. The nature of the business affiliation
8 shall be defined in the written agreement required pursuant to
9 subsection a. of this section.

10

11 4. R.S.45:15-9 is amended to read as follows:

12 45:15-9. a. All persons desiring to become real estate brokers,
13 broker-salespersons, or salespersons **[or referral agents]** shall apply
14 to the commission for a license under the provisions of R.S.45:15-1
15 et seq. Every applicant for a license as a broker, broker-
16 salesperson, or salesperson **[or referral agent]** shall be of the age of
17 18 years or over, and in the case of an association or a corporation
18 the directors thereof shall be of the age of 18 years or over.
19 Application for a license, whether as a real estate broker, broker-
20 salesperson, or salesperson **[or referral agent]**, shall be made to the
21 commission upon forms prescribed by it and shall be accompanied
22 by an application fee of \$50 which fee shall not be refundable.
23 Every applicant for a license whether as a real estate broker, broker-
24 salesperson, or salesperson **[or referral agent]** shall have the
25 equivalent of a high school education. The issuance of a license to
26 an applicant who is a nonresident of this State shall be deemed to be
27 his irrevocable consent that service of process upon him as a
28 licensee in any action or proceeding may be made upon him by
29 service upon the secretary of the commission or the person in
30 charge of the office of the commission. The applicant shall furnish
31 evidence of good moral character, and in the case of an association,
32 partnership or corporation, the members, officers or directors
33 thereof shall furnish evidence of good moral character. The
34 commission may make such investigation and require such proof as
35 it deems proper and in the public interest as to the honesty,
36 trustworthiness, character and integrity of an applicant. Any
37 applicant for licensure pursuant to this section and any officer,
38 director, partner or owner of a controlling interest of a corporation
39 or partnership filing for licensure pursuant to this section shall
40 submit to the commission the applicant's name, address, fingerprints
41 and written consent for a criminal history record background check
42 to be performed. The commission is hereby authorized to exchange
43 fingerprint data with and receive criminal history record
44 information from the State Bureau of Identification in the Division
45 of State Police and the Federal Bureau of Investigation consistent
46 with applicable State and federal laws, rules and regulations, for the
47 purposes of facilitating determinations concerning licensure
48 eligibility. The applicant shall bear the cost for the criminal history

1 record background check, including all costs of administering and
2 processing the check. The Division of State Police shall promptly
3 notify the commissioner in the event a current holder of a license or
4 prospective applicant, who was the subject of a criminal history
5 record background check pursuant to this section, is arrested for a
6 crime or offense in this State after the date the background check
7 was performed. Every applicant for a license as a broker or broker-
8 salesperson shall have first been the holder of a New Jersey real
9 estate salesperson's license and have been actively engaged on a
10 full-time basis in the real estate brokerage business in this State as a
11 real estate salesperson for three years immediately preceding the
12 date of application, which requirement may be waived by the
13 commission where the applicant has been the holder of a broker's
14 license in another state and actively engaged in the real estate
15 brokerage business for at least three years immediately preceding
16 the date of his application, meets the educational requirements and
17 qualifies by examination. No license as a broker shall be granted to
18 a general partnership or corporation unless at least one of the
19 partners or officers of said general partnership or corporation
20 qualifies as and holds a license as a broker to transact business in
21 the name and on behalf of said general partnership or corporation as
22 its authorized broker and no such authorized broker shall act as a
23 broker on his own individual account unless he is also licensed as a
24 broker in his individual name; the license of said general
25 partnership or corporation shall cease if at least one partner or
26 officer does not hold a license as its authorized broker at all times.
27 A change in the status of the license of an authorized broker to an
28 individual capacity or vice versa shall be effected by application to
29 the commission accompanied by a fee of \$50. No license as a
30 broker shall be granted to a limited partnership unless its general
31 partner qualifies as and holds a license as a broker to transact
32 business in the name of and on behalf of the limited partnership. In
33 the event that a corporation is a general partner of a limited
34 partnership, no license as a broker shall be granted to the limited
35 partnership unless the corporation is licensed as a broker and one of
36 the officers of the corporation qualifies as and holds a license as the
37 corporation's authorized broker.

38 b. An application for licensure as a **【referral agent】** salesperson
39 licensed with a real estate referral company and for any renewal
40 thereof shall include a certification signed by the licensed real
41 estate broker by whom the applicant is or will be employed or
42 contracted, on a form and in a manner prescribed by the
43 commission, which certification shall confirm that: the broker and
44 the applicant or renewing **【referral agent】** salesperson licensed with
45 a real estate referral company have reviewed the restrictions
46 imposed by law upon the activities of a **【referral agent】** salesperson
47 licensed with a real estate referral company; and the applicant or
48 **【referral agent】** salesperson licensed with a real estate referral

1 company has acknowledged that he is aware that such activity is
2 limited to referring prospective consumers of real estate brokerage
3 services to that broker.

4 c. In the event that a person who held a broker, broker-
5 salesperson or salesperson license fails to renew that license and
6 then, in the two years immediately following the expiration date of
7 the last license held, seeks to reinstate such license, the commission
8 shall require, as a condition to such reinstatement during that two-
9 year period, that the applicant submit proof of having completed the
10 continuing education requirement applicable to that license type in
11 the preceding license term.

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

1 e. In the event that any person to whom a salesperson's **【or a**
2 **referral agent's】** license, including a salesperson's license with a
3 real estate referral company, has been or shall have been issued
4 shall fail to maintain or renew such license or obtain a new license
5 for a period of two consecutive years or more after the expiration of
6 the last license held, the commission shall require such person to
7 attend a licensed school and pass the State examination prior to
8 issuance of a further license. The commission may, in its
9 discretion, approve for relicensure a salesperson **【or a referral**
10 **agent】** applicant, including a salesperson applicant licensed with a
11 real estate referral company, who has not renewed his license or
12 obtained a new license for two or more consecutive years upon a
13 sufficient showing that the applicant was medically unable to do so.
14 All salesperson **【or referral agent】** applicants, including salesperson
15 applicants licensed with a real estate referral company, so approved
16 shall pass the salesperson's license examination and, with respect to
17 salespersons, except those salespersons licensed with a real estate
18 referral company, complete the continuing education requirements
19 applicable to salesperson licensees in the preceding licensure term
20 prior to being relicensed. Nothing in this section shall be construed
21 to require a salesperson licensed with a real estate referral company
22 to complete the continuing education requirements applicable to
23 salesperson licensees as a condition of license renewal under this
24 section or section 23 of P.L.2009, c.238 (C.45:15-16.2a). This
25 **【paragraph】** subsection shall not apply to a person reapplying for a
26 salesperson's **【or referral agent's】** license, including a salesperson
27 reapplying for licensure with a real estate referral company, who
28 was a licensed salesperson **【or referral agent】** , including a
29 salesperson licensed with a real estate referral company, and who
30 allowed his license to expire due to subsequent employment in a
31 public agency in this State with responsibility for dealing with
32 matters relating to real estate if the person reapplying does so
33 within one year of termination of that employment.

34 f. A salesperson licensed **【referral agent】** with a real estate
35 referral company who was not previously licensed as a broker,
36 broker-salesperson, or salesperson and who has been a salesperson
37 licensed **【as】** with a 【referral agent】 real estate referral company
38 for the six immediately preceding years or any lesser period of time
39 shall, in order to qualify for licensure as a salesperson, complete up
40 to 30 hours of continuing education as prescribed by commission
41 rule. A person who was previously licensed as a broker, broker-
42 salesperson or salesperson and who has been a salesperson licensed
43 **【as】** with a 【referral agent】 real estate referral company for the six
44 immediately preceding years or any lesser period of time shall, in
45 order to qualify for the reissuance of a broker, broker-salesperson or
46 salesperson license, as applicable, complete up to 30 hours of
47 continuing education as prescribed by commission rule.

1 g. A salesperson licensed **【referral agent】** with a real estate
2 referral company who was not previously licensed as a broker,
3 broker-salesperson or salesperson and who has been a salesperson
4 licensed **【as】** with a 【referral agent】 real estate referral company
5 for more than the six immediately preceding years shall, in order to
6 qualify for licensure as a salesperson, be required to complete the
7 pre-licensure education requirement applicable to candidates for
8 licensure as a salesperson and pass the State license examination. A
9 person who was previously licensed as a broker, broker-salesperson
10 or salesperson and who has been a salesperson licensed **【as】** with a
11 **【referral agent】** real estate referral company for more than the six
12 immediately preceding years shall, in order to qualify for
13 relicensure as a broker, broker-salesperson or salesperson, as
14 applicable, complete up to 30 hours of continuing education as
15 prescribed by commission rule and pass the broker license
16 examination or the salesperson license examination, as applicable.

17 h. Any **【referral agent】** salesperson licensed with a real estate
18 referral company seeking licensure as a real estate broker, broker-
19 salesperson or salesperson shall make application for such license
20 on a form as prescribed by the commission, pay all application and
21 licensure fees as set forth herein, furnish to the commission
22 evidence of the **【referral agent's】** salesperson's good moral
23 character, and be subject to investigation by and required to
24 produce to the commission such proof of the **【referral agent's】**
25 salesperson's honesty, trustworthiness and integrity as the
26 commission deems proper and in the public interest.

27 i. Upon the effective date of P.L. c. (C.) (pending before
28 the Legislature as this bill), any person licensed as a referral agent
29 through a real estate referral company shall be deemed to be a
30 salesperson licensed with a real estate referral company until the
31 next renewal of licenses by the commission. All requirements set
32 forth in subsections f., g., and h. of this section with respect to
33 licensure and length of experience as a salesperson licensed with a
34 real estate referral company shall include licensure and length of
35 experience as a referral agent licensed with a real estate referral
36 company.

37 (cf: P.L.2009, c.238, s.3)

38
39 5. R.S.45:15-10 is amended to read as follows:

40 45:15-10. Before any such license shall be granted, the
41 applicant, and in the case of a partnership, association or
42 corporation, the partners, directors or officers thereof actually
43 engaged in the real estate business as a broker, broker-salesperson,
44 or salesperson, **【or referral agent,】** shall submit to an examination
45 to be conducted under the supervision of the commission which
46 examination shall test the applicant's general knowledge of the
47 statutes of New Jersey concerning real property, conveyancing,

1 mortgages, agreements of sale, leases and of the provisions of
2 R.S.45:15-1 et seq., the rules and regulations of the commission and
3 such other subjects as the commission may direct. The commission
4 may make rules and regulations for the conduct of such
5 examinations. Upon satisfactorily passing such examination and
6 fulfilling all other qualifications a license shall be granted by the
7 commission to the successful applicant therefor as a real estate
8 broker, broker-salesperson, or salesperson, **[or referral agent]** and
9 the applicant upon receiving the license is authorized to conduct in
10 this State the business of a real estate broker, broker-salesperson, or
11 salesperson, **[or referral agent,]** as the case may be. Such license
12 shall expire on the last day of a two-year license term as established
13 by the commission; such license shall be renewed, without
14 examination, biennially thereafter, upon the payment of the fee
15 fixed by R.S.45:15-15, and in the case of a broker, broker-
16 salesperson or salesperson license, upon completion of the
17 continuing education requirements applicable to the holders of such
18 licenses, except that a salesperson licensed with a real estate referral
19 company shall not be required to complete the continuing education
20 requirements as a condition of license renewal under this section or
21 section 23 of P.L.2009, c.238 (C.45:15-16.2a).

22 (cf: P.L.2009, c.238, s.4)

23

24 6. Section 1 of P.L.1966, c.277 (C.45:15-10.1) is amended to
25 read as follows:

26 1. a. As a prerequisite to admission to an examination, every
27 individual applicant for licensure as a real estate salesperson **[or a**
28 **real estate referral agent]** shall give evidence of satisfactory
29 completion of 75 hours in the aggregate of such courses of
30 education in real estate subjects at a school licensed by the
31 commission as the commission shall by regulation prescribe. At
32 least three hours of that course of study shall be on the subject of
33 ethics and ethical conduct in the profession of a real estate
34 salesperson.

35 b. As a prerequisite to admission to an examination, every
36 individual applicant for licensure as a real estate broker or broker-
37 salesperson shall give evidence of satisfactory completion of 150
38 hours in the aggregate of such courses of education in real estate
39 and related subjects at a school licensed by the commission as the
40 commission shall by regulation prescribe. Thirty hours of that
41 course of study shall be on the subject of ethics and ethical conduct
42 in the profession of a real estate broker.

43 The commission may approve courses in specialized aspects of
44 the real estate brokerage business offered by providers who are not
45 the holders of a real estate school license pursuant to section 47 of
46 P.L.1993, c.51 (C.45:15-10.4), the completion of which may be

1 recognized as fulfilling a portion of the total broker pre-licensure
2 education requirements.
3 (cf: P.L.2009, c.238, s.5)
4

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

6 45:15-11. Any citizen of New Jersey who has served in the
7 armed forces of the United States or who served as a member of the
8 American Merchant Marine during World War II and is declared by
9 the United States Department of Defense to be eligible for federal
10 veterans' benefits, who has been honorably discharged, and who,
11 having been wounded or disabled in the line of duty, has completed
12 a program of courses in real estate approved by the New Jersey Real
13 Estate Commission, and who has successfully passed an
14 examination conducted by said commission qualifying him to
15 operate as a real estate broker, broker-salesperson, or salesperson
16 **[or referral agent]**, may, upon presentation of a certificate
17 certifying that he has completed such program of courses as
18 aforesaid, obtain without cost from the commission and without
19 qualification through experience as a salesperson, a license to
20 operate as a real estate broker, broker-salesperson, or a real estate
21 salesperson **[or referral agent]**, as the case may be, which licenses
22 shall be the same as other licenses issued under R.S.45:15-1 et seq.
23 Renewal of licenses may be granted under this section for each
24 ensuing license term, upon request, without fees therefor.

25 (cf: P.L.2009, c.238, s.7)
26

27 8. R.S.45:15-12 is amended to read as follows:

28 45:15-12. Every real estate broker shall maintain a designated
29 main office open to the public. A real estate broker's main office
30 shall have prominently displayed therein the license certificate of
31 the broker and all licensed persons in his employ and shall be
32 deemed the business address of all licensed persons for all purposes
33 under chapter 15 of Title 45 of the Revised Statutes. In case a real
34 estate broker maintains more than one place of business, a branch
35 office license shall be issued to such broker for each branch office
36 so maintained in this State; provided, however, that the said branch
37 office or offices are under the direct supervision of a broker-
38 salesperson. The branch office license or licenses shall be issued
39 upon the payment of a fee of \$50 for each license so issued. Every
40 place of business maintained by a real estate broker shall have
41 conspicuously displayed on the exterior thereof the name in which
42 the broker is authorized to operate and, in the case of a corporation
43 or partnership, the name of the individual licensed as its authorized
44 broker, and the words Licensed Real Estate Broker. A real estate
45 broker whose main office is located in another state shall maintain a
46 valid real estate broker's license in good standing in the state where
47 the office is located.

1 The provisions of this section shall apply to any real estate
2 broker who supervises a real estate referral company as defined
3 under R.S.45:15-3.

4 (cf: P.L.2003, c.117, s.34)

5
6 9. Section 8 of P.L.1953, c.229 (C.45:15-12.1) is amended to
7 read as follows:

8 8. No license shall be issued by the commission to any person
9 known by it to have been, within five years theretofore, convicted
10 of forgery, burglary, robbery, any theft offense other than
11 shoplifting, criminal conspiracy to defraud, or other like offense or
12 offenses, or to any copartnership of which such person is a member,
13 or to any association or corporation of which said person is an
14 officer, director, or employee, or in which as a stockholder such
15 person has or exercises a controlling interest either directly or
16 indirectly. No license shall be issued or renewed by the
17 commission to any person known by it to have been convicted of
18 any sex offense that would qualify the person for registration
19 pursuant to section 2 of P.L.1994, c.133 (C.2C:7-2) or under an
20 equivalent statute of another state or jurisdiction.

21 (cf: P.L.1993, c.51, s.14)

22
23 10. R.S.45:15-14 is amended to read as follows:

24 45:15-14. All licenses issued to real estate brokers, broker-
25 salespersons, and salespersons **[and referral agents]** shall be kept
26 by the broker by whom such real estate licensee is employed or
27 contracted, and the pocket card accompanying the same shall be
28 delivered by the broker to the licensee who shall have the card in
29 his possession at all times when engaged in the business of a real
30 estate broker, broker-salesperson, or salesperson **[or referral agent]**.
31 When any real estate licensee is terminated or resigns his
32 employment with the real estate broker by whom he was employed
33 or contracted at the time of the issuing of such license to him,
34 notice of the termination shall be given in writing by the broker to
35 the terminated licensee with the effective date of the termination
36 reflected thereon, or notice of the resignation shall be given in
37 writing by the resigning licensee to the broker with the effective
38 date of the resignation reflected thereon. Upon the issuance of a
39 written notice of termination by a broker or his authorized
40 representative, or upon receipt of a written resignation by a broker
41 or his authorized representative, such employer or contracting
42 broker shall within five business days of the effective date of the
43 termination or resignation, either: a. deliver, or send by registered
44 mail, to the commission, such real estate licensee's license and, at
45 the same time, send a written communication to such real estate
46 licensee at his last known residence, advising him that his license
47 has been delivered or mailed to the commission. A copy of such
48 communication to the licensee shall accompany the license when

1 mailed or delivered to the commission; or, b. deliver to the
2 departing licensee and to the commission any other materials as the
3 commission may prescribe by regulation to accomplish the transfer
4 of the licensee to another employing or contracting broker. No real
5 estate licensee shall perform any of the acts contemplated by
6 R.S.45:15-1 et seq., either directly or indirectly, under the authority
7 of such license, from and after the effective date of the licensee's
8 termination or resignation until authorized to do so by the
9 commission. A new license may be issued to such licensee, upon
10 the payment of a fee of \$25, and upon the submission of satisfactory
11 proof that he has obtained employment or contracted with another
12 licensed broker. A broker-salesperson~~[,]~~ or salesperson ~~[~~or
13 referral agent must ~~]~~ shall be licensed under a broker; he cannot be
14 licensed with more than one broker at the same time.
15 (cf: P.L.2009, c.238, s.8)

16
17 11. R.S.45:15-15 is amended to read as follows:

18 45:15-15. The biennial fee for each real estate broker's license
19 shall be \$200, the biennial fee for each real estate broker-
20 salesperson's license shall be \$200 and the biennial fee for each real
21 estate salesperson's license ~~[~~and each real estate referral agent's
22 license ~~]~~ shall be \$100. The biennial fee for a branch office license
23 shall be \$100. Each license granted under R.S.45:15-1 et seq. shall
24 entitle the licensee to perform all of the acts contemplated herein
25 during the period for which the license is issued, as prescribed by
26 R.S.45:15-1 et seq. If a licensee fails to apply for a renewal of his
27 license prior to the date of expiration of such license, the
28 commission may refuse to issue a renewal license except upon the
29 payment of a late renewal fee in the amount of \$20 for a ~~[~~referral
30 agent, ~~]~~ salesperson or broker-salesperson and \$40 for a broker;
31 provided, however, the commission may, in its discretion, refuse to
32 renew any license upon sufficient cause being shown. The
33 commission shall refuse to renew the license of any licensee
34 convicted of any offense enumerated in section 6 of P.L.1953, c.229
35 (C.45:15-19.1) during the term of the last license issued by the
36 commission unless the conviction was previously the subject of a
37 revocation proceeding. Renewed licenses may be granted for each
38 ensuing two years upon request of licensees and the payment of the
39 full fee therefor as herein required. Upon application and payment
40 of the fees provided herein, initial licenses and licenses reinstated
41 pursuant to R.S.45:15-9 may be issued, but the commission may, in
42 its discretion, refuse to grant or reinstate any license upon sufficient
43 cause being shown. The license fees for initial or reinstated
44 licenses shall be determined based upon the biennial fees
45 established herein, with a full biennial fee payable for the license
46 term in which application is received. The revocation or suspension
47 of a broker's license shall automatically suspend every real estate

1 broker-salesperson's~~[,] and~~ salesperson's ~~and referral agent's~~
2 license granted to employees or contractors of the broker whose
3 license has been revoked or suspended, pending a change of
4 employer or contracting broker and the issuance of a new license.
5 The new license shall be issued without additional charge, if the
6 same is granted during the license term in which the original license
7 was granted. Any renewal fee in this section shall be billed by the
8 commission at or before the time of the submission of a renewal
9 application by a licensee.

10 A real estate broker who maintains a main office or branch office
11 licensed by the commission which is located in another state shall
12 maintain a valid real estate broker's license in good standing in the
13 state where the office is located and shall maintain a real estate
14 license in that other state for each office licensed by the
15 commission. Upon request, the real estate broker shall provide a
16 certification of his license status in the other state to the
17 commission. Any license issued by the commission to a real estate
18 broker for a main or branch office located outside this State shall be
19 automatically suspended upon the revocation, suspension or refusal
20 to renew the real estate broker's license issued by the state where
21 the office is located. The licenses issued by the commission to
22 every broker-salesperson~~[,] and~~ salesperson ~~or referral agent~~
23 employed or contracted by the broker shall be automatically
24 suspended pending a change of employer or contracting broker and
25 the issuance of a new license. The new license shall be issued
26 without additional charge if granted during the license term in
27 which the original license was granted.

28 (cf: P.L.2009, c.238, s.9)

29

30 12. R.S.45:15-16 is amended to read as follows:

31 45:15-16. No real estate salesperson~~[,] or~~ broker-salesperson
32 ~~or referral agent~~ shall accept a commission or valuable
33 consideration for the performance of any of the acts herein
34 specified, from any person except his employer or contracting
35 broker, who must be a licensed real estate broker.

36 (cf: P.L.2009, c.238, s.10)

37

38 13. Section 23 of P.L.2009, c.238 (C.45:15-16.2a) is amended to
39 read as follows:

40 23 a. The New Jersey Real Estate Commission shall require
41 each natural person licensed as a real estate broker, broker-
42 salesperson or salesperson, as a condition of biennial license
43 renewal pursuant to R.S.45:15-10, to complete not more than 16
44 hours of continuing education requirements imposed by the
45 commission pursuant to this section and sections 24 through 28 of
46 this amendatory and supplementary act, except that a salesperson
47 licensed with a real estate referral company shall not be required to

1 complete the continuing education requirements as a condition of
2 biennial license renewal.

3 b. The commission shall:

4 (1) (a) Approve continuing education courses, course providers,
5 and instructors recommended to the commission by the Volunteer
6 Advisory Committee created pursuant to subparagraph (b) of this
7 paragraph. Schools licensed by the commission as real estate
8 schools pursuant to section 47 of P.L.1993, c.51 (C.45:15-10.4)
9 shall be deemed approved providers of continuing education
10 courses. Persons licensed by the commission as real estate
11 instructors pursuant to section 48 of P.L.1993, c.51 (C.45:15-10.5)
12 shall be deemed approved instructors of continuing education
13 courses in core topics as set forth in section 27 of P.L.2009, c.238
14 (C.45:15-16.2e). Real estate trade associations that qualify under
15 the standards to be established by commission rule as approved
16 providers may offer approved continuing education courses.

17 (b) There is hereby created a Volunteer Advisory Committee
18 which shall consist of 14 members to be comprised of real estate
19 licensees and other subject matter experts, whose members shall be
20 appointed by and serve at the pleasure of the Commissioner of
21 Banking and Insurance. One real estate licensee shall be selected
22 upon the recommendation of the President of the Senate and one
23 real estate licensee shall be selected upon the recommendation of
24 the Speaker of the General Assembly. Three members of the
25 advisory committee shall be members of the commission or their
26 designees, and not less than eight of the members, other than the
27 commission members, shall be real estate licensees. Members shall
28 be appointed to effect balanced geographic representation from the
29 central, northern and southern areas of the State, with not less than
30 three members serving from each of these areas at any time on the
31 advisory committee.

32 Members shall be appointed by the Commissioner of Banking
33 and Insurance no later than 60 days following the enactment date of
34 this act. The first meeting of the advisory committee shall be held
35 no later than 30 days from the date the commission adopts initial
36 regulations for the effectuation of this act.

37 (2) Confer continuing education credits for courses completed in
38 other states on topics approved by the commission as appropriate
39 for elective courses, provided that such courses have been approved
40 as continuing education courses by the agency exercising regulatory
41 authority over the real estate licensees of another state and that
42 satisfactory evidence of licensees' attendance at and completion of
43 such courses is provided to the commission by the course provider.

44 (3) Confer continuing education credits for courses completed
45 and offered in this State on topics deemed of a timely nature which
46 have not been granted prior approval by the advisory committee,
47 provided that such courses are advertised prior to the time of
48 offering as not having been approved; that the course provider shall

1 submit such course offering for approval and the course is
2 subsequently approved as provided in subparagraph (a) of
3 paragraph (1) of this subsection; and that satisfactory evidence of
4 licensees' attendance at and completion of such courses is provided
5 to the commission by the course provider.

6 (4) Set parameters for the auditing and monitoring of course
7 providers.

8 (5) Establish, by regulation, the amounts of application fees
9 payable by persons seeking approval as continuing education course
10 providers, persons seeking approval of continuing education
11 courses, and persons other than instructors of pre-licensure real
12 estate education courses licensed by the commission pursuant to
13 section 48 of P.L.1993, c.51 (C.45:15-10.5), seeking approval as
14 instructors of continuing education courses. These fees shall be
15 non-refundable and shall be in amounts which do not exceed the
16 costs incurred by the commission to review these applications.

17 (6) Have the authority to waive continuing education
18 requirements, in whole or in part, on the grounds of illness,
19 emergency, hardship or active duty military service.

20 (7) Confer continuing education credits upon a person who is
21 licensed by the commission as a real estate instructor or as a broker,
22 broker-salesperson or salesperson for teaching an approved
23 continuing education course offered by an approved provider.
24 Regardless of the number of times during a biennial license term
25 that the same approved course is taught by that person, the person
26 shall receive credit toward the continuing education requirement for
27 the renewal of the person's broker, broker-salesperson or
28 salesperson license, as applicable, only in the number of credit
29 hours conferred upon licensees who attend and complete that course
30 one time during that biennial license term.

31 (cf: P.L.2009, c.238, s.23)

32

33 14. Section 24 of P.L.2009, c.238 (C.45:15-16.2b) is amended to
34 read as follows:

35 24. Continuing education courses may be delivered in a
36 classroom setting or via the Internet¹, distance learning,
37 correspondence² or video modalities, subject to the approval by the
38 New Jersey Real Estate Commission of the providers and the
39 content of such courses and of the measures utilized to ensure the
40 security and integrity of the course delivery process. The
41 commission may approve continuing education courses which
42 include periodic progress assessments and the achievement of a
43 satisfactory level of performance by the licensee on such progress
44 assessments as a condition to continuing to a succeeding segment of
45 the course. The commission shall not require, as a condition of the
46 receipt of credit for attendance at any continuing education course,

1 that a licensee pass a comprehensive examination testing the
2 licensee's knowledge of the entire course content.
3 (cf: P.L.2009, c.238, s.24)
4

5 15. Section 27 of P.L.2009, c.238 (C.45:15-16.2e) is amended to
6 read as follows:

7 27. a. Not less than 50 percent of the continuing education
8 courses of study that a broker, broker-salesperson or salesperson are
9 required to complete as a condition for license renewal shall be
10 comprised of one or more of the following core topics:

- 11 (1) Agency;
- 12 (2) Disclosure;
- 13 (3) Legal issues;
- 14 (4) Ethics, which shall not be less than two hours;
- 15 (5) Fair housing;
- 16 (6) Rules and regulations; **[and]**
- 17 (7) Real estate licensee safety;
- 18 (8) Financial literacy and planning; and
- 19 (9) Any other core topics that the New Jersey Real Estate
20 Commission may prescribe by rule.

21 In no event shall the commission require that courses in these
22 core topics comprise more than 60 percent of the total continuing
23 education hours required for the renewal of any license.

24 b. In the case of continuing education courses and programs,
25 each hour of instruction shall be equivalent to one credit.
26 (cf: P.L.2009, c.238, s.27)
27

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

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

44 In conducting investigations, the commission may take testimony
45 by deposition as provided in R.S.45:15-18, require or permit any
46 person to file a statement in writing, under oath or otherwise as the
47 commission determines, as to all the facts and circumstances
48 concerning the matter under investigation, and, upon its own motion

1 or upon the request of any party, subpoena witnesses, compel their
2 attendance, take evidence, and require the production of any
3 material which is relevant to the investigation, including any and all
4 records of a licensee pertaining to his activities as a real estate
5 broker, broker-salesperson, or salesperson **[or referral agent]**. The
6 commission may also require the provision of any information
7 concerning the existence, description, nature, custody, condition
8 and location of any books, documents, or other tangible material
9 and the identity and location of persons having knowledge of
10 relevant facts of any other matter reasonably calculated to lead to
11 the discovery of material evidence. Upon failure to obey a
12 subpoena or to answer questions posed by an investigator or legal
13 representative of the commission and upon reasonable notice to all
14 affected persons, the commission may commence an administrative
15 action as provided below or apply to the Superior Court for an order
16 compelling compliance.

17 The commission may place on probation, suspend for a period
18 less than the unexpired portion of the license period, or may revoke
19 any license issued under the provisions of R.S.45:15-1 et seq., or
20 the right of licensure when such person is no longer the holder of a
21 license at the time of hearing, or may impose, in addition or as an
22 alternative to such probation, revocation or suspension, a penalty of
23 not more than \$5,000 for the first violation, and a penalty of not
24 more than \$10,000 for any subsequent violation, which penalty
25 shall be sued for and recovered by and in the name of the
26 commission and shall be collected and enforced by summary
27 proceedings pursuant to the "Penalty Enforcement Law of 1999,"
28 P.L.1999, c.274 (C.2A:58-10 et seq.), where the licensee or any
29 person, in performing or attempting to perform any of the acts
30 mentioned herein, is deemed to be guilty of:

- 31 a. Making any false promises or any substantial
32 misrepresentation; 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
36 misrepresentation or making of false promises through agents,
37 broker-salespersons, or salespersons **[or referral agents]**,
38 advertisements or otherwise; or
- 39 d. Failure to account for or to pay over any moneys belonging
40 to others, coming into the possession of the licensee; or
- 41 e. Any conduct which demonstrates unworthiness,
42 incompetency, bad faith or dishonesty. The failure of any person to
43 cooperate with the commission in the performance of its duties or to
44 comply with a subpoena issued by the commission compelling the
45 production of materials in the course of an investigation, or the
46 failure to give a verbal or written statement concerning a matter
47 under investigation may be construed as conduct demonstrating
48 unworthiness; or

- 1 f. Failure to provide his client with a fully executed copy of
2 any sale or exclusive sales or rental listing contract at the time of
3 execution thereof, or failure to specify therein a definite terminal
4 date which terminal date shall not be subject to any qualifying
5 terms or conditions; or
- 6 g. Using any plan, scheme or method for the sale or promotion
7 of the sale of real estate which involves a lottery, a contest, a game,
8 a prize, a drawing, or the offering of a lot or parcel or lots or parcels
9 for advertising purposes, provided, however, that a promotion or
10 offer of free, discounted or other services or products which does
11 not require that the recipient of any free, discounted or other
12 services or products enter into a sale, listing or other real estate
13 contract as a condition of the promotion or offer shall not constitute
14 a violation of this subsection if that promotion or offering does not
15 involve a lottery, a contest, a game, a drawing or the offering of a
16 lot or parcel or lots or parcels for advertising purposes. A broker
17 shall disclose in writing any compensation received for such
18 promotion or offer in the form and substance as required by the
19 federal "Real Estate Settlement Procedures Act of 1974," 12 U.S.C.
20 ss.2601 et seq., except that, notwithstanding the provisions of that
21 federal act, written disclosure shall be provided no later than when
22 the promotion or offer is extended by the broker to the consumer; or
- 23 h. Being convicted of a crime, knowledge of which the
24 commission did not have at the time of last issuing a real estate
25 license to the licensee; or
- 26 i. Collecting a commission as a real estate broker in a
27 transaction, when at the same time representing either party in a
28 transaction in a different capacity for a consideration; or
- 29 j. Using any trade name or insignia of membership in any real
30 estate organization of which the licensee is not a member; or
- 31 k. Paying any rebate, profit, compensation or commission to
32 anyone not possessed of a real estate license, except that: (1) free,
33 discounted or other services or products provided for in subsection
34 g. of this section shall not constitute a violation of this subsection;
35 and (2) a real estate broker may provide a purchaser of residential
36 real property, but no other third party a rebate of a portion of the
37 commission paid to the broker in a transaction, so long as: the
38 broker and the purchaser contract for such a rebate at the onset of
39 the broker relationship in a written document, electronic document
40 or a buyer agency agreement; the broker complies with any State or
41 federal requirements with respect to the disclosure of the payment
42 of the rebate; and the broker recommends to the purchaser that the
43 purchaser contact a tax professional concerning the tax implications
44 of receiving that rebate. The rebate paid to the purchaser shall be in
45 the form of a credit, reducing the amount of the commission
46 payable to the broker, or a check paid by the closing agent and shall
47 be made at the time of closing; or

- 1 l. Any other conduct, whether of the same or a different
2 character than specified in this section, which constitutes fraud or
3 dishonest dealing; or
- 4 m. Accepting a commission or valuable consideration as a real
5 estate broker-salesperson~~[,]~~ or salesperson ~~【or referral agent】~~ for
6 the performance of any of the acts specified in this act, from any
7 person, except his employing or contracting broker, who must be a
8 licensed broker; or
- 9 n. Procuring a real estate license, for himself or anyone else, by
10 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 account,
13 separate and apart from personal or other business accounts, all
14 moneys received by a real estate broker, acting in said capacity, or
15 as escrow agent, or the temporary custodian of the funds of others,
16 in a real estate transaction; or
- 17 p. Selling property in the ownership of which he is interested in
18 any manner whatsoever, unless he first discloses to the purchaser in
19 the contract of sale his interest therein and his status as a real estate
20 broker, broker-salesperson, or salesperson ~~【or referral agent】~~; or
- 21 q. Purchasing any property unless he first discloses to the seller
22 in the contract of sale his status as a real estate broker, broker-
23 salesperson, or salesperson ~~【or referral agent】~~; or
- 24 r. Charging or accepting any fee, commission or compensation
25 in exchange for providing information on purportedly available
26 rental housing, including lists of such units supplied verbally or in
27 written form, before a lease has been executed or, where no lease is
28 drawn, before the tenant has taken possession of the premises
29 without complying with all applicable rules promulgated by the
30 commission regulating these practices; or
- 31 s. Failing to notify the commission within 30 days of having
32 been convicted of any crime, including any sex offense that would
33 qualify the licensee for registration pursuant to section 2 of
34 P.L.1994, c.133 (C.2C:7-2) or under an equivalent statute of
35 another state or jurisdiction, misdemeanor or disorderly persons
36 offense, or of having been indicted, or of the filing of any formal
37 criminal charges, or of the suspension or revocation of any real
38 estate license issued by another state, or of the initiation of formal
39 disciplinary proceedings in another state affecting any real estate
40 license held, or failing to supply any documentation available to the
41 licensee that the commission may request in connection with such
42 matter; or
- 43 t. The violation of any of the provisions of R.S.45:15-1 et seq.
44 or of the administrative rules adopted by the commission pursuant
45 to the provisions of R.S.45:15-1 et seq. The commission is
46 expressly vested with the power and authority to make, prescribe
47 and enforce any and all rules and regulations for the conduct of the

1 real estate brokerage business consistent with the provisions of
2 chapter 15 of Title 45 of the Revised Statutes.

3 If a licensee is deemed to be guilty of a third violation of any of
4 the provisions of this section, whether of the same provision or of
5 separate provisions, the commission may deem that person a repeat
6 offender, in which event the commission may direct that no license
7 as a real estate broker, broker-salesperson, or salesperson **[or**
8 **referral agent]** shall henceforth be issued to that person.

9 (cf: P.L.2009, c.273, s.1)

10

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

12 45:15-18. With the exception of a temporary suspension
13 imposed by the commission pursuant to section 23 of P.L.1993,
14 c.51 (C.45:15-17.1), the commission shall, before suspending or
15 revoking any license, and at least ten days prior to the date set for
16 the hearing, notify in writing the licensee of any charges made, and
17 afford him an opportunity to be heard in person or by counsel.
18 Such written notice may be served either personally or sent by
19 certified mail to the last known business address of the licensee. If
20 the licensee is a broker-salesperson**[,]** or salesperson **[or referral**
21 **agent]**, the commission shall also notify the broker employing or
22 contracting with him, specifying the charges made against such
23 licensee, by sending a notice thereof by certified mail to the
24 broker's last known business address. The commission shall have
25 power to bring before it any licensee or any person in this State
26 pursuant to subpoena served personally or by certified mail; or the
27 commission may take testimony by deposition in the same manner
28 as prescribed by law in judicial proceedings in the courts of this
29 State. Any final decision or determination of the commission shall
30 be reviewable by the Appellate Division of the Superior Court.

31 (cf: P.L.2009, c.238, s.12)

32

33 18. R.S.45:15-19 is amended to read as follows:

34 45:15-19. Any unlawful act or violation of any of the provisions
35 of R.S.45:15-1 et seq., by any real estate broker-salesperson**[,]** or
36 salesperson **[or referral agent]**, shall not be cause for the revocation
37 of any real estate broker's license, unless it shall appear to the
38 satisfaction of the commission that the real estate broker employing
39 or contracting with such licensee had guilty knowledge thereof.

40 (cf: P.L.2009, c.238, s.13)

41

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

44 6. When, during the term of any license issued by the
45 commission, the licensee shall be convicted in a court of competent
46 jurisdiction in the State of New Jersey or any state (including
47 federal courts) of forgery, burglary, robbery, any theft or related

1 offense with the exception of shoplifting, criminal conspiracy to
2 defraud, or other like offense or offenses, or any crime involving,
3 related to or arising out of the licensee's activities as a real estate
4 broker, broker-salesperson, or salesperson **【or referral agent】**, and a
5 duly certified or exemplified copy of the judgment of conviction
6 shall be obtained by the commission, the commission shall revoke
7 forthwith the license by it theretofore issued to the licensee so
8 convicted. The commission shall revoke the license of any licensee
9 convicted of any sex offense that would qualify the licensee for
10 registration pursuant to section 2 of P.L.1994, c.133 (C.2C:7-2) or
11 under an equivalent statute of another state or jurisdiction.
12 (cf: P.L.2009, c.238, s.14)

13

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

16 7. In the event that any licensee shall be indicted in the State of
17 New Jersey or any state or territory (including federal courts) for
18 murder, kidnapping, aggravated sexual assault or any sex offense
19 that would qualify the licensee for registration pursuant to section 2
20 of P.L.1994, c.133 (C.2C:7-2) or under an equivalent statute of
21 another state or jurisdiction, robbery, burglary, arson, any theft
22 offense, bribery, racketeering, distribution of a controlled dangerous
23 substance or conspiracy to distribute a controlled dangerous
24 substance, forgery, criminal conspiracy to defraud, or other like
25 offense or offenses, or any crime involving, related to or arising out
26 of the licensee's activities as a real estate broker, broker-
27 salesperson, or salesperson **【or referral agent】**, and a certified copy
28 of the indictment is obtained by the commission, or other proper
29 evidence thereof be to it given, the commission shall have authority,
30 in its discretion, to suspend the license issued to such licensee
31 pending trial upon such indictment.
32 (cf: P.L.2009, c.238, s.15)

33

34 21. (New section) No provision of R.S.45:15-1 et seq., or any
35 amendment or supplement thereof, shall be deemed to supersede
36 P.L.1968, c.282 (C.2A:168A-1 et seq.).

37

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

39 45:15-20. A nonresident may become a real estate broker,
40 broker-salesperson, or salesperson **【or referral agent】** by
41 conforming to all of the provisions of R.S.45:15-1 et seq. All
42 nonresident licenses issued by the commission prior to July 1, 1994
43 may be renewed upon payment of the renewal fees established
44 pursuant to R.S.45:15-15. All nonresident licenses so renewed shall
45 be issued by the commission in the same form as a resident license.
46 In the event that any person to whom a nonresident license is issued
47 fails to maintain or renew the license or to obtain a new license
48 from the commission for a period of two or more consecutive years,

1 the person shall be required to fulfill the requirements for initial
2 licensure established pursuant to R.S.45:15-9 prior to the issuance
3 of any further license.

4 A licensed broker whose main office is not located within this
5 State shall only provide brokerage services concerning real estate
6 located within this State either personally or through persons in the
7 broker's employ or with whom the broker has contracted who are
8 the holders of real estate broker-salesperson~~[,]~~ or salesperson ~~[~~or
9 referral agent~~]~~ licenses issued by the commission. In the event that
10 a broker maintains one or more branch offices in this State, no
11 person shall engage in the business of a real estate broker, broker-
12 salesperson, or salesperson ~~[~~or referral agent~~]~~ at those offices
13 unless the person is a holder of a license issued by the commission
14 authorizing him to do so.

15 (cf: P.L.2009, c.238, s.16)

16

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

19 1. A real estate guaranty fund is established as a special trust
20 fund to be maintained by the State Treasurer and administered by
21 the New Jersey Real Estate Commission in accordance with the
22 provisions of this act to provide a fund from which recovery may be
23 obtained by any person aggrieved by the embezzlement, conversion
24 or unlawful obtaining of money or property in a real estate
25 brokerage transaction by a licensed real estate broker, broker-
26 salesperson, or salesperson ~~[~~or referral agent~~]~~ or an unlicensed
27 employee of a real estate broker; provided, however, that the
28 amount of such recovery shall not exceed in the aggregate the sum
29 of \$10,000 in connection with any one transaction regardless of the
30 number of claims, persons aggrieved, or parcels of, or interests in
31 real estate involved in the transaction. The maximum amount
32 recoverable per transaction shall be increased to \$20,000 for claims
33 filed on the basis of causes of action which accrue after the
34 effective date of P.L.1993, c.51 (C.45:15-12.3 et al.).

35 (cf: P.L.2009, c.238, s.17)

36

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

39 2. Upon the initial issuance of a biennial license as a real estate
40 broker, broker-salesperson, or salesperson ~~[~~or referral agent~~]~~ the
41 licensee shall pay to the commission, in addition to the license fee
42 fixed by R.S.45:15-15, an additional amount to be forwarded by the
43 commission to the State Treasurer and accounted for and credited
44 by him to the real estate guaranty fund. The additional amount
45 payable by a broker or broker-salesperson shall be \$20 and by a
46 salesperson ~~[~~or referral agent~~]~~, \$10.

47 (cf: P.L.2009, c.238, s.18)

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

3 4. No claim shall be made for payment from the real estate
4 guaranty fund except upon the reduction to final judgment, which
5 shall include reasonable attorney fees and costs, of a civil action
6 against the broker, broker-salesperson, or salesperson~~], referral~~
7 ~~agent]~~ or unlicensed employee of a broker, and, where the
8 judgment creditor has pursued all available remedies, made all
9 reasonable searches, and has been unable to satisfy the judgment
10 from the licensee's assets, the entry of a court order which directs
11 the New Jersey Real Estate Commission to make payment from the
12 fund. No such order shall authorize a payment to the spouse or
13 personal representative of the spouse of the judgment debtor.

14 No order shall be entered unless the claimant, either at the time
15 of filing the civil action or thereafter, files a certification affirming
16 that a criminal complaint alleging the misappropriation of funds by
17 the broker, broker-salesperson, or salesperson~~], referral agent]~~
18 or unlicensed employee has been filed with a law enforcement agency
19 of this State or of a county or municipality in this State. The
20 criminal complaint shall refer to the same conduct to which
21 reference is made in the civil action as forming the basis for a claim
22 against the real estate guaranty fund. The certification shall specify
23 the date on which the criminal complaint was filed and the law
24 enforcement agency with which it was filed. A copy of the
25 certification shall be provided to the New Jersey Real Estate
26 Commission upon its being filed. The requirement to file a
27 certification shall apply prospectively only to claims seeking
28 reimbursement from the fund filed on the basis of causes of action
29 which accrue after the effective date of P.L.1993, c.51 (C.45:15-
30 12.3 et al.).

31 Upon delivery by the New Jersey Real Estate Commission to the
32 State Treasurer of a certified copy of the court order together with
33 an assignment to the New Jersey Real Estate Commission of the
34 judgment creditor's right, title and interest in the judgment to the
35 extent of the amount of the court order, the State Treasurer shall
36 make payment to the claimant from the real estate guaranty fund.
37 (cf: P.L.2009, c.238, s.19)

38

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

41 6. Any person to whom is issued a license to be a real estate
42 broker, broker-salesperson, or salesperson ~~]~~ **[or referral agent]** shall,
43 by the securing of said license, make and constitute the secretary of
44 the commission or the person in charge of the office of the
45 commission as agent for the acceptance of process in any civil
46 proceeding hereunder.

47 (cf: P.L.2009, c.238, s.20)

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

3 7. a. If at any time the funds available in the real estate
4 guaranty fund are insufficient to satisfy in full court orders for
5 payment therefrom, payment shall be made in the order in which
6 such court orders were issued; and the New Jersey Real Estate
7 Commission shall by regulation impose further additional amounts
8 to be paid by brokers, broker-salespersons, or salespersons **[and**
9 **referral agents]** to replenish the guaranty fund. No such additional
10 amount assessed at any one time shall exceed the amounts specified
11 in section 2 of P.L.1976, c.112 (C.45:15-35).

12 b. If at any time the funds available in the real estate guaranty
13 fund are, in the opinion of the New Jersey Real Estate Commission,
14 in excess of amounts anticipated to be necessary to meet claims for
15 a period of at least two years, the commission may, with the
16 approval of the Commissioner of Banking and Insurance, allocate
17 and receive from the guaranty fund a specified amount thereof for
18 research and educational projects to increase the proficiency and
19 competency of real estate licensees.

20 (cf: P.L.2009, c.238, s.21)

21

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

24 8. Upon the issuance of a court order for payment from the real
25 estate guaranty fund the license of the broker, broker-salesperson,
26 or salesperson **[or referral agent]**, whose acts gave rise to the claim,
27 shall be revoked and no such broker, broker-salesperson, or
28 salesperson **[or referral agent]** shall be eligible for reinstatement of
29 his license until he shall have satisfied the judgment in full
30 including reimbursement of the real estate guaranty fund together
31 with interest.

32 (cf: P.L.2009, c.238, s.22)

33

34 29. Section 3 of this act shall take effect immediately and the
35 remainder of this act shall take effect on January 1, 2018, except the
36 New Jersey Real Estate Commission may take any anticipatory
37 administrative action in advance as shall be necessary for the
38 implementation of this act.

39

40

41

STATEMENT

42

43 This bill makes various revisions to the laws concerning real estate
44 licensees.

45 The bill eliminates the referral agent license category, which was
46 created pursuant to P.L.2009, c.238, and replaces it by codifying the
47 current business practice of real estate brokers housing real estate
48 salespersons in real estate referral companies. Under the provisions of

1 the bill, the referral agent license category will be replaced by a real
2 estate salesperson licensed with a real estate referral company that is
3 supervised by a licensed real estate broker whose real estate
4 brokerage-related activities are limited to referring prospects for the
5 sale, purchase, exchange, leasing or rental of real estate or an interest
6 therein. The bill defines a real estate referral company as a business
7 entity supervised by a real estate broker, separate and apart from
8 any other business entity maintained by the real estate broker, for
9 the purpose of housing licensed salespersons that strictly engage in
10 the referral of prospects for the sale, purchase, exchange, leasing or
11 rental of real estate or an interest therein solely on behalf of the
12 supervising real estate broker. The bill also expands the definition of
13 real estate broker to include any person, firm, or corporation who
14 supervises a real estate referral company.

15 The bill maintains operating limitations, which are currently in
16 place for referral agents, for salespersons licensed with a real estate
17 referral company, including:

18 (1) salespersons licensed with a real estate referral company will
19 not be permitted to be simultaneously licensed as a real estate
20 broker or broker-salesperson; and

21 (2) salespersons licensed with a real estate referral company will
22 only refer prospects to the real estate broker supervising the real
23 estate referral company through which the salesperson is licensed
24 and will not be licensed with more than one real estate broker or
25 real estate referral company at one time.

26 The bill provides that the license and renewal applications for a
27 salesperson licensed with a real estate referral company must
28 include a certification signed by the real estate broker confirming
29 that the salesperson and broker have reviewed the restrictions
30 placed on a salesperson licensed with a real estate referral company
31 and that the salesperson acknowledges these restrictions.
32 Furthermore, a salesperson licensed with a real estate referral
33 company will not be required to complete continuing education
34 requirements as a condition of license renewal or under any other
35 circumstances. The bill stipulates that any person licensed as a
36 referral agent through a real estate referral company will be deemed
37 to be a salesperson licensed with a real estate referral company until
38 the next renewal of licenses by the commission. All requirements
39 set forth in the bill with respect to licensure and length of
40 experience as a salesperson licensed with a real estate referral
41 company who seeks to change licensure status must include
42 licensure and length of experience as a referral agent licensed with
43 a real estate referral company, as applicable.

44 The bill also predicates the disqualification of real estate licenses
45 issued to certain individuals upon the basis of a conviction of any sex
46 offense that would qualify the person for registration under "Megan's
47 Law," or an equivalent statute of another state or jurisdiction. The bill
48 also permits the New Jersey Real Estate Commission to place

1 licensees on probation, suspend or revoke any real estate license, or
2 impose penalties on a real estate licensee, for failure to notify the
3 commission of the licensee having been convicted of any sex offense
4 that would qualify the person for registration under “Megan’s Law,” or
5 an equivalent statute of another state or jurisdiction. However, the bill
6 stipulates that no provision of the laws concerning real estate licensees
7 (R.S.45:15-1 et seq.), or any supplement thereto, will be deemed to
8 supersede P.L.1968, c.282 (C.2A:168A-1 et seq.). That law provides
9 that a person will not be disqualified or discriminated against by any
10 licensing authority because of any conviction for a crime, unless
11 N.J.S.2C:51-2 or section 7 of P.L.2009, c.53 (C.17:11C-57) is
12 applicable, or unless the conviction relates adversely to the occupation,
13 trade, vocation, profession, or business for which a license, certificate
14 of authority, or qualification is sought.

15 The bill revises current law so that continuing education courses
16 would be prohibited from being delivered through distance learning or
17 a correspondence course. The bill also establishes two new core
18 continuing education categories for real estate licensee safety, and
19 financial literacy and planning.

20 Finally, the bill codifies two existing provisions of regulations
21 promulgated by the New Jersey Real Estate Commission. First, the
22 bill mandates that two hours of continuing education courses be taken
23 in the topic of ethics. Second, the bill requires a written agreement
24 defining the business affiliation between a broker and a broker-
25 salesperson or salesperson and the terms under which the services of
26 the broker-salesperson or salesperson have been retained by the
27 broker. The bill provides that the business affiliation between a
28 broker and a broker-salesperson or salesperson may be that of an
29 employment relationship or independent contractor relationship.

ASSEMBLY REGULATED PROFESSIONS COMMITTEE

STATEMENT TO

[First Reprint]

SENATE, No. 430

STATE OF NEW JERSEY

DATED: JUNE 11, 2018

The Assembly Regulated Professions Committee reports favorably Senate Bill No. 430 (1R).

This bill eliminates the referral agent license category, which was created pursuant to P.L.2009, c.238, and replaces it by codifying the current business practice of real estate brokers housing real estate salespersons in real estate referral companies. Under the provisions of the bill, the referral agent license category is replaced by a real estate salesperson licensed with a real estate referral company that is supervised by a licensed real estate broker whose real estate brokerage-related activities are limited to referring prospects for the sale, purchase, exchange, leasing or rental of real estate or an interest therein. The bill defines a real estate referral company as a business entity supervised by a real estate broker, separate and apart from any other business entity maintained by the real estate broker, for the purpose of housing licensed salespersons that strictly engage in the referral of prospects for the sale, purchase, exchange, leasing or rental of real estate or an interest therein solely on behalf of the supervising real estate broker. The bill also expands the definition of real estate broker to include any person, firm, or corporation who supervises a real estate referral company.

The bill maintains operating limitations, which are currently in place for referral agents, for salespersons licensed with a real estate referral company, including:

(1) salespersons licensed with a real estate referral company will not be permitted to be simultaneously licensed as a real estate broker or broker-salesperson; and

(2) salespersons licensed with a real estate referral company will only refer prospects to the real estate broker supervising the real estate referral company through which the salesperson is licensed and will not be licensed with more than one real estate broker or real estate referral company at one time.

The bill provides that the license and renewal applications for a salesperson licensed with a real estate referral company must include a certification signed by the real estate broker confirming that the salesperson and broker have reviewed the restrictions placed on a salesperson licensed with a real estate referral company and that the

salesperson acknowledges these restrictions. Furthermore, a salesperson licensed with a real estate referral company is not required to complete continuing education requirements as a condition of license renewal or under any other circumstances.

The bill stipulates that any person licensed as a referral agent through a real estate referral company will be deemed to be a salesperson licensed with a real estate referral company until the next renewal of licenses by the commission. All requirements set forth in the bill with respect to licensure and length of experience as a salesperson licensed with a real estate referral company who seeks to change licensure status must include licensure and length of experience as a referral agent licensed with a real estate referral company, as applicable.

The bill also predicates the disqualification of real estate licenses issued to certain individuals upon the basis of a conviction of any sex offense that would qualify the person for registration under “Megan’s Law,” or an equivalent statute of another state or jurisdiction. The bill also permits the New Jersey Real Estate Commission to place licensees on probation, suspend or revoke any real estate license, or impose penalties on a real estate licensee, for failure to notify the commission that the licensee has been convicted of any sex offense that would qualify the person for registration under “Megan’s Law,” or an equivalent statute of another state or jurisdiction. However, the bill stipulates that no provision of the laws concerning real estate licensees (R.S.45:15-1 et seq.), or any supplement thereto, will be deemed to supersede P.L.1968, c.282 (C.2A:168A-1 et seq.). That law provides that a person will not be disqualified or discriminated against by any licensing authority because of any conviction for a crime, unless N.J.S.2C:51-2 or section 7 of P.L.2009, c.53 (C.17:11C-57) is applicable, or unless the conviction relates adversely to the occupation, trade, vocation, profession, or business for which a license, certificate of authority, or qualification is sought.

The bill revises current law so that continuing education courses would be prohibited from being delivered through distance learning or a correspondence course. The bill also establishes two new core continuing education categories for real estate licensee safety, and financial literacy and planning.

The bill codifies two existing provisions of regulations promulgated by the New Jersey Real Estate Commission. First, the bill mandates that two hours of continuing education courses be taken in the topic of ethics. Second, the bill requires a written agreement defining the business affiliation between a broker and a broker-salesperson or salesperson and the terms under which the services of the broker-salesperson or salesperson have been retained by the broker. The bill provides that the business affiliation between a broker and a broker-salesperson or salesperson may be that of an employment relationship or independent contractor relationship.

SENATE COMMERCE COMMITTEE

STATEMENT TO

SENATE, No. 430

with committee amendments

STATE OF NEW JERSEY

DATED: FEBRUARY 15, 2018

The Senate Commerce Committee reports favorably and with committee amendments Senate Bill No. 430.

This amended bill makes various revisions to the laws concerning real estate licensees.

The bill, as amended, eliminates the referral agent license category, which was created pursuant to P.L.2009, c.238, and replaces it by codifying the current business practice of real estate brokers housing real estate salespersons in real estate referral companies. Under the provisions of the bill, the referral agent license category will be replaced by a real estate salesperson licensed with a real estate referral company that is supervised by a licensed real estate broker whose real estate brokerage-related activities are limited to referring prospects for the sale, purchase, exchange, leasing or rental of real estate or an interest therein. The bill defines a real estate referral company as a business entity supervised by a real estate broker, separate and apart from any other business entity maintained by the real estate broker, for the purpose of housing licensed salespersons that strictly engage in the referral of prospects for the sale, purchase, exchange, leasing or rental of real estate or an interest therein solely on behalf of the supervising real estate broker. The bill also expands the definition of real estate broker to include any person, firm, or corporation who supervises a real estate referral company.

The bill maintains operating limitations, which are currently in place for referral agents, for salespersons licensed with a real estate referral company, including:

(1) salespersons licensed with a real estate referral company will not be permitted to be simultaneously licensed as a real estate broker or broker-salesperson; and

(2) salespersons licensed with a real estate referral company will only refer prospects to the real estate broker supervising the real estate referral company through which the salesperson is licensed and will not be licensed with more than one real estate broker or real estate referral company at one time.

The bill, as amended, provides that the license and renewal applications for a salesperson licensed with a real estate referral company must include a certification signed by the real estate broker

confirming that the salesperson and broker have reviewed the restrictions placed on a salesperson licensed with a real estate referral company and that the salesperson acknowledges these restrictions. Furthermore, a salesperson licensed with a real estate referral company will not be required to complete continuing education requirements as a condition of license renewal or under any other circumstances. The bill stipulates that any person licensed as a referral agent through a real estate referral company will be deemed to be a salesperson licensed with a real estate referral company until the next renewal of licenses by the commission. All requirements set forth in the bill with respect to licensure and length of experience as a salesperson licensed with a real estate referral company who seeks to change licensure status must include licensure and length of experience as a referral agent licensed with a real estate referral company, as applicable.

The bill, as amended, also predicates the disqualification of real estate licenses issued to certain individuals upon the basis of a conviction of any sex offense that would qualify the person for registration under “Megan’s Law,” or an equivalent statute of another state or jurisdiction. The bill also permits the New Jersey Real Estate Commission to place licensees on probation, suspend or revoke any real estate license, or impose penalties on a real estate licensee, for failure to notify the commission that the licensee has been convicted of any sex offense that would qualify the person for registration under “Megan’s Law,” or an equivalent statute of another state or jurisdiction. However, the bill stipulates that no provision of the laws concerning real estate licensees (R.S.45:15-1 et seq.), or any supplement thereto, will be deemed to supersede P.L.1968, c.282 (C.2A:168A-1 et seq.). That law provides that a person will not be disqualified or discriminated against by any licensing authority because of any conviction for a crime, unless N.J.S.2C:51-2 or section 7 of P.L.2009, c.53 (C.17:11C-57) is applicable, or unless the conviction relates adversely to the occupation, trade, vocation, profession, or business for which a license, certificate of authority, or qualification is sought.

The amended bill revises current law so that continuing education courses would be prohibited from being delivered through distance learning or a correspondence course. The bill also establishes two new core continuing education categories for real estate licensee safety, and financial literacy and planning.

Finally, the amended bill codifies two existing provisions of regulations promulgated by the New Jersey Real Estate Commission. First, the bill mandates that two hours of continuing education courses be taken in the topic of ethics. Second, the bill requires a written agreement defining the business affiliation between a broker and a broker-salesperson or salesperson and the terms under which the services of the broker-salesperson or salesperson have been retained by the broker. The bill provides that the business affiliation between a

broker and a broker-salesperson or salesperson may be that of an employment relationship or independent contractor relationship.

The bill also makes a technical correction to section 13 of the bill to reflect the enactment of P.L.2017, c.200, which exempted certain licensees from any continuing education requirements.

This bill was pre-filed for introduction in the 2018-2019 session pending technical review. As reported, the bill includes the changes required by technical review, which has been performed.

Committee Amendments:

The committee amendments provide that a person who is currently a salesperson licensed with a real estate referral company, but was previously licensed as a broker, broker-salesperson, or salesperson, must complete up to 30 hours of continuing education as prescribed by commission rule, in order to qualify for relicensure as a broker, broker-salesperson, or salesperson, as applicable.

The bill, as introduced, required that a salesperson who is licensed with a real estate referral company for more than the six immediately preceding years, but who was previously licensed as a broker, broker-salesperson, or salesperson, must complete up to 30 hours of continuing education and pass the broker license examination or salesperson examination, as applicable, in order to qualify for relicensure as a broker, broker-salesperson, or salesperson.

The amendments thus provide that a person who is currently a salesperson licensed with a real estate referral company, regardless of the length of experience, but who was previously licensed as a broker, broker-salesperson, or salesperson, will only be required to complete up to 30 hours of continuing education in order to qualify for relicensure as a broker, broker-salesperson, or salesperson, as applicable.

The amendments also make changes to section 13 of the bill to reflect the updated version of the law amended in that section of the bill.

SENATE BUDGET AND APPROPRIATIONS COMMITTEE

STATEMENT TO

[First Reprint]

SENATE, No. 430

STATE OF NEW JERSEY

DATED: MARCH 13, 2018

The Senate Budget and Appropriations Committee reports favorably Senate Bill No. 430 (1R).

This bill eliminates the referral agent license category, which was created pursuant to P.L.2009, c.238, and replaces it by codifying the current business practice of real estate brokers housing real estate salespersons in real estate referral companies. Under the provisions of the bill, the referral agent license category is replaced by a real estate salesperson licensed with a real estate referral company that is supervised by a licensed real estate broker whose real estate brokerage-related activities are limited to referring prospects for the sale, purchase, exchange, leasing or rental of real estate or an interest therein. The bill defines a real estate referral company as a business entity supervised by a real estate broker, separate and apart from any other business entity maintained by the real estate broker, for the purpose of housing licensed salespersons that strictly engage in the referral of prospects for the sale, purchase, exchange, leasing or rental of real estate or an interest therein solely on behalf of the supervising real estate broker. The bill also expands the definition of real estate broker to include any person, firm, or corporation who supervises a real estate referral company.

The bill maintains operating limitations, which are currently in place for referral agents, for salespersons licensed with a real estate referral company, including:

(1) salespersons licensed with a real estate referral company will not be permitted to be simultaneously licensed as a real estate broker or broker-salesperson; and

(2) salespersons licensed with a real estate referral company will only refer prospects to the real estate broker supervising the real estate referral company through which the salesperson is licensed and will not be licensed with more than one real estate broker or real estate referral company at one time.

The bill provides that the license and renewal applications for a salesperson licensed with a real estate referral company must include a certification signed by the real estate broker confirming that the salesperson and broker have reviewed the restrictions placed on a salesperson licensed with a real estate referral company and that the

salesperson acknowledges these restrictions. Furthermore, a salesperson licensed with a real estate referral company is not required to complete continuing education requirements as a condition of license renewal or under any other circumstances.

The bill stipulates that any person licensed as a referral agent through a real estate referral company will be deemed to be a salesperson licensed with a real estate referral company until the next renewal of licenses by the commission. All requirements set forth in the bill with respect to licensure and length of experience as a salesperson licensed with a real estate referral company who seeks to change licensure status must include licensure and length of experience as a referral agent licensed with a real estate referral company, as applicable.

The bill also predicates the disqualification of real estate licenses issued to certain individuals upon the basis of a conviction of any sex offense that would qualify the person for registration under “Megan’s Law,” or an equivalent statute of another state or jurisdiction. The bill also permits the New Jersey Real Estate Commission to place licensees on probation, suspend or revoke any real estate license, or impose penalties on a real estate licensee, for failure to notify the commission that the licensee has been convicted of any sex offense that would qualify the person for registration under “Megan’s Law,” or an equivalent statute of another state or jurisdiction. However, the bill stipulates that no provision of the laws concerning real estate licensees (R.S.45:15-1 et seq.), or any supplement thereto, will be deemed to supersede P.L.1968, c.282 (C.2A:168A-1 et seq.). That law provides that a person will not be disqualified or discriminated against by any licensing authority because of any conviction for a crime, unless N.J.S.2C:51-2 or section 7 of P.L.2009, c.53 (C.17:11C-57) is applicable, or unless the conviction relates adversely to the occupation, trade, vocation, profession, or business for which a license, certificate of authority, or qualification is sought.

The bill revises current law so that continuing education courses would be prohibited from being delivered through distance learning or a correspondence course. The bill also establishes two new core continuing education categories for real estate licensee safety, and financial literacy and planning.

The bill codifies two existing provisions of regulations promulgated by the New Jersey Real Estate Commission. First, the bill mandates that two hours of continuing education courses be taken in the topic of ethics. Second, the bill requires a written agreement defining the business affiliation between a broker and a broker-salesperson or salesperson and the terms under which the services of the broker-salesperson or salesperson have been retained by the broker. The bill provides that the business affiliation between a broker and a broker-salesperson or salesperson may be that of an employment relationship or independent contractor relationship.

FISCAL IMPACT:

The Office of Legislative Services (OLS) estimates that the bill may result in an indeterminate biennial, likely insignificant, decrease in revenue due to the bill's disqualification of real estate licenses issued to certain individuals upon the basis of a conviction of any sex offence that would qualify the person for registration under "Megan's Law," or an equivalent statute of another State or jurisdiction.

LEGISLATIVE FISCAL ESTIMATE

[First Reprint]

SENATE, No. 430

STATE OF NEW JERSEY 218th LEGISLATURE

DATED: MARCH 22, 2018

SUMMARY

Synopsis: Concerns certain real estate licensees.

Type of Impact: Biennial decrease in State revenue.

Agencies Affected: Department of Banking and Insurance.

Office of Legislative Services Estimate

Fiscal Impact	<u>Biennial</u>
State Revenue Decrease	Indeterminate

- The Office of Legislative Services (OLS) estimates that the bill may result in an indeterminate biennial, likely insignificant, decrease in New Jersey Real Estate Commission license fee revenue. Any decrease would materialize due to the bill's disqualification of real estate licenses held by individuals who have been convicted of any offense that requires a person to register as a sex offender under "Megan's Law" or an equivalent statute of another jurisdiction.
- The bill's conversion of referral agent licenses to a new category of salesperson licenses should have no fiscal impact on the State, as the application and licensure fees for both types of licenses are identical.

BILL DESCRIPTION

This bill makes various revisions to the laws concerning real estate licensees, including the replacement of the current referral agent license category with a new license type for real estate salespersons licensed with a real estate referral company. Among its other revisions, the bill requires the New Jersey Real Estate Commission in the Department of Banking and Insurance to revoke the license of any real estate licensee who is convicted of any offense that requires a person to register as a sex offender under "Megan's Law" or an equivalent statute of another State or jurisdiction.

FISCAL ANALYSIS

EXECUTIVE BRANCH

None received.

OFFICE OF LEGISLATIVE SERVICES

The OLS estimates that the bill may result in an indeterminate biennial, likely insignificant, decrease in New Jersey Real Estate Commission license fee revenue. Any decrease would materialize due to the bill's disqualification of real estate licenses held by individuals who have been convicted of any offense that requires a person to register as a sex offender under "Megan's Law" or an equivalent statute of another jurisdiction. The OLS has no information on the number of current real estate licensees who are registered sex offenders.

The OLS notes that the fiscal impact of the bill will depend solely on the amount of biennial license fees lost from currently licensed real estate professionals whose licenses may be revoked due to convictions of sex offenses. The bill's conversion of referral agent licenses to a new category of salesperson licenses should have no fiscal impact on the State, as the application and licensure fees for both types of licenses are identical. Both licenses require the payment of: 1) a biennial license fee of \$100; 2) an initial one-time application fee of \$50; and 3) an initial one-time fee of \$10 deposited in the real estate guaranty fund. The total is therefore \$160 for the initial license and \$100 for the license renewal.

The OLS estimates that the license category conversion will affect approximately 25,000 referral agents who pay roughly \$2.5 million in biennial license fees to the New Jersey Real Estate Commission. This estimate is based on the Department of Banking and Insurance reporting 25,232 actively licensed referral agents in the State as of March 15, 2018 and the biennial license fee of \$100. The estimate ignores the one-time payment of \$60 in fees by applicants for initial licensure as a referral agent or salesperson.

Section: *Commerce, Labor and Industry*

Analyst: *Juan C. Rodriguez*
Associate Fiscal Analyst

Approved: *Frank W. Haines III*
Legislative Budget and Finance Officer

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 (C.52:13B-6 et seq.).

ASSEMBLY, No. 2726

STATE OF NEW JERSEY
218th LEGISLATURE

INTRODUCED FEBRUARY 1, 2018

Sponsored by:

Assemblyman THOMAS P. GIBLIN
District 34 (Essex and Passaic)

SYNOPSIS

Concerns certain real estate licensees.

CURRENT VERSION OF TEXT

As introduced.



1 AN ACT concerning certain real estate licensees, supplementing
2 chapter 15 of Title 45 of the Revised Statutes, and revising
3 various parts of the statutory law.

4
5 **BE IT ENACTED** by the Senate and General Assembly of the State
6 of New Jersey:

7
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 salesperson **[or referral agent]**, temporarily or otherwise, and no
12 person shall advertise or represent himself as being authorized to
13 act as a real estate broker, broker-salesperson, or salesperson **[or**
14 referral agent**]**, or to engage in any of the activities described in
15 R.S.45:15-3, without being licensed so to do as hereinafter
16 provided.

17 (cf: P.L.2009, c.238, s.1)

18
19 2. R.S.45:15-3 is amended to read as follows:

20 45:15-3. A real estate broker, for the purposes of R.S.45:15-1
21 et seq., is defined to be a person, firm or corporation who, for a fee,
22 commission or other valuable consideration, or by reason of a
23 promise or reasonable expectation thereof, lists for sale, sells,
24 exchanges, buys or rents, or offers or attempts to negotiate a sale,
25 exchange, purchase or rental of real estate or an interest therein, or
26 collects or offers or attempts to collect rent for the use of real estate
27 or solicits for prospective purchasers or assists or directs in the
28 procuring of prospects or the negotiation or closing of any
29 transaction which does or is contemplated to result in the sale,
30 exchange, leasing, renting or auctioning of any real estate or
31 negotiates, or offers or attempts or agrees to negotiate a loan
32 secured or to be secured by mortgage or other encumbrance upon or
33 transfer of any real estate for others, or any person who, for
34 pecuniary gain or expectation of pecuniary gain conducts a public
35 or private competitive sale of lands or any interest in lands. In the
36 sale of lots pursuant to the provisions of R.S.45:15-1 et seq., the
37 term "real estate broker" shall also include any person, partnership,
38 association or corporation employed or contracted by or on behalf
39 of the owner or owners of lots or other parcels of real estate, at a
40 stated salary, or upon a commission, or upon a salary and
41 commission, or otherwise, to sell such real estate, or any parts
42 thereof, in lots or other parcels, and who shall sell or exchange, or
43 offer or attempt or agree to negotiate the sale or exchange, of any
44 such lot or parcel of real estate. A real estate broker shall also

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 include any person, firm, or corporation who supervises a real estate
2 referral company.

3 A real estate salesperson, for the purposes of R.S.45:15-1 et seq.,
4 is defined to be any natural person who, for compensation, valuable
5 consideration or commission, or other thing of value, or by reason
6 of a promise or reasonable expectation thereof, is employed or
7 contracted by and operates under the supervision of a licensed real
8 estate broker to sell or offer to sell, buy or offer to buy or negotiate
9 the purchase, sale or exchange of real estate, or offers or attempts to
10 negotiate a loan secured or to be secured by a mortgage or other
11 encumbrance upon or transfer of real estate, or to lease or rent, or
12 offer to lease or rent any real estate for others, or to collect rents for
13 the use of real estate, or to solicit for prospective purchasers or
14 lessees of real estate, or who is employed or contracted by a
15 licensed real estate broker to sell or offer to sell lots or other parcels
16 of real estate, at a stated salary, or upon a commission, or upon a
17 salary and commission, or otherwise to sell real estate, or any parts
18 thereof, in lots or other parcels, or in the case of a salesperson
19 licensed with a real estate referral company refers prospective
20 consumers of real estate brokerage services to a particular broker.
21 For the purposes of R.S.45:15-1 et seq., the definition of real estate
22 salesperson shall include a salesperson licensed with a real estate
23 referral company unless otherwise indicated.

24 A real estate broker-salesperson, for the purposes of R.S.45:15-1
25 et seq., is defined to be any natural person who is qualified to be
26 licensed as a real estate broker but who, for compensation, valuable
27 consideration or commission, or other thing of value, or by reason
28 of a promise or reasonable expectation thereof, is employed or
29 contracted by and operates under the supervision of a licensed real
30 estate broker to perform the functions of a real estate salesperson as
31 defined herein.

32 A real estate **【referral agent】** salesperson licensed with a real
33 estate referral company, for the purposes of R.S.45:15-1 et seq., is
34 defined to be any natural person employed or contracted by and
35 operating under the supervision of a licensed real estate broker
36 through a real estate referral company whose real estate brokerage-
37 related activities are limited to referring prospects for the sale,
38 purchase, exchange, leasing or rental of real estate or an interest
39 therein. **【Referral agent licensees】** Salespersons licensed with a
40 real estate referral company shall only refer such prospects to the
41 real estate broker who supervises the real estate referral company
42 through whom they are licensed **【as a referral agent】** and shall only
43 accept compensation for their activity **【as a referral agent】** from
44 that broker. A **【referral agent】** salesperson licensed with a real
45 estate referral company shall not be employed or contracted by or
46 licensed with more than one real estate broker or real estate referral
47 company at any given time. No **【person】** salesperson licensed with

1 a real estate referral company may simultaneously be licensed as a
2 **【referral agent and a】** real estate broker**【,】** or broker-salesperson
3 **【or salesperson】** and no **【person】** salesperson licensed **【as a**
4 referral agent】 with a real estate referral company may engage in
5 the business of a real estate broker**【,】** or broker-salesperson **【or**
6 salesperson】 to an extent beyond that authorized by their status as a
7 licensed **【real estate agent】** salesperson.

8 A real estate referral company, for the purposes of R.S.45:15-1 et
9 seq., is defined to be a business entity established and supervised by
10 a licensed real estate broker, separate and apart from any business
11 entity maintained by the licensed real estate broker to conduct real
12 estate brokerage-related activities other than the referral of
13 prospective consumers of real estate brokerage services to that
14 broker, for the purpose of employing or contracting licensed
15 salespersons who strictly engage in the referral of prospects for the
16 sale, purchase, exchange, leasing or rental of real estate or an
17 interest therein solely on behalf of the supervising real estate
18 broker.

19 No person, firm, partnership, association or corporation shall
20 bring or maintain any action in the courts of this State for the
21 collection of compensation for the performance of any of the acts
22 mentioned in R.S.45:15-1 et seq. without alleging and proving that
23 he was a duly licensed real estate broker at the time the alleged
24 cause of action arose.

25 No person claiming to be entitled to compensation as a **【referral**
26 **agent,】** salesperson or broker-salesperson for the performance of
27 any of the acts mentioned in R.S.45:15-1 et seq. shall bring or
28 maintain any action in the courts of this State for the collection of
29 compensation against any person, firm, partnership or corporation
30 other than the licensed broker with whom the **【referral agent,】**
31 salesperson or broker-salesperson was employed or contracted at
32 the time the alleged cause of action arose and no action shall be
33 brought or maintained without the claimant alleging and proving
34 that he was a duly licensed real estate **【referral agent,】** salesperson
35 or broker-salesperson at the time the alleged cause of action arose.
36 (cf: P.L.2009, c.238, s.2)

37
38 3. (New section) a. No broker-salesperson or salesperson shall
39 commence business activity for a broker and no broker shall
40 authorize a broker-salesperson or salesperson to act on the broker's
41 behalf until a written agreement, as provided in this subsection, has
42 been signed by the broker and broker-salesperson or salesperson.
43 Prior to an individual's commencement of business activity as a
44 broker-salesperson or salesperson under the authority of a broker,
45 the broker and broker-salesperson or salesperson shall both sign a
46 written agreement which recites the terms under which the services

1 of the broker-salesperson or salesperson have been retained by the
2 broker.

3 b. Notwithstanding any provision of R.S.45:15-1 et seq. or any
4 other law, rule, or regulation to the contrary, a business affiliation
5 between a broker and a broker-salesperson or salesperson may be
6 that of an employment relationship or the provision of services by
7 an independent contractor. The nature of the business affiliation
8 shall be defined in the written agreement required pursuant to
9 subsection a. of this section.

10

11 4. R.S.45:15-9 is amended to read as follows:

12 45:15-9. a. All persons desiring to become real estate brokers,
13 broker-salespersons, or salespersons **【or referral agents】** shall apply
14 to the commission for a license under the provisions of R.S.45:15-1
15 et seq. Every applicant for a license as a broker, broker-
16 salesperson, or salesperson **【or referral agent】** shall be of the age of
17 18 years or over, and in the case of an association or a corporation
18 the directors thereof shall be of the age of 18 years or over.
19 Application for a license, whether as a real estate broker, broker-
20 salesperson, or salesperson **【or referral agent】**, shall be made to the
21 commission upon forms prescribed by it and shall be accompanied
22 by an application fee of \$50 which fee shall not be refundable.
23 Every applicant for a license whether as a real estate broker, broker-
24 salesperson, or salesperson **【or referral agent】** shall have the
25 equivalent of a high school education. The issuance of a license to
26 an applicant who is a nonresident of this State shall be deemed to be
27 his irrevocable consent that service of process upon him as a
28 licensee in any action or proceeding may be made upon him by
29 service upon the secretary of the commission or the person in
30 charge of the office of the commission. The applicant shall furnish
31 evidence of good moral character, and in the case of an association,
32 partnership or corporation, the members, officers or directors
33 thereof shall furnish evidence of good moral character. The
34 commission may make such investigation and require such proof as
35 it deems proper and in the public interest as to the honesty,
36 trustworthiness, character and integrity of an applicant. Any
37 applicant for licensure pursuant to this section and any officer,
38 director, partner or owner of a controlling interest of a corporation
39 or partnership filing for licensure pursuant to this section shall
40 submit to the commission the applicant's name, address, fingerprints
41 and written consent for a criminal history record background check
42 to be performed. The commission is hereby authorized to exchange
43 fingerprint data with and receive criminal history record
44 information from the State Bureau of Identification in the Division
45 of State Police and the Federal Bureau of Investigation consistent
46 with applicable State and federal laws, rules and regulations, for the
47 purposes of facilitating determinations concerning licensure
48 eligibility. The applicant shall bear the cost for the criminal history

1 record background check, including all costs of administering and
2 processing the check. The Division of State Police shall promptly
3 notify the commissioner in the event a current holder of a license or
4 prospective applicant, who was the subject of a criminal history
5 record background check pursuant to this section, is arrested for a
6 crime or offense in this State after the date the background check
7 was performed. Every applicant for a license as a broker or broker-
8 salesperson shall have first been the holder of a New Jersey real
9 estate salesperson's license and have been actively engaged on a
10 full-time basis in the real estate brokerage business in this State as a
11 real estate salesperson for three years immediately preceding the
12 date of application, which requirement may be waived by the
13 commission where the applicant has been the holder of a broker's
14 license in another state and actively engaged in the real estate
15 brokerage business for at least three years immediately preceding
16 the date of his application, meets the educational requirements and
17 qualifies by examination. No license as a broker shall be granted to
18 a general partnership or corporation unless at least one of the
19 partners or officers of said general partnership or corporation
20 qualifies as and holds a license as a broker to transact business in
21 the name and on behalf of said general partnership or corporation as
22 its authorized broker and no such authorized broker shall act as a
23 broker on his own individual account unless he is also licensed as a
24 broker in his individual name; the license of said general
25 partnership or corporation shall cease if at least one partner or
26 officer does not hold a license as its authorized broker at all times.
27 A change in the status of the license of an authorized broker to an
28 individual capacity or vice versa shall be effected by application to
29 the commission accompanied by a fee of \$50. No license as a
30 broker shall be granted to a limited partnership unless its general
31 partner qualifies as and holds a license as a broker to transact
32 business in the name of and on behalf of the limited partnership. In
33 the event that a corporation is a general partner of a limited
34 partnership, no license as a broker shall be granted to the limited
35 partnership unless the corporation is licensed as a broker and one of
36 the officers of the corporation qualifies as and holds a license as the
37 corporation's authorized broker.

38 b. An application for licensure as a **【referral agent】 salesperson**
39 licensed with a real estate referral company and for any renewal
40 thereof shall include a certification signed by the licensed real
41 estate broker by whom the applicant is or will be employed or
42 contracted, on a form and in a manner prescribed by the
43 commission, which certification shall confirm that: the broker and
44 the applicant or renewing **【referral agent】 salesperson licensed with**
45 a real estate referral company have reviewed the restrictions
46 imposed by law upon the activities of a **【referral agent】 salesperson**
47 licensed with a real estate referral company; and the applicant or
48 **【referral agent】 salesperson licensed with a real estate referral**

1 company has acknowledged that he is aware that such activity is
2 limited to referring prospective consumers of real estate brokerage
3 services to that broker.

4 c. In the event that a person who held a broker, broker-
5 salesperson or salesperson license fails to renew that license and
6 then, in the two years immediately following the expiration date of
7 the last license held, seeks to reinstate such license, the commission
8 shall require, as a condition to such reinstatement during that two-
9 year period, that the applicant submit proof of having completed the
10 continuing education requirement applicable to that license type in
11 the preceding license term.

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

1 e. In the event that any person to whom a salesperson's **【**or a
2 referral agent's**】** license, including a salesperson's license with a
3 real estate referral company, has been or shall have been issued
4 shall fail to maintain or renew such license or obtain a new license
5 for a period of two consecutive years or more after the expiration of
6 the last license held, the commission shall require such person to
7 attend a licensed school and pass the State examination prior to
8 issuance of a further license. The commission may, in its
9 discretion, approve for relicensure a salesperson **【**or a referral
10 agent**】** applicant, including a salesperson applicant licensed with a
11 real estate referral company, who has not renewed his license or
12 obtained a new license for two or more consecutive years upon a
13 sufficient showing that the applicant was medically unable to do so.
14 All salesperson **【**or referral agent**】** applicants, including salesperson
15 applicants licensed with a real estate referral company, so approved
16 shall pass the salesperson's license examination and, with respect to
17 salespersons, except those salespersons licensed with a real estate
18 referral company, complete the continuing education requirements
19 applicable to salesperson licensees in the preceding licensure term
20 prior to being relicensed. Nothing in this section shall be construed
21 to require a salesperson licensed with a real estate referral company
22 to complete the continuing education requirements applicable to
23 salesperson licensees as a condition of license renewal under this
24 section or section 23 of P.L.2009, c.238 (C.45:15-16.2a). This
25 **【**paragraph**】** subsection shall not apply to a person reapplying for a
26 salesperson's **【**or referral agent's**】** license, including a salesperson
27 reapplying for licensure with a real estate referral company, who
28 was a licensed salesperson **【**or referral agent**】** , including a
29 salesperson licensed with a real estate referral company, and who
30 allowed his license to expire due to subsequent employment in a
31 public agency in this State with responsibility for dealing with
32 matters relating to real estate if the person reapplying does so
33 within one year of termination of that employment.

34 f. A salesperson licensed **【**referral agent**】** with a real estate
35 referral company who was not previously licensed as a broker,
36 broker-salesperson, or salesperson and who has been a salesperson
37 licensed **【**as**】** with a 【referral agent】 real estate referral company
38 for the six immediately preceding years or any lesser period of time
39 shall, in order to qualify for licensure as a salesperson, complete up
40 to 30 hours of continuing education as prescribed by commission
41 rule. A person who was previously licensed as a broker, broker-
42 salesperson or salesperson and who has been a salesperson licensed
43 **【**as**】** with a 【referral agent】 real estate referral company for the six
44 immediately preceding years or any lesser period of time shall, in
45 order to qualify for the reissuance of a broker, broker-salesperson or
46 salesperson license, as applicable, complete up to 30 hours of
47 continuing education as prescribed by commission rule.

1 g. A salesperson licensed **【referral agent】** with a real estate
2 referral company who was not previously licensed as a broker,
3 broker-salesperson or salesperson and who has been a salesperson
4 licensed **【as】** with a 【referral agent】 real estate referral company
5 for more than the six immediately preceding years shall, in order to
6 qualify for licensure as a salesperson, be required to complete the
7 pre-licensure education requirement applicable to candidates for
8 licensure as a salesperson and pass the State license examination. A
9 person who was previously licensed as a broker, broker-salesperson
10 or salesperson and who has been a salesperson licensed **【as】** with a
11 **【referral agent】** real estate referral company for more than the six
12 immediately preceding years shall, in order to qualify for
13 relicensure as a broker, broker-salesperson or salesperson, as
14 applicable, complete up to 30 hours of continuing education as
15 prescribed by commission rule and pass the broker license
16 examination or the salesperson license examination, as applicable.

17 h. Any **【referral agent】** salesperson licensed with a real estate
18 referral company seeking licensure as a real estate broker, broker-
19 salesperson or salesperson shall make application for such license
20 on a form as prescribed by the commission, pay all application and
21 licensure fees as set forth herein, furnish to the commission
22 evidence of the **【referral agent's】** salesperson's good moral
23 character, and be subject to investigation by and required to
24 produce to the commission such proof of the **【referral agent's】**
25 salesperson's honesty, trustworthiness and integrity as the
26 commission deems proper and in the public interest.

27 i. Upon the effective date of P.L. c. (C.) (pending before
28 the Legislature as this bill), any person licensed as a referral agent
29 through a real estate referral company shall be deemed to be a
30 salesperson licensed with a real estate referral company until the
31 next renewal of licenses by the commission. All requirements set
32 forth in subsections f., g., and h. of this section with respect to
33 licensure and length of experience as a salesperson licensed with a
34 real estate referral company shall include licensure and length of
35 experience as a referral agent licensed with a real estate referral
36 company.

37 (cf: P.L.2009, c.238, s.3)

38

39 5. R.S.45:15-10 is amended to read as follows:

40 45:15-10. Before any such license shall be granted, the
41 applicant, and in the case of a partnership, association or
42 corporation, the partners, directors or officers thereof actually
43 engaged in the real estate business as a broker, broker-salesperson,
44 or salesperson, **【or referral agent,】** shall submit to an examination
45 to be conducted under the supervision of the commission which
46 examination shall test the applicant's general knowledge of the
47 statutes of New Jersey concerning real property, conveyancing,

1 mortgages, agreements of sale, leases and of the provisions of
2 R.S.45:15-1 et seq., the rules and regulations of the commission and
3 such other subjects as the commission may direct. The commission
4 may make rules and regulations for the conduct of such
5 examinations. Upon satisfactorily passing such examination and
6 fulfilling all other qualifications a license shall be granted by the
7 commission to the successful applicant therefor as a real estate
8 broker, broker-salesperson, or salesperson, **【or referral agent】** and
9 the applicant upon receiving the license is authorized to conduct in
10 this State the business of a real estate broker, broker-salesperson, or
11 salesperson, **【or referral agent,】** as the case may be. Such license
12 shall expire on the last day of a two-year license term as established
13 by the commission; such license shall be renewed, without
14 examination, biennially thereafter, upon the payment of the fee
15 fixed by R.S.45:15-15, and in the case of a broker, broker-
16 salesperson or salesperson license, upon completion of the
17 continuing education requirements applicable to the holders of such
18 licenses, except that a salesperson licensed with a real estate referral
19 company shall not be required to complete the continuing education
20 requirements as a condition of license renewal under this section or
21 section 23 of P.L.2009, c.238 (C.45:15-16.2a).
22 (cf: P.L.2009, c.238, s.4)

23
24 6. Section 1 of P.L.1966, c.277 (C.45:15-10.1) is amended to
25 read as follows:

26 1. a. As a prerequisite to admission to an examination, every
27 individual applicant for licensure as a real estate salesperson **【or a**
28 **real estate referral agent】** shall give evidence of satisfactory
29 completion of 75 hours in the aggregate of such courses of
30 education in real estate subjects at a school licensed by the
31 commission as the commission shall by regulation prescribe. At
32 least three hours of that course of study shall be on the subject of
33 ethics and ethical conduct in the profession of a real estate
34 salesperson.

35 b. As a prerequisite to admission to an examination, every
36 individual applicant for licensure as a real estate broker or broker-
37 salesperson shall give evidence of satisfactory completion of 150
38 hours in the aggregate of such courses of education in real estate
39 and related subjects at a school licensed by the commission as the
40 commission shall by regulation prescribe. Thirty hours of that
41 course of study shall be on the subject of ethics and ethical conduct
42 in the profession of a real estate broker.

43 The commission may approve courses in specialized aspects of
44 the real estate brokerage business offered by providers who are not
45 the holders of a real estate school license pursuant to section 47 of
46 P.L.1993, c.51 (C.45:15-10.4), the completion of which may be

1 recognized as fulfilling a portion of the total broker pre-licensure
2 education requirements.

3 (cf: P.L.2009, c.238, s.5)

4

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

6 45:15-11. Any citizen of New Jersey who has served in the
7 armed forces of the United States or who served as a member of the
8 American Merchant Marine during World War II and is declared by
9 the United States Department of Defense to be eligible for federal
10 veterans' benefits, who has been honorably discharged, and who,
11 having been wounded or disabled in the line of duty, has completed
12 a program of courses in real estate approved by the New Jersey Real
13 Estate Commission, and who has successfully passed an
14 examination conducted by said commission qualifying him to
15 operate as a real estate broker, broker-salesperson, or salesperson
16 **【or referral agent】**, may, upon presentation of a certificate
17 certifying that he has completed such program of courses as
18 aforesaid, obtain without cost from the commission and without
19 qualification through experience as a salesperson, a license to
20 operate as a real estate broker, broker-salesperson, or a real estate
21 salesperson **【or referral agent】**, as the case may be, which licenses
22 shall be the same as other licenses issued under R.S.45:15-1 et seq.
23 Renewal of licenses may be granted under this section for each
24 ensuing license term, upon request, without fees therefor.

25 (cf: P.L.2009, c.238, s.7)

26

27 8. R.S.45:15-12 is amended to read as follows:

28 45:15-12. Every real estate broker shall maintain a designated
29 main office open to the public. A real estate broker's main office
30 shall have prominently displayed therein the license certificate of
31 the broker and all licensed persons in his employ and shall be
32 deemed the business address of all licensed persons for all purposes
33 under chapter 15 of Title 45 of the Revised Statutes. In case a real
34 estate broker maintains more than one place of business, a branch
35 office license shall be issued to such broker for each branch office
36 so maintained in this State; provided, however, that the said branch
37 office or offices are under the direct supervision of a broker-
38 salesperson. The branch office license or licenses shall be issued
39 upon the payment of a fee of \$50 for each license so issued. Every
40 place of business maintained by a real estate broker shall have
41 conspicuously displayed on the exterior thereof the name in which
42 the broker is authorized to operate and, in the case of a corporation
43 or partnership, the name of the individual licensed as its authorized
44 broker, and the words Licensed Real Estate Broker. A real estate
45 broker whose main office is located in another state shall maintain a
46 valid real estate broker's license in good standing in the state where
47 the office is located.

1 The provisions of this section shall apply to any real estate
2 broker who supervises a real estate referral company as defined
3 under R.S.45:15-3.

4 (cf: P.L.2003, c.117, s.34)

5
6 9. Section 8 of P.L.1953, c.229 (C.45:15-12.1) is amended to
7 read as follows:

8 8. No license shall be issued by the commission to any person
9 known by it to have been, within five years theretofore, convicted
10 of forgery, burglary, robbery, any theft offense other than
11 shoplifting, criminal conspiracy to defraud, or other like offense or
12 offenses, or to any copartnership of which such person is a member,
13 or to any association or corporation of which said person is an
14 officer, director, or employee, or in which as a stockholder such
15 person has or exercises a controlling interest either directly or
16 indirectly. No license shall be issued or renewed by the
17 commission to any person known by it to have been convicted of
18 any sex offense that would qualify the person for registration
19 pursuant to section 2 of P.L.1994, c.133 (C.2C:7-2) or under an
20 equivalent statute of another state or jurisdiction.

21 (cf: P.L.1993, c.51, s.14)

22
23 10. R.S.45:15-14 is amended to read as follows:

24 45:15-14. All licenses issued to real estate brokers, broker-
25 salespersons, and salespersons **【and referral agents】** shall be kept
26 by the broker by whom such real estate licensee is employed or
27 contracted, and the pocket card accompanying the same shall be
28 delivered by the broker to the licensee who shall have the card in
29 his possession at all times when engaged in the business of a real
30 estate broker, broker-salesperson, or salesperson **【or referral agent】**.
31 When any real estate licensee is terminated or resigns his
32 employment with the real estate broker by whom he was employed
33 or contracted at the time of the issuing of such license to him,
34 notice of the termination shall be given in writing by the broker to
35 the terminated licensee with the effective date of the termination
36 reflected thereon, or notice of the resignation shall be given in
37 writing by the resigning licensee to the broker with the effective
38 date of the resignation reflected thereon. Upon the issuance of a
39 written notice of termination by a broker or his authorized
40 representative, or upon receipt of a written resignation by a broker
41 or his authorized representative, such employer or contracting
42 broker shall within five business days of the effective date of the
43 termination or resignation, either: a. deliver, or send by registered
44 mail, to the commission, such real estate licensee's license and, at
45 the same time, send a written communication to such real estate
46 licensee at his last known residence, advising him that his license
47 has been delivered or mailed to the commission. A copy of such
48 communication to the licensee shall accompany the license when

1 mailed or delivered to the commission; or, b. deliver to the
2 departing licensee and to the commission any other materials as the
3 commission may prescribe by regulation to accomplish the transfer
4 of the licensee to another employing or contracting broker. No real
5 estate licensee shall perform any of the acts contemplated by
6 R.S.45:15-1 et seq., either directly or indirectly, under the authority
7 of such license, from and after the effective date of the licensee's
8 termination or resignation until authorized to do so by the
9 commission. A new license may be issued to such licensee, upon
10 the payment of a fee of \$25, and upon the submission of satisfactory
11 proof that he has obtained employment or contracted with another
12 licensed broker. A broker-salesperson~~[,]~~ or salesperson ~~【or~~
13 referral agent must~~】~~ shall be licensed under a broker; he cannot be
14 licensed with more than one broker at the same time.
15 (cf: P.L.2009, c.238, s.8)

16

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

18 45:15-15. The biennial fee for each real estate broker's license
19 shall be \$200, the biennial fee for each real estate broker-
20 salesperson's license shall be \$200 and the biennial fee for each real
21 estate salesperson's license ~~【and each real estate referral agent's~~
22 license~~】~~ shall be \$100. The biennial fee for a branch office license
23 shall be \$100. Each license granted under R.S.45:15-1 et seq. shall
24 entitle the licensee to perform all of the acts contemplated herein
25 during the period for which the license is issued, as prescribed by
26 R.S.45:15-1 et seq. If a licensee fails to apply for a renewal of his
27 license prior to the date of expiration of such license, the
28 commission may refuse to issue a renewal license except upon the
29 payment of a late renewal fee in the amount of \$20 for a ~~【referral~~
30 agent~~】~~, salesperson or broker-salesperson and \$40 for a broker;
31 provided, however, the commission may, in its discretion, refuse to
32 renew any license upon sufficient cause being shown. The
33 commission shall refuse to renew the license of any licensee
34 convicted of any offense enumerated in section 6 of P.L.1953, c.229
35 (C.45:15-19.1) during the term of the last license issued by the
36 commission unless the conviction was previously the subject of a
37 revocation proceeding. Renewed licenses may be granted for each
38 ensuing two years upon request of licensees and the payment of the
39 full fee therefor as herein required. Upon application and payment
40 of the fees provided herein, initial licenses and licenses reinstated
41 pursuant to R.S.45:15-9 may be issued, but the commission may, in
42 its discretion, refuse to grant or reinstate any license upon sufficient
43 cause being shown. The license fees for initial or reinstated
44 licenses shall be determined based upon the biennial fees
45 established herein, with a full biennial fee payable for the license
46 term in which application is received. The revocation or suspension
47 of a broker's license shall automatically suspend every real estate

1 broker-salesperson's~~[,] and~~ salesperson's ~~【and referral agent's】~~
2 license granted to employees or contractors of the broker whose
3 license has been revoked or suspended, pending a change of
4 employer or contracting broker and the issuance of a new license.
5 The new license shall be issued without additional charge, if the
6 same is granted during the license term in which the original license
7 was granted. Any renewal fee in this section shall be billed by the
8 commission at or before the time of the submission of a renewal
9 application by a licensee.

10 A real estate broker who maintains a main office or branch office
11 licensed by the commission which is located in another state shall
12 maintain a valid real estate broker's license in good standing in the
13 state where the office is located and shall maintain a real estate
14 license in that other state for each office licensed by the
15 commission. Upon request, the real estate broker shall provide a
16 certification of his license status in the other state to the
17 commission. Any license issued by the commission to a real estate
18 broker for a main or branch office located outside this State shall be
19 automatically suspended upon the revocation, suspension or refusal
20 to renew the real estate broker's license issued by the state where
21 the office is located. The licenses issued by the commission to
22 every broker-salesperson~~[,] and~~ salesperson ~~【or referral agent】~~
23 employed or contracted by the broker shall be automatically
24 suspended pending a change of employer or contracting broker and
25 the issuance of a new license. The new license shall be issued
26 without additional charge if granted during the license term in
27 which the original license was granted.

28 (cf: P.L.2009, c.238, s.9)

29

30 12. R.S.45:15-16 is amended to read as follows:

31 45:15-16. No real estate salesperson~~[,] or~~ broker-salesperson
32 ~~【or referral agent】~~ shall accept a commission or valuable
33 consideration for the performance of any of the acts herein
34 specified, from any person except his employer or contracting
35 broker, who must be a licensed real estate broker.

36 (cf: P.L.2009, c.238, s.10)

37

38 13. Section 23 of P.L.2009, c.238 (C.45:15-16.2a) is amended to
39 read as follows:

40 23. a. The New Jersey Real Estate Commission shall require
41 each natural person licensed as a real estate broker, broker-
42 salesperson or salesperson, as a condition of biennial license
43 renewal pursuant to R.S.45:15-10, to complete not more than 16
44 hours of continuing education requirements imposed by the
45 commission pursuant to this section and sections 24 through 28 of
46 this amendatory and supplementary act, except that a salesperson
47 licensed with a real estate referral company shall not be required to

1 complete the continuing education requirements as a condition of
2 biennial license renewal.

3 b. The commission shall:

4 (1) (a) Approve continuing education courses, course providers,
5 and instructors recommended to the commission by the Volunteer
6 Advisory Committee created pursuant to subparagraph (b) of this
7 paragraph. Schools licensed by the commission as real estate
8 schools pursuant to section 47 of P.L.1993, c.51 (C.45:15-10.4)
9 shall be deemed approved providers of continuing education
10 courses. Persons licensed by the commission as real estate
11 instructors pursuant to section 48 of P.L.1993, c.51 (C.45:15-10.5)
12 shall be deemed approved instructors of continuing education
13 courses in core topics as set forth in section 27 of P.L.2009, c.238
14 (C.45:15-16.2e). Real estate trade associations that qualify under
15 the standards to be established by commission rule as approved
16 providers may offer approved continuing education courses.

17 (b) There is hereby created a Volunteer Advisory Committee
18 which shall consist of 14 members to be comprised of real estate
19 licensees and other subject matter experts, whose members shall be
20 appointed by and serve at the pleasure of the Commissioner of
21 Banking and Insurance. One real estate licensee shall be selected
22 upon the recommendation of the President of the Senate and one
23 real estate licensee shall be selected upon the recommendation of
24 the Speaker of the General Assembly. Three members of the
25 advisory committee shall be members of the commission or their
26 designees, and not less than eight of the members, other than the
27 commission members, shall be real estate licensees. Members shall
28 be appointed to effect balanced geographic representation from the
29 central, northern and southern areas of the State, with not less than
30 three members serving from each of these areas at any time on the
31 advisory committee.

32 Members shall be appointed by the Commissioner of Banking
33 and Insurance no later than 60 days following the enactment date of
34 this act. The first meeting of the advisory committee shall be held
35 no later than 30 days from the date the commission adopts initial
36 regulations for the effectuation of this act.

37 (2) Confer continuing education credits for courses completed in
38 other states on topics approved by the commission as appropriate
39 for elective courses, provided that such courses have been approved
40 as continuing education courses by the agency exercising regulatory
41 authority over the real estate licensees of another state and that
42 satisfactory evidence of licensees' attendance at and completion of
43 such courses is provided to the commission by the course provider.

44 (3) Confer continuing education credits for courses completed
45 and offered in this State on topics deemed of a timely nature which
46 have not been granted prior approval by the advisory committee,
47 provided that such courses are advertised prior to the time of
48 offering as not having been approved; that the course provider shall

1 submit such course offering for approval and the course is
2 subsequently approved as provided in subparagraph (a) of
3 paragraph (1) of this subsection; and that satisfactory evidence of
4 licensees' attendance at and completion of such courses is provided
5 to the commission by the course provider.

6 (4) Set parameters for the auditing and monitoring of course
7 providers.

8 (5) Establish, by regulation, the amounts of application fees
9 payable by persons seeking approval as continuing education course
10 providers, persons seeking approval of continuing education
11 courses, and persons other than instructors of pre-licensure real
12 estate education courses licensed by the commission pursuant to
13 section 48 of P.L.1993, c.51 (C.45:15-10.5), seeking approval as
14 instructors of continuing education courses. These fees shall be
15 non-refundable and shall be in amounts which do not exceed the
16 costs incurred by the commission to review these applications.

17 (6) Have the authority to waive continuing education
18 requirements, in whole or in part, on the grounds of illness,
19 emergency, hardship or active duty military service.

20 (7) Confer continuing education credits upon a person who is
21 licensed by the commission as a real estate instructor or as a broker,
22 broker-salesperson or salesperson for teaching an approved
23 continuing education course offered by an approved provider.
24 Regardless of the number of times during a biennial license term
25 that the same approved course is taught by that person, the person
26 shall receive credit toward the continuing education requirement for
27 the renewal of the person's broker, broker-salesperson or
28 salesperson license, as applicable, only in the number of credit
29 hours conferred upon licensees who attend and complete that course
30 one time during that biennial license term.

31 (cf: P.L.2009, c.238, s.23)

32

33 14. Section 24 of P.L.2009, c.238 (C.45:15-16.2b) is amended to
34 read as follows:

35 24. Continuing education courses may be delivered in a
36 classroom setting or via the Internet[, distance learning,
37 correspondence] or video modalities, subject to the approval by the
38 New Jersey Real Estate Commission of the providers and the
39 content of such courses and of the measures utilized to ensure the
40 security and integrity of the course delivery process. The
41 commission may approve continuing education courses which
42 include periodic progress assessments and the achievement of a
43 satisfactory level of performance by the licensee on such progress
44 assessments as a condition to continuing to a succeeding segment of
45 the course. The commission shall not require, as a condition of the
46 receipt of credit for attendance at any continuing education course

1 that a licensee pass a comprehensive examination testing the
2 licensee's knowledge of the entire course content.

3 (cf: P.L.2009, c.238, s.24)

4

5 15. Section 27 of P.L.2009, c.238 (C.45:15-16.2e) is amended to
6 read as follows:

7 27. a. Not less than 50 percent of the continuing education
8 courses of study that a broker, broker-salesperson or salesperson are
9 required to complete as a condition for license renewal shall be
10 comprised of one or more of the following core topics:

11 (1) Agency;

12 (2) Disclosure;

13 (3) Legal issues;

14 (4) Ethics, which shall not be less than two hours;

15 (5) Fair housing;

16 (6) Rules and regulations; **[and]**

17 (7) Real estate licensee safety;

18 (8) Financial literacy and planning; and

19 (9) Any other core topics that the New Jersey Real Estate
20 Commission may prescribe by rule.

21 In no event shall the commission require that courses in these
22 core topics comprise more than 60 percent of the total continuing
23 education hours required for the renewal of any license.

24 b. In the case of continuing education courses and programs,
25 each hour of instruction shall be equivalent to one credit.

26 (cf: P.L.2009, c.238, s.27)

27

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

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

44 In conducting investigations, the commission may take testimony
45 by deposition as provided in R.S.45:15-18, require or permit any
46 person to file a statement in writing, under oath or otherwise as the
47 commission determines, as to all the facts and circumstances
48 concerning the matter under investigation, and, upon its own motion

1 or upon the request of any party, subpoena witnesses, compel their
2 attendance, take evidence, and require the production of any
3 material which is relevant to the investigation, including any and all
4 records of a licensee pertaining to his activities as a real estate
5 broker, broker-salesperson, or salesperson **[or referral agent]**. The
6 commission may also require the provision of any information
7 concerning the existence, description, nature, custody, condition
8 and location of any books, documents, or other tangible material
9 and the identity and location of persons having knowledge of
10 relevant facts of any other matter reasonably calculated to lead to
11 the discovery of material evidence. Upon failure to obey a
12 subpoena or to answer questions posed by an investigator or legal
13 representative of the commission and upon reasonable notice to all
14 affected persons, the commission may commence an administrative
15 action as provided below or apply to the Superior Court for an order
16 compelling compliance.

17 The commission may place on probation, suspend for a period
18 less than the unexpired portion of the license period, or may revoke
19 any license issued under the provisions of R.S.45:15-1 et seq., or
20 the right of licensure when such person is no longer the holder of a
21 license at the time of hearing, or may impose, in addition or as an
22 alternative to such probation, revocation or suspension, a penalty of
23 not more than \$5,000 for the first violation, and a penalty of not
24 more than \$10,000 for any subsequent violation, which penalty
25 shall be sued for and recovered by and in the name of the
26 commission and shall be collected and enforced by summary
27 proceedings pursuant to the "Penalty Enforcement Law of 1999,"
28 P.L.1999, c.274 (C.2A:58-10 et seq.), where the licensee or any
29 person, in performing or attempting to perform any of the acts
30 mentioned herein, is deemed to be guilty of:

31 a. Making any false promises or any substantial
32 misrepresentation; 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
36 misrepresentation or making of false promises through agents,
37 broker-salespersons, or salespersons **[or referral agents]**,
38 advertisements or otherwise; or

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

41 e. Any conduct which demonstrates unworthiness,
42 incompetency, bad faith or dishonesty. The failure of any person to
43 cooperate with the commission in the performance of its duties or to
44 comply with a subpoena issued by the commission compelling the
45 production of materials in the course of an investigation, or the
46 failure to give a verbal or written statement concerning a matter
47 under investigation may be construed as conduct demonstrating
48 unworthiness; or

- 1 f. Failure to provide his client with a fully executed copy of
2 any sale or exclusive sales or rental listing contract at the time of
3 execution thereof, or failure to specify therein a definite terminal
4 date which terminal date shall not be subject to any qualifying
5 terms or conditions; or
- 6 g. Using any plan, scheme or method for the sale or promotion
7 of the sale of real estate which involves a lottery, a contest, a game,
8 a prize, a drawing, or the offering of a lot or parcel or lots or parcels
9 for advertising purposes, provided, however, that a promotion or
10 offer of free, discounted or other services or products which does
11 not require that the recipient of any free, discounted or other
12 services or products enter into a sale, listing or other real estate
13 contract as a condition of the promotion or offer shall not constitute
14 a violation of this subsection if that promotion or offering does not
15 involve a lottery, a contest, a game, a drawing or the offering of a
16 lot or parcel or lots or parcels for advertising purposes. A broker
17 shall disclose in writing any compensation received for such
18 promotion or offer in the form and substance as required by the
19 federal "Real Estate Settlement Procedures Act of 1974," 12 U.S.C.
20 ss.2601 et seq., except that, notwithstanding the provisions of that
21 federal act, written disclosure shall be provided no later than when
22 the promotion or offer is extended by the broker to the consumer; or
- 23 h. Being convicted of a crime, knowledge of which the
24 commission did not have at the time of last issuing a real estate
25 license to the licensee; or
- 26 i. Collecting a commission as a real estate broker in a
27 transaction, when at the same time representing either party in a
28 transaction in a different capacity for a consideration; or
- 29 j. Using any trade name or insignia of membership in any real
30 estate organization of which the licensee is not a member; or
- 31 k. Paying any rebate, profit, compensation or commission to
32 anyone not possessed of a real estate license, except that: (1) free,
33 discounted or other services or products provided for in subsection
34 g. of this section shall not constitute a violation of this subsection;
35 and (2) a real estate broker may provide a purchaser of residential
36 real property, but no other third party a rebate of a portion of the
37 commission paid to the broker in a transaction, so long as: the
38 broker and the purchaser contract for such a rebate at the onset of
39 the broker relationship in a written document, electronic document
40 or a buyer agency agreement; the broker complies with any State or
41 federal requirements with respect to the disclosure of the payment
42 of the rebate; and the broker recommends to the purchaser that the
43 purchaser contact a tax professional concerning the tax implications
44 of receiving that rebate. The rebate paid to the purchaser shall be in
45 the form of a credit, reducing the amount of the commission
46 payable to the broker, or a check paid by the closing agent and shall
47 be made at the time of closing; or

- 1 l. Any other conduct, whether of the same or a different
2 character than specified in this section, which constitutes fraud or
3 dishonest dealing; or
- 4 m. Accepting a commission or valuable consideration as a real
5 estate broker-salesperson~~[,]~~ or salesperson ~~【or referral agent】~~ for
6 the performance of any of the acts specified in this act, from any
7 person, except his employing or contracting broker, who must be a
8 licensed broker; or
- 9 n. Procuring a real estate license, for himself or anyone else, by
10 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 account,
13 separate and apart from personal or other business accounts, all
14 moneys received by a real estate broker, acting in said capacity, or
15 as escrow agent, or the temporary custodian of the funds of others,
16 in a real estate transaction; or
- 17 p. Selling property in the ownership of which he is interested in
18 any manner whatsoever, unless he first discloses to the purchaser in
19 the contract of sale his interest therein and his status as a real estate
20 broker, broker-salesperson, or salesperson ~~【or referral agent】~~; or
- 21 q. Purchasing any property unless he first discloses to the seller
22 in the contract of sale his status as a real estate broker, broker-
23 salesperson, or salesperson ~~【or referral agent】~~; or
- 24 r. Charging or accepting any fee, commission or compensation
25 in exchange for providing information on purportedly available
26 rental housing, including lists of such units supplied verbally or in
27 written form, before a lease has been executed or, where no lease is
28 drawn, before the tenant has taken possession of the premises
29 without complying with all applicable rules promulgated by the
30 commission regulating these practices; or
- 31 s. Failing to notify the commission within 30 days of having
32 been convicted of any crime, including any sex offense that would
33 qualify the licensee for registration pursuant to section 2 of
34 P.L.1994, c.133 (C.2C:7-2) or under an equivalent statute of
35 another state or jurisdiction, misdemeanor or disorderly persons
36 offense, or of having been indicted, or of the filing of any formal
37 criminal charges, or of the suspension or revocation of any real
38 estate license issued by another state, or of the initiation of formal
39 disciplinary proceedings in another state affecting any real estate
40 license held, or failing to supply any documentation available to the
41 licensee that the commission may request in connection with such
42 matter; or
- 43 t. The violation of any of the provisions of R.S.45:15-1 et seq.
44 or of the administrative rules adopted by the commission pursuant
45 to the provisions of R.S.45:15-1 et seq. The commission is
46 expressly vested with the power and authority to make, prescribe
47 and enforce any and all rules and regulations for the conduct of the

1 real estate brokerage business consistent with the provisions of
2 chapter 15 of Title 45 of the Revised Statutes.

3 If a licensee is deemed to be guilty of a third violation of any of
4 the provisions of this section, whether of the same provision or of
5 separate provisions, the commission may deem that person a repeat
6 offender, in which event the commission may direct that no license
7 as a real estate broker, broker-salesperson, or salesperson **[or**
8 referral agent**]** shall henceforth be issued to that person.

9 (cf: P.L.2009, c.273, s.1)

10

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

12 45:15-18. With the exception of a temporary suspension
13 imposed by the commission pursuant to section 23 of P.L.1993,
14 c.51 (C.45:15-17.1), the commission shall, before suspending or
15 revoking any license, and at least ten days prior to the date set for
16 the hearing, notify in writing the licensee of any charges made, and
17 afford him an opportunity to be heard in person or by counsel.
18 Such written notice may be served either personally or sent by
19 certified mail to the last known business address of the licensee. If
20 the licensee is a broker-salesperson**[,]** or salesperson **[or referral**
21 agent**]**, the commission shall also notify the broker employing or
22 contracting with him, specifying the charges made against such
23 licensee, by sending a notice thereof by certified mail to the
24 broker's last known business address. The commission shall have
25 power to bring before it any licensee or any person in this State
26 pursuant to subpoena served personally or by certified mail; or the
27 commission may take testimony by deposition in the same manner
28 as prescribed by law in judicial proceedings in the courts of this
29 State. Any final decision or determination of the commission shall
30 be reviewable by the Appellate Division of the Superior Court.

31 (cf: P.L.2009, c.238, s.12)

32

33 18. R.S.45:15-19 is amended to read as follows:

34 45:15-19. Any unlawful act or violation of any of the provisions
35 of R.S.45:15-1 et seq., by any real estate broker-salesperson**[,]** or
36 salesperson **[or referral agent]**, shall not be cause for the revocation
37 of any real estate broker's license, unless it shall appear to the
38 satisfaction of the commission that the real estate broker employing
39 or contracting with such licensee had guilty knowledge thereof.

40 (cf: P.L.2009, c.238, s.13)

41

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

44 6. When, during the term of any license issued by the
45 commission, the licensee shall be convicted in a court of competent
46 jurisdiction in the State of New Jersey or any state (including
47 federal courts) of forgery, burglary, robbery, any theft or related

1 offense with the exception of shoplifting, criminal conspiracy to
2 defraud, or other like offense or offenses, or any crime involving,
3 related to or arising out of the licensee's activities as a real estate
4 broker, broker-salesperson, or salesperson **【or referral agent】**, and a
5 duly certified or exemplified copy of the judgment of conviction
6 shall be obtained by the commission, the commission shall revoke
7 forthwith the license by it theretofore issued to the licensee so
8 convicted. The commission shall revoke the license of any licensee
9 convicted of any sex offense that would qualify the licensee for
10 registration pursuant to section 2 of P.L.1994, c.133 (C.2C:7-2) or
11 under an equivalent statute of another state or jurisdiction.

12 (cf: P.L.2009, c.238, s.14)

13

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

16 7. In the event that any licensee shall be indicted in the State of
17 New Jersey or any state or territory (including federal courts) for
18 murder, kidnapping, aggravated sexual assault or any sex offense
19 that would qualify the licensee for registration pursuant to section 2
20 of P.L.1994, c.133 (C.2C:7-2) or under an equivalent statute of
21 another state or jurisdiction, robbery, burglary, arson, any theft
22 offense, bribery, racketeering, distribution of a controlled dangerous
23 substance or conspiracy to distribute a controlled dangerous
24 substance, forgery, criminal conspiracy to defraud, or other like
25 offense or offenses, or any crime involving, related to or arising out
26 of the licensee's activities as a real estate broker, broker-
27 salesperson, or salesperson **【or referral agent】**, and a certified copy
28 of the indictment is obtained by the commission, or other proper
29 evidence thereof be to it given, the commission shall have authority,
30 in its discretion, to suspend the license issued to such licensee
31 pending trial upon such indictment.

32 (cf: P.L.2009, c.238, s.15)

33

34 21. (New section) No provision of R.S.45:15-1 et seq., or any
35 amendment or supplement thereof, shall be deemed to supersede
36 P.L.1968, c.282 (C.2A:168A-1 et seq.).

37

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

39 45:15-20. A nonresident may become a real estate broker,
40 broker-salesperson, or salesperson **【or referral agent】** by
41 conforming to all of the provisions of R.S.45:15-1 et seq. All
42 nonresident licenses issued by the commission prior to July 1, 1994
43 may be renewed upon payment of the renewal fees established
44 pursuant to R.S.45:15-15. All nonresident licenses so renewed shall
45 be issued by the commission in the same form as a resident license.
46 In the event that any person to whom a nonresident license is issued
47 fails to maintain or renew the license or to obtain a new license
48 from the commission for a period of two or more consecutive years,

1 the person shall be required to fulfill the requirements for initial
2 licensure established pursuant to R.S.45:15-9 prior to the issuance
3 of any further license.

4 A licensed broker whose main office is not located within this
5 State shall only provide brokerage services concerning real estate
6 located within this State either personally or through persons in the
7 broker's employ or with whom the broker has contracted who are
8 the holders of real estate broker-salesperson~~[,]~~ or salesperson ~~[~~or
9 referral agent~~]~~ licenses issued by the commission. In the event that
10 a broker maintains one or more branch offices in this State, no
11 person shall engage in the business of a real estate broker, broker-
12 salesperson, or salesperson ~~[~~or referral agent~~]~~ at those offices
13 unless the person is a holder of a license issued by the commission
14 authorizing him to do so.

15 (cf: P.L.2009, c.238, s.16)

16

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

19 1. A real estate guaranty fund is established as a special trust
20 fund to be maintained by the State Treasurer and administered by
21 the New Jersey Real Estate Commission in accordance with the
22 provisions of this act to provide a fund from which recovery may be
23 obtained by any person aggrieved by the embezzlement, conversion
24 or unlawful obtaining of money or property in a real estate
25 brokerage transaction by a licensed real estate broker, broker-
26 salesperson, or salesperson ~~[~~or referral agent~~]~~ or an unlicensed
27 employee of a real estate broker; provided, however, that the
28 amount of such recovery shall not exceed in the aggregate the sum
29 of \$10,000 in connection with any one transaction regardless of the
30 number of claims, persons aggrieved, or parcels of, or interests in
31 real estate involved in the transaction. The maximum amount
32 recoverable per transaction shall be increased to \$20,000 for claims
33 filed on the basis of causes of action which accrue after the
34 effective date of P.L.1993, c.51 (C.45:15-12.3 et al.).

35 (cf: P.L.2009, c.238, s.17)

36

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

39 2. Upon the initial issuance of a biennial license as a real estate
40 broker, broker-salesperson, or salesperson ~~[~~or referral agent~~]~~ the
41 licensee shall pay to the commission, in addition to the license fee
42 fixed by R.S.45:15-15, an additional amount to be forwarded by the
43 commission to the State Treasurer and accounted for and credited
44 by him to the real estate guaranty fund. The additional amount
45 payable by a broker or broker-salesperson shall be \$20 and by a
46 salesperson ~~[~~or referral agent~~]~~, \$10.

47 (cf: P.L.2009, c.238, s.18)

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

3 4. No claim shall be made for payment from the real estate
4 guaranty fund except upon the reduction to final judgment, which
5 shall include reasonable attorney fees and costs, of a civil action
6 against the broker, broker-salesperson, or salesperson~~], referral~~
7 ~~agent]~~ or unlicensed employee of a broker, and, where the
8 judgment creditor has pursued all available remedies, made all
9 reasonable searches, and has been unable to satisfy the judgment
10 from the licensee's assets, the entry of a court order which directs
11 the New Jersey Real Estate Commission to make payment from the
12 fund. No such order shall authorize a payment to the spouse or
13 personal representative of the spouse of the judgment debtor.

14 No order shall be entered unless the claimant, either at the time
15 of filing the civil action or thereafter, files a certification affirming
16 that a criminal complaint alleging the misappropriation of funds by
17 the broker, broker-salesperson, or salesperson~~], referral agent]~~
18 or unlicensed employee has been filed with a law enforcement agency
19 of this State or of a county or municipality in this State. The
20 criminal complaint shall refer to the same conduct to which
21 reference is made in the civil action as forming the basis for a claim
22 against the real estate guaranty fund. The certification shall specify
23 the date on which the criminal complaint was filed and the law
24 enforcement agency with which it was filed. A copy of the
25 certification shall be provided to the New Jersey Real Estate
26 Commission upon its being filed. The requirement to file a
27 certification shall apply prospectively only to claims seeking
28 reimbursement from the fund filed on the basis of causes of action
29 which accrue after the effective date of P.L.1993, c.51 (C.45:15-
30 12.3 et al.).

31 Upon delivery by the New Jersey Real Estate Commission to the
32 State Treasurer of a certified copy of the court order together with
33 an assignment to the New Jersey Real Estate Commission of the
34 judgment creditor's right, title and interest in the judgment to the
35 extent of the amount of the court order, the State Treasurer shall
36 make payment to the claimant from the real estate guaranty fund.
37 (cf: P.L.2009, c.238, s.19)

38

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

41 6. Any person to whom is issued a license to be a real estate
42 broker, broker-salesperson, or salesperson ~~]~~ **[or referral agent]** shall,
43 by the securing of said license, make and constitute the secretary of
44 the commission or the person in charge of the office of the
45 commission as agent for the acceptance of process in any civil
46 proceeding hereunder.

47 (cf: P.L.2009, c.238, s.20)

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

3 7. a. If at any time the funds available in the real estate
4 guaranty fund are insufficient to satisfy in full court orders for
5 payment therefrom, payment shall be made in the order in which
6 such court orders were issued; and the New Jersey Real Estate
7 Commission shall by regulation impose further additional amounts
8 to be paid by brokers, broker-salespersons, or salespersons **【and**
9 **referral agents】** to replenish the guaranty fund. No such additional
10 amount assessed at any one time shall exceed the amounts specified
11 in section 2 of P.L.1976, c.112 (C.45:15-35).

12 b. If at any time the funds available in the real estate guaranty
13 fund are, in the opinion of the New Jersey Real Estate Commission,
14 in excess of amounts anticipated to be necessary to meet claims for
15 a period of at least two years, the commission may, with the
16 approval of the Commissioner of Banking and Insurance, allocate
17 and receive from the guaranty fund a specified amount thereof for
18 research and educational projects to increase the proficiency and
19 competency of real estate licensees.

20 (cf: P.L.2009, c.238, s.21)

21

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

24 8. Upon the issuance of a court order for payment from the real
25 estate guaranty fund the license of the broker, broker-salesperson,
26 or salesperson **【or referral agent】**, whose acts gave rise to the claim,
27 shall be revoked and no such broker, broker-salesperson, or
28 salesperson **【or referral agent】** shall be eligible for reinstatement of
29 his license until he shall have satisfied the judgment in full
30 including reimbursement of the real estate guaranty fund together
31 with interest.

32 (cf: P.L.2009, c.238, s.22)

33

34 29. Section 3 of this act shall take effect immediately and the
35 remainder of this act shall take effect on January 1, 2018, except the
36 New Jersey Real Estate Commission may take any anticipatory
37 administrative action in advance as shall be necessary for the
38 implementation of this act.

39

40

41

STATEMENT

42

43 This bill makes various revisions to the laws concerning real estate
44 licensees.

45 The bill eliminates the referral agent license category, which was
46 created pursuant to P.L.2009, c.238, and replaces it by codifying the
47 current business practice of real estate brokers housing real estate
48 salespersons in real estate referral companies. Under the provisions of

1 the bill, the referral agent license category will be replaced by a real
2 estate salesperson licensed with a real estate referral company that is
3 supervised by a licensed real estate broker whose real estate
4 brokerage-related activities are limited to referring prospects for the
5 sale, purchase, exchange, leasing or rental of real estate or an interest
6 therein. The bill defines a real estate referral company as a business
7 entity supervised by a real estate broker, separate and apart from
8 any other business entity maintained by the real estate broker, for
9 the purpose of housing licensed salespersons that strictly engage in
10 the referral of prospects for the sale, purchase, exchange, leasing or
11 rental of real estate or an interest therein solely on behalf of the
12 supervising real estate broker. The bill also expands the definition of
13 real estate broker to include any person, firm, or corporation who
14 supervises a real estate referral company.

15 The bill maintains operating limitations, which are currently in
16 place for referral agents, for salespersons licensed with a real estate
17 referral company, including:

18 (1) salespersons licensed with a real estate referral company will
19 not be permitted to be simultaneously licensed as a real estate
20 broker or broker-salesperson; and

21 (2) salespersons licensed with a real estate referral company will
22 only refer prospects to the real estate broker supervising the real
23 estate referral company through which the salesperson is licensed
24 and will not be licensed with more than one real estate broker or
25 real estate referral company at one time.

26 The bill provides that the license and renewal applications for a
27 salesperson licensed with a real estate referral company must
28 include a certification signed by the real estate broker confirming
29 that the salesperson and broker have reviewed the restrictions
30 placed on a salesperson licensed with a real estate referral company
31 and that the salesperson acknowledges these restrictions.
32 Furthermore, a salesperson licensed with a real estate referral
33 company will not be required to complete continuing education
34 requirements as a condition of license renewal or under any other
35 circumstances. The bill stipulates that any person licensed as a
36 referral agent through a real estate referral company will be deemed
37 to be a salesperson licensed with a real estate referral company until
38 the next renewal of licenses by the commission. All requirements
39 set forth in the bill with respect to licensure and length of
40 experience as a salesperson licensed with a real estate referral
41 company who seeks to change licensure status must include
42 licensure and length of experience as a referral agent licensed with
43 a real estate referral company, as applicable.

44 The bill also predicates the disqualification of real estate licenses
45 issued to certain individuals upon the basis of a conviction of any sex
46 offense that would qualify the person for registration under “Megan’s
47 Law,” or an equivalent statute of another state or jurisdiction. The bill
48 also permits the New Jersey Real Estate Commission to place

1 licensees on probation, suspend or revoke any real estate license, or
2 impose penalties on a real estate licensee, for failure to notify the
3 commission of the licensee having been convicted of any sex offense
4 that would qualify the person for registration under “Megan’s Law,” or
5 an equivalent statute of another state or jurisdiction. However, the bill
6 stipulates that no provision of the laws concerning real estate licensees
7 (R.S.45:15-1 et seq.), or any supplement thereto, will be deemed to
8 supersede P.L.1968, c.282 (C.2A:168A-1 et seq.). That law provides
9 that a person will not be disqualified or discriminated against by any
10 licensing authority because of any conviction for a crime, unless
11 N.J.S.2C:51-2 or section 7 of P.L.2009, c.53 (C.17:11C-57) is
12 applicable, or unless the conviction relates adversely to the occupation,
13 trade, vocation, profession, or business for which a license, certificate
14 of authority, or qualification is sought.

15 The bill revises current law so that continuing education courses
16 would be prohibited from being delivered through distance learning or
17 a correspondence course. The bill also establishes two new core
18 continuing education categories for real estate licensee safety, and
19 financial literacy and planning.

20 Finally, the bill codifies two existing provisions of regulations
21 promulgated by the New Jersey Real Estate Commission. First, the
22 bill mandates that two hours of continuing education courses be taken
23 in the topic of ethics. Second, the bill requires a written agreement
24 defining the business affiliation between a broker and a broker-
25 salesperson or salesperson and the terms under which the services of
26 the broker-salesperson or salesperson have been retained by the
27 broker. The bill provides that the business affiliation between a
28 broker and a broker-salesperson or salesperson may be that of an
29 employment relationship or independent contractor relationship.

ASSEMBLY REGULATED PROFESSIONS COMMITTEE

STATEMENT TO

ASSEMBLY, No. 2726

with committee amendments

STATE OF NEW JERSEY

DATED: JUNE 11, 2018

The Assembly Regulated Professions Committee reports favorably and with committee amendments Assembly Bill No. 2726.

This bill, as amended, makes various revisions to the laws concerning real estate licensees.

This bill eliminates the referral agent license category, which was created pursuant to P.L.2009, c.238, and replaces it by codifying the current business practice of real estate brokers housing real estate salespersons in real estate referral companies. Under the provisions of the bill, the referral agent license category is replaced by a real estate salesperson licensed with a real estate referral company that is supervised by a licensed real estate broker whose real estate brokerage-related activities are limited to referring prospects for the sale, purchase, exchange, leasing or rental of real estate or an interest therein. The bill defines a real estate referral company as a business entity supervised by a real estate broker, separate and apart from any other business entity maintained by the real estate broker, for the purpose of housing licensed salespersons that strictly engage in the referral of prospects for the sale, purchase, exchange, leasing or rental of real estate or an interest therein solely on behalf of the supervising real estate broker. The bill also expands the definition of real estate broker to include any person, firm, or corporation who supervises a real estate referral company.

The bill maintains operating limitations, which are currently in place for referral agents, for salespersons licensed with a real estate referral company, including:

(1) salespersons licensed with a real estate referral company will not be permitted to be simultaneously licensed as a real estate broker or broker-salesperson; and

(2) salespersons licensed with a real estate referral company will only refer prospects to the real estate broker supervising the real estate referral company through which the salesperson is licensed and will not be licensed with more than one real estate broker or real estate referral company at one time.

The bill provides that the license and renewal applications for a salesperson licensed with a real estate referral company must include a certification signed by the real estate broker confirming that the

salesperson and broker have reviewed the restrictions placed on a salesperson licensed with a real estate referral company and that the salesperson acknowledges these restrictions. Furthermore, a salesperson licensed with a real estate referral company is not required to complete continuing education requirements as a condition of license renewal or under any other circumstances.

The bill stipulates that any person licensed as a referral agent through a real estate referral company will be deemed to be a salesperson licensed with a real estate referral company until the next renewal of licenses by the commission. All requirements set forth in the bill with respect to licensure and length of experience as a salesperson licensed with a real estate referral company who seeks to change licensure status must include licensure and length of experience as a referral agent licensed with a real estate referral company, as applicable.

The bill also predicates the disqualification of real estate licenses issued to certain individuals upon the basis of a conviction of any sex offense that would qualify the person for registration under “Megan’s Law,” or an equivalent statute of another state or jurisdiction. The bill also permits the New Jersey Real Estate Commission to place licensees on probation, suspend or revoke any real estate license, or impose penalties on a real estate licensee, for failure to notify the commission that the licensee has been convicted of any sex offense that would qualify the person for registration under “Megan’s Law,” or an equivalent statute of another state or jurisdiction. However, the bill stipulates that no provision of the laws concerning real estate licensees (R.S.45:15-1 et seq.), or any supplement thereto, will be deemed to supersede P.L.1968, c.282 (C.2A:168A-1 et seq.). That law provides that a person will not be disqualified or discriminated against by any licensing authority because of any conviction for a crime, unless N.J.S.2C:51-2 or section 7 of P.L.2009, c.53 (C.17:11C-57) is applicable, or unless the conviction relates adversely to the occupation, trade, vocation, profession, or business for which a license, certificate of authority, or qualification is sought.

The bill revises current law so that continuing education courses would be prohibited from being delivered through distance learning or a correspondence course. The bill also establishes two new core continuing education categories for real estate licensee safety, and financial literacy and planning.

The bill codifies two existing provisions of regulations promulgated by the New Jersey Real Estate Commission. First, the bill mandates that two hours of continuing education courses be taken in the topic of ethics. Second, the bill requires a written agreement defining the business affiliation between a broker and a broker-salesperson or salesperson and the terms under which the services of the broker-salesperson or salesperson have been retained by the broker. The bill provides that the business affiliation between a broker

and a broker-salesperson or salesperson may be that of an employment relationship or independent contractor relationship.

Committee Amendments:

The committee amendments provide that a person who is currently a salesperson licensed with a real estate referral company, but was previously licensed as a broker, broker-salesperson, or salesperson, must complete up to 30 hours of continuing education as prescribed by commission rule, in order to qualify for relicensure as a broker, broker-salesperson, or salesperson, as applicable.

The bill, as introduced, requires that a salesperson who is licensed with a real estate referral company for more than the six immediately preceding years, but who was previously licensed as a broker, broker-salesperson, or salesperson, must complete up to 30 hours of continuing education and pass the broker license examination or salesperson examination, as applicable, in order to qualify for relicensure as a broker, broker-salesperson, or salesperson.

The amendments provide that a person who is currently a salesperson licensed with a real estate referral company, regardless of the length of experience, but who was previously licensed as a broker, broker-salesperson, or salesperson, will only be required to complete up to 30 hours of continuing education in order to qualify for relicensure as a broker, broker-salesperson, or salesperson, as applicable.

The amendments also make changes to section 13 of the bill to reflect the updated version of the law amended in that section of the bill.

These amendments make the bill identical to Senate Bill No. 430 (1R), which was also reported by the committee.

LEGISLATIVE FISCAL ESTIMATE

[First Reprint]

ASSEMBLY, No. 2726

STATE OF NEW JERSEY 218th LEGISLATURE

DATED: JUNE 25, 2018

SUMMARY

Synopsis: Concerns certain real estate licensees.

Type of Impact: Biennial decrease in State revenue.

Agencies Affected: Department of Banking and Insurance.

Office of Legislative Services Estimate

Fiscal Impact	<u>Biennial</u>
State Revenue Decrease	Indeterminate

- The Office of Legislative Services (OLS) estimates that the bill may result in an indeterminate biennial, likely insignificant, decrease in New Jersey Real Estate Commission license fee revenue. Any decrease would materialize due to the bill's disqualification of real estate licenses held by individuals who have been convicted of any offense that requires a person to register as a sex offender under "Megan's Law" or an equivalent statute of another jurisdiction.
- The bill's conversion of referral agent licenses to a new category of salesperson licenses should have no fiscal impact on the State, as the application and licensure fees for both types of licenses are identical.

BILL DESCRIPTION

This bill makes various revisions to the laws concerning real estate licensees, including the replacement of the current referral agent license category with a new license type for real estate salespersons licensed with a real estate referral company. Among its other revisions, the bill requires the New Jersey Real Estate Commission in the Department of Banking and Insurance to revoke the license of any real estate licensee who is convicted of any offense that requires a person to register as a sex offender under "Megan's Law" or an equivalent statute of another State or jurisdiction.

FISCAL ANALYSIS

EXECUTIVE BRANCH

None received.

OFFICE OF LEGISLATIVE SERVICES

The OLS estimates that the bill may result in an indeterminate biennial, likely insignificant, decrease in New Jersey Real Estate Commission license fee revenue. Any decrease would materialize due to the bill's disqualification of real estate licenses held by individuals who have been convicted of any offense that requires a person to register as a sex offender under "Megan's Law" or an equivalent statute of another jurisdiction. The OLS has no information on the number of current real estate licensees who are registered sex offenders.

The OLS notes that the fiscal impact of the bill will depend solely on the amount of biennial license fees lost from currently licensed real estate professionals whose licenses may be revoked due to convictions of sex offenses. The bill's conversion of referral agent licenses to a new category of salesperson licenses should have no fiscal impact on the State, as the application and licensure fees for both types of licenses are identical. Both licenses require the payment of: 1) a biennial license fee of \$100; 2) an initial one-time application fee of \$50; and 3) an initial one-time fee of \$10 deposited in the real estate guaranty fund. The total is therefore \$160 for the initial license and \$100 for the license renewal.

The OLS estimates that the license category conversion will affect approximately 25,000 referral agents who pay roughly \$2.5 million in biennial license fees to the New Jersey Real Estate Commission. This estimate is based on the Department of Banking and Insurance reporting 25,069 actively licensed referral agents in the State as of June 19, 2018 and the biennial license fee of \$100. The estimate ignores the one-time payment of \$60 in fees by applicants for initial licensure as a referral agent or salesperson.

Section: Commerce, Labor and Industry

Analyst: Juan C. Rodriguez
Associate Fiscal Analyst

Approved: Frank W. Haines III
Legislative Budget and Finance Officer

This fiscal estimate has been prepared pursuant to P.L.1980, c.67 (C.52:13B-6 et seq.).

Bill Signings

08/10/2018

The Governor has acted on the following bills today:

BILL SIGNINGS:

S-430/A-2726 (Pou, Oroho/Giblin) - Concerns certain real estate licensees

SCS for S-647/ACS for A-1186 (Beach, Cruz-Perez/Jones, Lampitt, Taliaferro) - Permits registered voters to receive mail-in ballots automatically for all elections under certain conditions

S-847/A-4076 (Turner, Diegnan/Jasey, Murphy) - Requires school districts to provide daily recess period for students in grade kindergarten through 5; permits denial of recess for violation of code of student conduct but student must be provided restorative justice activities

S-1247/A-2779 (Rice, T. Kean/Greenwald, Mukherji) - Authorizes certain local government utilities to impose additional connection fees; requires certain new credits and reductions for these fees

S-2645/A-4173 (Singleton/Pinkin, McKeon, Reynolds-Jackson, Murphy) - Makes various changes to New Jersey Infrastructure Bank's enabling act

S-2763/A-4220 (Scutari/Carter, Kennedy) - Revises special charter for City of Plainfield

A-837/S-2446 (Land, Andrzejczak, DeAngelo, Mazzeo/Diegnan, Van Drew) - Requires public utility to charge veterans' organization residential rate for service delivered to property at which veterans' organization primarily operates

A-1531/S-522 (Zwicker, Lopez, Mukherji/T. Kean, Singer, Pou) - Revises law concerning reciprocity for out-of-State professional and occupational licenses

A-2178/S-1231 (Schaer, Calabrese, Wimberly/Sarlo) - Permits conduct of raffles at large sporting venues

A-2189/S-2092 (Lampitt, Downey, Danielsen/Ruiz, Corrado) - Requires school districts to include instruction on consequences of distributing and soliciting sexually explicit images through electronic means as part of New Jersey Student Learning Standards in Comprehensive Health and Physical Education

A-2193/S-1816 (Jones, Benson, Lampitt/Diegnan, Ruiz) - Directs State Board of Education to authorize computer science education endorsement to instructional certificate

A-2366/S-1786 (Vainieri Huttel, Mukherji, Benson/Weinberg, Stack) - Requires DOH to develop New Jersey Report Card of Hospital Maternity Care

A-3861/S-1046 (Quijano, DeAngelo, Giblin/Vitale, Gopal) - Concerns unemployment compensation and labor disputes

A-4169/S-2647 (Pintor Marin, Mukherji, Lampitt/Stack) - Authorizes NJ Infrastructure Bank to expend certain sums to make loans for environmental infrastructure projects for FY2019

A-4170/S-2646 (Taliaferro, Carter, Caputo/Sweeney) - Appropriates funds to DEP for environmental infrastructure projects for FY2019

A-4210/S-2728 (Armato, Freiman, Jasey/Codey, Oroho) - Appropriates \$15,294,000 from constitutionally dedicated CBT revenues to DEP for State acquisition of lands for recreation and conservation purposes, including Blue Acres projects

A-4211/S-2729 (Reynolds-Jackson, Chiaravalloti, Andrzejczak/Greenstein, Bateman) - Appropriates \$9.703 million from constitutionally dedicated CBT revenues for recreation and conservation purposes to DEP for State capital and park development projects

A-4228/S-2771 (Murphy, Conaway, Space/Singleton) - Requires SHBP and SEHBP to establish and contract for Medicare Primary Assignment and Audit Program ensuring that all persons in SHBP and SEHBP eligible for Medicare have Medicare as primary provider

A-4255/S-2793 (Andrzejczak, Land, Mazzeo/Van Drew) - FY2019 supplemental appropriation of \$1.2 million to Shellfish and Marine Fisheries Management for Bureau of Marine Fisheries in DEP