

LEGISLATIVE HISTORY CHECKLIST

(Real estate brokers--referral fees and commissions--allow payment to nonresident brokers--provide for enforcement)

WJA 45:15-3.1

LAWS OF 1979

CHAPTER 322

Bill No. S1410

Sponsor(s) Merlino

Date Introduced Oct. 23, 1978

Committee: Assembly Labor

Senate Labor, Industry and Professions

Amended during passage Yes

~~xx~~ Amendments denoted by asterisks

~~according to Governor's recommendations~~
Date of Passage: Assembly July 16, 1979

Re-enacted Dec. 17, 1979

Senate June 14, 1979

Re-enacted Dec. 10, 1979

Date of approval Jan. 17, 1980

Following statements are attached if available:

Sponsor statement	Yes	xx (Below)
Committee Statement: Assembly	Yes	xx
Senate	Yes	xx 1-30-79 & 5-24-79
Fiscal Note	Yes	No
Veto message	Yes	xx
Message on signing	Yes	No
Following were printed:		
Reports	Yes	No
Hearings	Yes	No

Sponsor's statement:

This bill would authorize a licensed real estate broker of any state or foreign country to maintain an action for the collection of a commission in this state.

[SECOND OFFICIAL COPY REPRINT]

SENATE, No. 1410

STATE OF NEW JERSEY

INTRODUCED OCTOBER 23, 1978

By Senator MERLINO

Referred to Committee on Labor, Industry and Professions

AN ACT to authorize real estate brokers licensed in other states or countries to bring actions in State courts for collection of compensation for real estate services and ***[amending R. S. 45:15-3]*** **supplementing Article 1 of chapter 15 of Title 45 of the Revised Statutes*.*

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

- 1 1. ***[R. S. 45:15-3** is amended to read as follows:
2 45:15-3. A real estate broker, for the purposes of this article,
3 is defined to be a person, firm or corporation who, for a fee, com-
4 mission or other valuable consideration, or by reason of a promise
5 or reasonable expectation thereof, lists for sale, sells, exchanges,
6 buys or rents, or offers or attempts to negotiate a sale, exchange,
7 purchase or rental of real estate or an interest therein, or collects
8 or offers or attempts to collect rent for the use of real estate or
9 solicits for prospective purchasers or assists or directs in the pro-
10 curing of prospects or the negotiation or closing of any transaction
11 which does or is contemplated to result in the sale, exchange, leas-
12 ing, renting or auctioning of any real estate or negotiates, or offers
13 or attempts or agrees to negotiate a loan secured or to be secured
14 by mortgage or other encumbrance upon or transfer of any real
15 estate for others, or any person who, for pecuniary gain or expecta-
16 tion of pecuniary gain conducts a public or private competitive
17 sale of lands or any interest in lands. In the sale of lots pursuant
18 to the provisions of this article, the term "real estate broker"
19 shall also include any person, partnership, association or corpora-
20 tion employed by or on behalf of the owner or owners of lots or
21 other parcels of real estate, at a stated salary, or upon a commis-
22 sion, or upon a salary and commission, or otherwise, to sell such
23 real estate, or any parts thereof, in lots or other parcels, and who
24 shall sell or exchange, or offer or attempt or agree to negotiate
25 the sale or exchange, of any such lot or parcel of real estate.

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

26 A real estate salesman, for the purposes of this article, is defined
 27 to be any person who, for compensation, valuable consideration or
 28 commission, or other thing of value, or by reason of a promise or
 29 reasonable expectation thereof, is employed by and operates under
 30 the supervision of a licensed real estate broker to sell or offer to
 31 sell, buy or offer to buy or negotiate the purchase, sale or exchange
 32 of real estate, or offers or attempts to negotiate a loan secured or
 33 to be secured by a mortgage or other encumbrance upon or transfer
 34 of real estate, or to lease or rent, or offer to lease or rent any real
 35 estate for others, or to collect rents for the use of real estate, or to
 36 solicit for prospective purchasers or lessees of real estate, or who
 37 is employed by a licensed real estate broker to sell or offer to sell
 38 lots or other parcels of real estate, at a stated salary, or upon a
 39 commission, or upon a salary and commission, or otherwise to sell
 40 real estate, or any parts thereof, in lots or other parcels.

41 No person, firm, partnership, association or corporation shall
 42 bring or maintain any action in the courts of this State for the
 43 collection of compensation for the performance of any of the acts
 44 mentioned in this article without alleging and proving that he was
 45 a duly licensed real estate broker of *this State or any other state*
 46 *or legal jurisdiction of the United States or of any foreign country*
 47 *in which such active broker maintains a bona fide office*, at the time
 48 the alleged cause of action arose.]*

49 **A duly licensed real estate broker of this State may pay a*
 50 *referral fee or referral commission to a person not licensed as a*
 51 *nonresident broker under R. S. 45:15-20 if the person is a licensed*
 52 *real estate broker of another jurisdiction in which the licensed*
 53 *broker maintains a bona fide office. A licensed real estate broker*
 54 *of another jurisdiction may make a referral, receive a referral fee*
 55 *or referral commission, and bring or maintain an action in the*
 56 *courts of this State **against a duly licensed real estate broker of*
 56A *this State** for the collection of the fee or commission.*

57 *For the purposes of this section, "referral" means the introduc-*
 58 *tion, assisting, or directing of a person by one broker to another*
 59 *broker for real estate brokerage services, aid, or information;*
 60 *"referral fee" or "referral commission" means the compensation*
 61 *paid or received for the referral.**

1 2. This act shall take effect immediately.

SENATE LABOR, INDUSTRY AND
PROFESSIONS COMMITTEE

STATEMENT TO

SENATE, No. 1410

STATE OF NEW JERSEY

DATED: JANUARY 30, 1979

This bill would authorize a real estate broker licensed in any state or foreign country to maintain an action for the collection of a commission in this State.

The sharing of real estate commissions or fees by cooperating brokers was a common practice until 1958 and 1959 when two New Jersey court cases held that the term "any authorized broker" meant an authorized New Jersey broker and did not include a New York broker.

Prior to these court cases, the phrase "duly authorized real estate broker" was defined broadly by the New Jersey Real Estate Commission to include any foreign broker duly licensed in his home state.

This bill would clarify the definition of "a duly licensed real estate broker" for purposes of collection of commissions pursuant to R. S. 45:15-3.

The New Jersey Real Estate Commission feels that cooperation with foreign brokers is desirable and beneficial, particularly in light of the growing volume of referrals between real estate brokers in all parts of the country.

SENATE LABOR, INDUSTRY AND PROFESSIONS
COMMITTEE

STATEMENT TO

SENATE, No. 1410

with Senate committee amendments

STATE OF NEW JERSEY

DATED: MAY 24, 1979

This bill would authorize a real estate broker licensed in any state or foreign country to maintain an action for the collection of a commission in this State.

The sharing of real estate commissions or fees by cooperating brokers was a common practice until 1958 and 1959 when two New Jersey court cases held that the term "any authorized broker" meant an authorized New Jersey broker and did not include a New York broker.

Prior to these court cases, the phrase "duly authorized real estate broker" was defined broadly by the New Jersey Real Estate Commission to include any foreign broker duly licensed in his home state.

This bill would clarify the definition of "a duly licensed real estate broker" for purposes of collection of commissions pursuant to R. S. 45:15-3.

The New Jersey Real Estate Commission feels that cooperation with foreign brokers is desirable and beneficial, particularly in light of the growing volume of referrals between real estate brokers in all parts of the country.

The Senate Labor, Industry and Professions Committee amended the bill to permit a New Jersey licensed real estate broker to pay a referral fee or referral commission to any person, firm, partnership or corporation who is not licensed as a nonresident broker if the nonresident broker is a licensed broker in another jurisdiction. The out-of-state broker may be paid a referral fee, and would be permitted to bring an action in a New Jersey court for the collection of such a fee or commission.

CORRECTED COPY
ASSEMBLY LABOR COMMITTEE

STATEMENT TO
SENATE, No. 1410

[OFFICIAL COPY REPRINT]

STATE OF NEW JERSEY

DATED: JULY 9, 1979

The Assembly Labor Committee favorably reports this bill and endorses the statement thereon by the Senate Labor, Industry and Professions Committee. The committee agreed that it was inequitable to deny an out-of-state broker, who is licensed in another jurisdiction, a share of the commissions where he participates in good faith with a New Jersey broker in referrals here for the sale of local real estate. Commission-splitting with licensed out-of-state brokers is sanctioned in many other states, including New York. Moreover, the Real Estate Commission sees no problem in policing the new provisions or in any increase in the incidence of fraud.

STATE OF NEW JERSEY
EXECUTIVE DEPARTMENT

September 10, 1979

SENATE BILL NO. 1410 (OCR)

To the Senate:

Pursuant to Article V, Section I, Paragraph 14(b) of the Constitution, I herewith return Senate Bill No. 1410 (OCR), with my objection, for reconsideration.

This bill would permit New Jersey licensed real estate brokers to pay referral fees or commissions to licensed brokers in other states. The bill also permits the out of state brokers to maintain actions for such payments in this State.

While I support the concept of the legislation, I am concerned that the bill could be interpreted to permit the out of state broker to sue the New Jersey broker's customer for the referral fee owed by the New Jersey broker. The right of suit should be limited to suit against the New Jersey broker.

Accordingly, I herewith return Senate Bill No. 1410 (OCR) for reconsideration and recommend that it be amended as follows:

Page 2, section 1, line 56 - After "State", insert "against a
duly licensed real estate broker
of this State".

Respectfully,

/s/
GOVERNOR

[seal]

Attest:

/s/ Harold L. Hodes

ACTING CHIEF OF STAFF, EXECUTIVE SECRETARY