

ASSEMBLY, No. 1746

STATE OF NEW JERSEY 214th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2010 SESSION

Sponsored by:

Assemblywoman BONNIE WATSON COLEMAN

District 15 (Mercer)

Assemblyman PETER J. BIONDI

District 16 (Morris and Somerset)

Assemblyman PATRICK J. DIEGNAN, JR.

District 18 (Middlesex)

Co-Sponsored by:

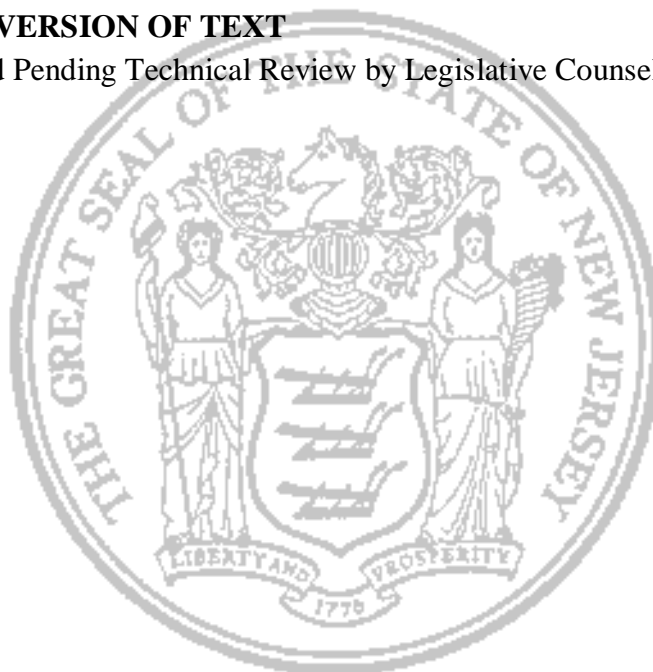
Assemblyman Giblin, Assemblywoman Pou and Assemblyman Chivukula

SYNOPSIS

Provides for continuing education for real estate brokers, broker-salespersons and salespersons, and creates a new licensing category of referral agents.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel



1 AN ACT concerning continuing education requirements for real
2 estate brokers, broker-salespersons and salespersons and creating
3 a new licensing category of referral agents, amending various
4 parts of the statutory law, and supplementing chapter 15 of Title
5 45 of the Revised Statutes.

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

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

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

19 (cf: P.L.1993, c.51, s.1)

20

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

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

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

Matter underlined thus is new matter.

1 agree to negotiate the sale or exchange, of any such lot or parcel of
2 real estate.

3 A real estate salesperson, for the purposes of **[this article]**
4 R.S.45:15-1 et seq., is defined to be any natural person who, for
5 compensation, valuable consideration or commission, or other thing
6 of value, or by reason of a promise or reasonable expectation
7 thereof, is employed by and operates under the supervision of a
8 licensed real estate broker to sell or offer to sell, buy or offer to buy
9 or negotiate the purchase, sale or exchange of real estate, or offers
10 or attempts to negotiate a loan secured or to be secured by a
11 mortgage or other encumbrance upon or transfer of real estate, or to
12 lease or rent, or offer to lease or rent any real estate for others, or to
13 collect rents for the use of real estate, or to solicit for prospective
14 purchasers or lessees of real estate, or who is employed 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.

19 A real estate broker-salesperson, for the purposes of **[this**
20 **amendatory and supplementary act]** R.S.45:15-1 et seq., is defined
21 to be any natural person who is qualified to be licensed as a real
22 estate broker but who, for compensation, valuable consideration or
23 commission, or other thing of value, or by reason of a promise or
24 reasonable expectation thereof, is employed by and operates under
25 the supervision of a licensed real estate broker to perform the
26 functions of a real estate salesperson as defined herein.

27 A real estate referral agent, for the purposes of R.S.45:15-1 et
28 seq., is defined to be any natural person employed by and operating
29 under the supervision of a licensed real estate broker whose real
30 estate brokerage-related activities are limited to referring prospects
31 for the sale, purchase, exchange leasing or rental of real estate or an
32 interest therein. Referral agent licensees shall only refer such
33 prospects to the real estate broker through whom they are licensed
34 as a referral agent and shall only accept compensation for their
35 activity as a referral agent from that broker. A referral agent shall
36 not be employed by or licensed with more than one real estate
37 broker at any given time. No person may simultaneously be
38 licensed as a referral agent and a real estate broker, broker-
39 salesperson or salesperson and no person licensed as a referral agent
40 may engage in the business of a real estate broker, broker-
41 salesperson or salesperson to an extent beyond that authorized by
42 their status as a licensed real estate agent.

43 No person, firm, partnership, association or corporation shall
44 bring or maintain any action in the courts of this State for the
45 collection of compensation for the performance of any of the acts
46 mentioned in **[this article]** R.S.45:15-1 et seq. without alleging and

1 proving that he was a duly licensed real estate broker at the time the
2 alleged cause of action arose.

3 No person claiming to be entitled to compensation as a referral
4 agent, salesperson or broker-salesperson for the performance of any
5 of the acts mentioned in [chapter 15 of Title 45 of the Revised
6 Statutes] R.S.45:15-1 et seq. shall bring or maintain any action in
7 the courts of this State for the collection of compensation against
8 any person, firm, partnership or corporation other than the licensed
9 broker with whom the referral agent, salesperson or broker-
10 salesperson was employed at the time the alleged cause of action
11 arose and no action shall be brought or maintained without the
12 claimant alleging and proving that he was a duly licensed real estate
13 referral agent, salesperson or broker-salesperson at the time the
14 alleged cause of action arose.

15 (cf: P.L.1993, c.51, s.3)

16

17 3. R.S.45:15-9 is amended to read as follows:

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

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

45 An application for licensure as a referral agent and for any
46 renewal thereof shall include a certification signed by the licensed
47 real estate broker by whom the applicant is or will be employed, on

1 a form and in a manner prescribed by the commission, which
2 certification shall confirm that: the broker and the applicant or
3 renewing referral agent have reviewed the restrictions imposed by
4 law upon the activities of a referral agent; and the applicant or
5 referral agent has acknowledged that he is aware that such activity
6 is limited to referring prospective consumers of real estate
7 brokerage services to that broker.

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

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

1 broker or broker-salesperson and who allowed his license to expire
2 due to subsequent employment in a public agency in this State with
3 responsibility for dealing with matters relating to real estate if the
4 person reapplying does so within one year of termination of that
5 employment.

6 In the event that any person to whom a salesperson's or a referral
7 agent's license has been or shall have been issued shall fail to
8 maintain or renew such license or obtain a new license for a period
9 of two consecutive years or more after the expiration of the last
10 license held, the commission shall require such person to attend a
11 licensed school and pass the State examination prior to issuance of
12 a further license. The commission may, in its discretion, approve
13 for relicensure a salesperson or a referral agent applicant who has
14 not renewed his license or obtained a new license for two or more
15 consecutive years upon a sufficient showing that the applicant was
16 medically unable to do so. All salesperson or referral agent
17 applicants so approved shall pass the salesperson's license
18 examination and, with respect to salespersons, complete the
19 continuing education requirements applicable to salesperson
20 licensees in the preceding licensure term prior to being relicensed.
21 This paragraph shall not apply to a person reapplying for a
22 salesperson's or referral agent's license who was a licensed
23 salesperson or referral agent and who allowed his license to expire
24 due to subsequent employment in a public agency in this State with
25 responsibility for dealing with matters relating to real estate if the
26 person reapplying does so within one year of termination of that
27 employment.

28 A licensed referral agent who was not previously licensed as a
29 broker, broker-salesperson, or salesperson and who has been
30 licensed as a referral agent for the six immediately preceding years
31 or any lesser period of time shall, in order to qualify for licensure as
32 a salesperson, complete up to 30 hours of continuing education as
33 prescribed by commission rule. A person who was previously
34 licensed as a broker, broker-salesperson or salesperson and who has
35 been licensed as a referral agent for the six immediately preceding
36 years or any lesser period of time shall, in order to qualify for the
37 reissuance of a broker, broker-salesperson or salesperson license,
38 as applicable, complete up to 30 hours of continuing education as
39 prescribed by commission rule.

40 A licensed referral agent who was not previously licensed as a
41 broker, broker-salesperson or salesperson and who has been
42 licensed as a referral agent for more than the six immediately
43 preceding years shall, in order to qualify for licensure as a
44 salesperson, be required to complete the pre-licensure education
45 requirement applicable to candidates for licensure as a salesperson
46 and pass the State license examination. A person who was
47 previously licensed as a broker, broker-salesperson or salesperson

1 and who has been licensed as a referral agent for more than the six
2 immediately preceding years shall, in order to qualify for
3 relicensure as a broker, broker-salesperson or salesperson, as
4 applicable, complete up to 30 hours of continuing education as
5 prescribed by commission rule and pass the broker license
6 examination or the salesperson license examination, as applicable.

7 Any referral agent seeking licensure as a real estate broker,
8 broker-salesperson or salesperson shall make application for such
9 license on a form as prescribed by the commission, pay all
10 application and licensure fees as set forth herein, furnish to the
11 commission evidence of the referral agent's good moral character,
12 and be subject to investigation by and required to produce to the
13 commission such proof of the referral agent's honesty,
14 trustworthiness and integrity as the commission deems proper and
15 in the public interest.

16 (cf: P.L.2003, c.199, s.26)

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

19 45:15-10. Before any such license shall be granted, the
20 applicant, and in the case of a partnership, association or
21 corporation, the partners, directors or officers thereof actually
22 engaged in the real estate business as a broker, broker-salesperson
23 **[or]**, salesperson, or referral agent, shall submit to an examination
24 to be conducted under the supervision of the commission which
25 examination shall test the applicant's general knowledge of the
26 statutes of New Jersey concerning real property, conveyancing,
27 mortgages, agreements of sale, leases and of the provisions of this
28 article, the rules and regulations of the commission and such other
29 subjects as the commission may direct. The commission may make
30 rules and regulations for the conduct of such examinations. Upon
31 satisfactorily passing such examination and fulfilling all other
32 qualifications a license shall be granted by the commission to the
33 successful applicant therefor as a real estate broker, broker-
34 salesperson **[or]**, salesperson, or referral agent and the applicant
35 upon receiving the license is authorized to conduct in this State the
36 business of a real estate broker, broker-salesperson **[or]**,
37 salesperson, or referral agent, as the case may be. Such license
38 shall expire on the last day of a two-year license term as established
39 by the commission; such license shall be renewed, without
40 examination, biennially thereafter, upon the payment of the fee
41 fixed by R.S.45:15-15 , and in the case of a broker, broker-
42 salesperson or salesperson license, upon completion of the
43 continuing education requirements applicable to the holders of such
44 licenses.

45 (cf: P.L.1996, c.38, s.1)

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

3 1. a. As a prerequisite to admission to an examination, every
4 individual applicant for licensure as a real estate salesperson or a
5 real estate referral agent shall give evidence of satisfactory
6 completion of 75 hours in the aggregate of such courses of
7 education in real estate subjects at a school licensed by the
8 commission as the commission shall by regulation prescribe. At
9 least three hours of that course of study shall be on the subject of
10 ethics and ethical conduct in the profession of a real estate
11 salesperson.

12 b. As a prerequisite to admission to an examination, every
13 individual applicant for licensure as a real estate broker or broker-
14 salesperson shall give evidence of satisfactory completion of 150
15 hours in the aggregate of such courses of education in real estate
16 and related subjects at a school licensed by the commission as the
17 commission shall by regulation prescribe. Thirty hours of that
18 course of study shall be on the subject of ethics and ethical conduct
19 in the profession of a real estate broker.

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

26 (cf: P.L.1993, c.51, s.9)

27

28 6. Section 54 of P.L.1993, c.51 (C.45:15-10.11) is amended to
29 read as follows:

30 54. The commission may suspend or revoke the license of any
31 real estate school or instructor or impose fines as provided in
32 R.S.45:15-17 upon satisfactory proof that the licensee is guilty of:

33 a. Making any false promise or substantial misrepresentation;

34 b. Pursuing a flagrant and continued course of misrepresentation
35 or making false promises through agents, advertisements or
36 otherwise;

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

39 d. Failing to provide a student with a copy of a written
40 agreement which designates the total tuition charges for attendance
41 at a real estate pre-licensure or continuing education course offered
42 by a licensed school, or other charges imposed upon students who
43 enroll in the course, and the refund policy of the school in regard to
44 tuition and other charges;

45 e. Using any plan, scheme or method of attracting students to
46 enroll in a real estate pre-licensure or continuing education course
47 which involves a lottery, contest, game, prize or drawing;

- 1 f. Being convicted of a crime, knowledge of which the
2 commission did not have at the time of last issuing a license to the
3 licensee;
- 4 g. Procuring a real estate license for himself or anyone else by
5 fraud, misrepresentation or deceit;
- 6 h. Making any verbal or written statement which falsely
7 indicates that a person attended or successfully completed any real
8 estate pre-licensure or continuing education course conducted by
9 the licensee; or
- 10 i. Any other conduct whether of the same or of a different
11 character than specified in this section which constitutes fraud or
12 dishonest dealing.
13 (cf: P.L.1993, c.51, s.54)

14

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

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

35 (cf: P.L.1996, c.38, s.2)

36

37 8. R.S.45:15-14 is amended to read as follows:

38 45:15-14. All licenses issued to real estate brokers, broker-
39 salespersons **[and]**, salespersons and referral agents shall be kept
40 by the broker by whom such real estate licensee is employed, and
41 the pocket card accompanying the same shall be delivered by the
42 broker to the licensee who shall have the card in his possession at
43 all times when engaged in the business of a real estate broker,
44 broker-salesperson **[or]**, salesperson or referral agent. When any
45 real estate licensee is terminated or resigns his employment with the
46 real estate broker by whom he was employed at the time of the
47 issuing of such license to him, notice of the termination shall be

1 given in writing by the broker to the terminated licensee with the
2 effective date of the termination reflected thereon, or notice of the
3 resignation shall be given in writing by the resigning licensee to the
4 broker with the effective date of the resignation reflected thereon.
5 Upon the issuance of a written notice of termination by a broker or
6 his authorized representative, or upon receipt of a written
7 resignation by a broker or his authorized representative, such
8 employer shall within five business days of the effective date of the
9 termination or resignation, either: a. deliver, or send by registered
10 mail, to the commission, such real estate licensee's license and, at
11 the same time, send a written communication to such real estate
12 licensee at his last known residence, advising him that his license
13 has been delivered or mailed to the commission. A copy of such
14 communication to the licensee shall accompany the license when
15 mailed or delivered to the commission; or, b. deliver to the
16 departing licensee and to the commission any other materials as the
17 commission may prescribe by regulation to accomplish the transfer
18 of the licensee to another employing broker. No real estate licensee
19 shall perform any of the acts contemplated by this article, either
20 directly or indirectly, under the authority of such license, from and
21 after the effective date of the licensee's termination or resignation
22 until authorized to do so by the commission. A new license may be
23 issued to such licensee, upon the payment of a fee of \$25, and upon
24 the submission of satisfactory proof that he has obtained
25 employment with another licensed broker. A broker-salesperson
26 **[or]**, salesperson or referral agent must be licensed under a broker;
27 he cannot be licensed with more than one broker at the same time.
28 (cf: P.L.1993, c.51, s.16)

29

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

31 45:15-15. The biennial fee for each real estate broker's license
32 shall be \$200, the biennial fee for each real estate broker-
33 salesperson's license shall be \$200 and the biennial fee for each real
34 estate salesperson's license and each real estate referral agent's
35 license shall be \$100. The biennial fee for a branch office license
36 shall be \$100. Each license granted under this article shall entitle
37 the licensee to perform all of the acts contemplated herein during
38 the period for which the license is issued, as prescribed by this
39 article. If a licensee fails to apply for a renewal of his license prior
40 to the date of expiration of such license, the commission may refuse
41 to issue a renewal license except upon the payment of a late renewal
42 fee in the amount of \$20 for a referral agent, salesperson or broker-
43 salesperson and \$40 for a broker; provided, however, the
44 commission may, in its discretion, refuse to renew any license upon
45 sufficient cause being shown. The commission shall refuse to
46 renew the license of any licensee convicted of any offense
47 enumerated in section 6 of P.L.1953, c.229 (C.45:15-19.1) during

1 the term of the last license issued by the commission unless the
2 conviction was previously the subject of a revocation proceeding.
3 Renewed licenses may be granted for each ensuing two years upon
4 request of licensees and the payment of the full fee therefor as
5 herein required. Upon application and payment of the fees provided
6 herein, initial licenses and licenses reinstated pursuant to R.S.45:15-
7 9 may be issued, but the commission may, in its discretion, refuse
8 to grant or reinstate any license upon sufficient cause being shown.
9 The license fees for initial or reinstated licenses shall be determined
10 based upon the biennial fees established herein, with a full biennial
11 fee payable for the license term in which application is received.
12 The revocation or suspension of a broker's license shall
13 automatically suspend every real estate broker-salesperson's ~~and~~,
14 salesperson's and referral agent's license granted to employees of
15 the broker whose license has been revoked or suspended, pending a
16 change of employer and the issuance of a new license. The new
17 license shall be issued without additional charge, if the same is
18 granted during the license term in which the original license was
19 granted. Any renewal fee in this section shall be billed by the
20 commission ~~on or after April 1 but before April 15, and such fees~~
21 ~~shall be paid on or before June 1, except that the fee increases~~
22 ~~imposed pursuant to the amendments made in this section pursuant~~
23 ~~to section 36 of P.L.2003, c.117 due for the first biennial renewal~~
24 ~~period ending after enactment of section 36 shall be paid on or~~
25 ~~before June 1, 2004] at or before the time of the submission of a~~
26 ~~renewal application by a licensee.~~

27 A real estate broker who maintains a main office or branch office
28 licensed by the commission which is located in another state shall
29 maintain a valid real estate broker's license in good standing in the
30 state where the office is located and shall maintain a real estate
31 license in that other state for each office licensed by the
32 commission. Upon request, the real estate broker shall provide a
33 certification of his license status in the other state to the
34 commission. Any license issued by the commission to a real estate
35 broker for a main or branch office located outside this State shall be
36 automatically suspended upon the revocation, suspension or refusal
37 to renew the real estate broker's license issued by the state where
38 the office is located. The licenses issued by the commission to
39 every broker-salesperson ~~or~~, salesperson or referral agent
40 employed by the broker shall be automatically suspended pending a
41 change of employer and the issuance of a new license. The new
42 license shall be issued without additional charge if granted during
43 the license term in which the original license was granted.
44 (cf: P.L.2003, c.117, s.36)

45

46 10. R.S.45:15-16 is amended to read as follows:

1 45:15-16. No real estate salesperson **[or]**, broker-salesperson or
2 referral agent shall accept a commission or valuable consideration
3 for the performance of any of the acts herein specified, from any
4 person except his employer, who must be a licensed real estate
5 broker.

6 (cf: P.L.1993, c.51, s.18)

7
8 11. R.S.45:15-17 is amended to read as follows:

9 45:15-17. The commission may, upon its own motion, and shall,
10 upon the verified complaint in writing of any person, investigate the
11 actions of any real estate broker, broker-salesperson **[or]**,
12 salesperson, referral agent, or any person who assumes, advertises
13 or represents himself as being authorized to act as a real estate
14 broker, broker-salesperson **[or]**, salesperson or referral agent or
15 engages in any of the activities described in R.S.45:15-3 without
16 being licensed so to do. The lapse or suspension of a license by
17 operation of law or the voluntary surrender of a license by a
18 licensee shall not deprive the commission of jurisdiction to proceed
19 with any investigation as herein provided or prevent the
20 commission from taking any regulatory action against such
21 licensee, provided, however, that the alleged charges arose while
22 said licensee was duly licensed. Each transaction shall be construed
23 as a separate offense.

24 In conducting investigations, the commission may take testimony
25 by deposition as provided in R.S.45:15-18, require or permit any
26 person to file a statement in writing, under oath or otherwise as the
27 commission determines, as to all the facts and circumstances
28 concerning the matter under investigation, and, upon its own motion
29 or upon the request of any party, subpoena witnesses, compel their
30 attendance, take evidence, and require the production of any
31 material which is relevant to the investigation, including any and all
32 records of a licensee pertaining to his activities as a real estate
33 broker, broker-salesperson **[or]**, salesperson or referral agent. The
34 commission may also require the provision of any information
35 concerning the existence, description, nature, custody, condition
36 and location of any books, documents, or other tangible material
37 and the identity and location of persons having knowledge of
38 relevant facts of any other matter reasonably calculated to lead to
39 the discovery of material evidence. Upon failure to obey a
40 subpoena or to answer questions posed by an investigator or legal
41 representative of the commission and upon reasonable notice to all
42 affected persons, the commission may commence an administrative
43 action as provided below or apply to the Superior Court for an order
44 compelling compliance.

45 The commission may place on probation, suspend for a period
46 less than the unexpired portion of the license period, or may revoke
47 any license issued under the provisions of this article, or the right of

1 licensure when such person is no longer the holder of a license at
2 the time of hearing, or may impose, in addition or as an alternative
3 to such probation, revocation or suspension, a penalty of not more
4 than \$5,000 for the first violation, and a penalty of not more than
5 \$10,000 for any subsequent violation, which penalty shall be sued
6 for and recovered by and in the name of the commission and shall
7 be collected and enforced by summary proceedings pursuant to the
8 "Penalty Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-10
9 et seq.), where the licensee or any person, in performing or
10 attempting to perform any of the acts mentioned herein, is deemed
11 to be guilty of:

12 a. Making any false promises or any substantial
13 misrepresentation; or

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

16 c. Pursuing a flagrant and continued course of misrepresentation
17 or making of false promises through agents, broker-salespersons
18 **[or]**, salespersons or referral agents, advertisements or otherwise;
19 or

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

22 e. Any conduct which demonstrates unworthiness,
23 incompetency, bad faith or dishonesty. The failure of any person to
24 cooperate with the commission in the performance of its duties or to
25 comply with a subpoena issued by the commission compelling the
26 production of materials in the course of an investigation, or the
27 failure to give a verbal or written statement concerning a matter
28 under investigation may be construed as conduct demonstrating
29 unworthiness; or

30 f. Failure to provide his client with a fully executed copy of any
31 sale or exclusive sales or rental listing contract at the time of
32 execution thereof, or failure to specify therein a definite terminal
33 date which terminal date shall not be subject to any qualifying
34 terms or conditions; or

35 g. Using any plan, scheme or method for the sale or promotion
36 of the sale of real estate which involves a lottery, a contest, a game,
37 a prize, a drawing, or the offering of a lot or parcel or lots or parcels
38 for advertising purposes, provided, however, that a promotion or
39 offer of free, discounted or other services or products which does
40 not require that the recipient of any free, discounted or other
41 services or products enter into a sale, listing or other real estate
42 contract as a condition of the promotion or offer shall not constitute
43 a violation of this subsection if that promotion or offering does not
44 involve a lottery, a contest, a game, a drawing or the offering of a
45 lot or parcel or lots or parcels for advertising purposes. A broker
46 shall disclose in writing any compensation received for such
47 promotion or offer in the form and substance as required by the

- 1 federal "Real Estate Settlement Procedures Act of 1974,"
2 (Pub.L.93-533, 12 U.S.C. ss.2601 et seq.), except that,
3 notwithstanding the provisions of that federal act, written disclosure
4 shall be provided no later than when the promotion or offer is
5 extended by the broker to the consumer; or
- 6 h. Being convicted of a crime, knowledge of which the
7 commission did not have at the time of last issuing a real estate
8 license to the licensee; or
- 9 i. Collecting a commission as a real estate broker in a
10 transaction, when at the same time representing either party in a
11 transaction in a different capacity for a consideration; or
- 12 j. Using any trade name or insignia of membership in any real
13 estate organization of which the licensee is not a member; or
- 14 k. Paying any rebate, profit, compensation or commission to
15 anyone not possessed of a real estate license, except that free,
16 discounted or other services or products provided for in subsection
17 g. of this section shall not constitute a violation of this subsection;
18 or
- 19 l. Any other conduct, whether of the same or a different
20 character than specified in this section, which constitutes fraud or
21 dishonest dealing; or
- 22 m. Accepting a commission or valuable consideration as a real
23 estate broker-salesperson **[or]**, salesperson or referral agent for the
24 performance of any of the acts specified in this act, from any
25 person, except his employing broker, who must be a licensed
26 broker; or
- 27 n. Procuring a real estate license, for himself or anyone else, by
28 fraud, misrepresentation or deceit; or
- 29 o. Commingling the money or other property of his principals
30 with his own or failure to maintain and deposit in a special account,
31 separate and apart from personal or other business accounts, all
32 moneys received by a real estate broker, acting in said capacity, or
33 as escrow agent, or the temporary custodian of the funds of others,
34 in a real estate transaction; or
- 35 p. Selling property in the ownership of which he is interested in
36 any manner whatsoever, unless he first discloses to the purchaser in
37 the contract of sale his interest therein and his status as a real estate
38 broker, broker-salesperson **[or]**, salesperson or referral agent; or
- 39 q. Purchasing any property unless he first discloses to the seller
40 in the contract of sale his status as a real estate broker, broker-
41 salesperson **[or]**, salesperson or referral agent; or
- 42 r. Charging or accepting any fee, commission or compensation
43 in exchange for providing information on purportedly available
44 rental housing, including lists of such units supplied verbally or in
45 written form, before a lease has been executed or, where no lease is
46 drawn, before the tenant has taken possession of the premises

1 without complying with all applicable rules promulgated by the
2 commission regulating these practices; or

3 s. Failing to notify the commission within 30 days of having
4 been convicted of any crime, misdemeanor or disorderly persons
5 offense, or of having been indicted, or of the filing of any formal
6 criminal charges, or of the suspension or revocation of any real
7 estate license issued by another state, or of the initiation of formal
8 disciplinary proceedings in another state affecting any real estate
9 license held, or failing to supply any documentation available to the
10 licensee that the commission may request in connection with such
11 matter; or

12 t. The violation of any of the provisions of this article or of the
13 administrative rules adopted by the commission pursuant to the
14 provisions of this article. The commission is expressly vested with
15 the power and authority to make, prescribe and enforce any and all
16 rules and regulations for the conduct of the real estate brokerage
17 business consistent with the provisions of chapter 15 of Title 45 of
18 the Revised Statutes.

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

25 (cf: P.L.2001, c.68, s.1)

26

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

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

47 (cf: P.L.1993, c.51, s.25)

1

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

3 45:15-19. Any unlawful act or violation of any of the provisions
4 of this article, by any real estate broker-salesperson **[or]** ,
5 salesperson or referral agent, shall not be cause for the revocation
6 of any real estate broker's license, unless it shall appear to the
7 satisfaction of the commission that the real estate broker employing
8 such licensee had guilty knowledge thereof.

9 (cf: P.L.1993, c.51, s.26)

10

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

13 6. When, during the term of any license issued by the
14 commission, the licensee shall be convicted in a court of competent
15 jurisdiction in the State of New Jersey or any state (including
16 federal courts) of forgery, burglary, robbery, any theft or related
17 offense with the exception of shoplifting, criminal conspiracy to
18 defraud, or other like offense or offenses, or any crime involving,
19 related to or arising out of the licensee's activities as a real estate
20 broker, broker-salesperson **[or]**, salesperson or referral agent, and a
21 duly certified or exemplified copy of the judgment of conviction
22 shall be obtained by the commission, the commission shall revoke
23 forthwith the license by it theretofore issued to the licensee so
24 convicted.

25 (cf: P.L.1993, c.51, s.27)

26

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

29 7. In the event that any licensee shall be indicted in the State of
30 New Jersey or any state or territory (including federal courts) for
31 murder, kidnapping, aggravated sexual assault, robbery, burglary,
32 arson, any theft offense, bribery, racketeering, distribution of a
33 controlled dangerous substance or conspiracy to distribute a
34 controlled dangerous substance, forgery, criminal conspiracy to
35 defraud, or other like offense or offenses, or any crime involving,
36 related to or arising out of the licensee's activities as a real estate
37 broker, broker-salesperson **[or]**, salesperson or referral agent, and a
38 certified copy of the indictment is obtained by the commission, or
39 other proper evidence thereof be to it given, the commission shall
40 have authority, in its discretion, to suspend the license issued to
41 such licensee pending trial upon such indictment.

42 (cf: P.L.1993, c.51, s.28)

43

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

45 45:15-20. A nonresident may become a real estate broker,
46 broker-salesperson **[or]**, salesperson or referral agent by
47 conforming to all of the provisions of this article. All nonresident

1 licenses issued by the commission prior to July 1, 1994 may be
2 renewed upon payment of the renewal fees established pursuant to
3 R.S.45:15-15. All nonresident licenses so renewed shall be issued
4 by the commission in the same form as a resident license. In the
5 event that any person to whom a nonresident license is issued fails
6 to maintain or renew the license or to obtain a new license from the
7 commission for a period of two or more consecutive years, the
8 person shall be required to fulfill the requirements for initial
9 licensure established pursuant to R.S.45:15-9 prior to the issuance
10 of any further license.

11 A licensed broker whose main office is not located within this
12 State shall only provide brokerage services concerning real estate
13 located within this State either personally or through persons in the
14 broker's employ who are the holders of real estate broker-
15 salesperson **[or]**, salesperson or referral agent licenses issued by
16 the commission. In the event that a broker maintains one or more
17 branch offices in this State, no person shall engage in the business
18 of a real estate broker, broker-salesperson **[or]**, salesperson or
19 referral agent at those offices unless the person is a holder of a
20 license issued by the commission authorizing him to do so.
21 (cf: P.L.1993, c.51, s.29)

22
23 17. Section 1 of P.L.1976, c.112 (C.45:15-34) is amended to
24 read as follows:

25 1. A real estate guaranty fund is established as a special trust
26 fund to be maintained by the State Treasurer and administered by
27 the New Jersey Real Estate Commission in accordance with the
28 provisions of this act to provide a fund from which recovery may be
29 obtained by any person aggrieved by the embezzlement, conversion
30 or unlawful obtaining of money or property in a real estate
31 brokerage transaction by a licensed real estate broker, broker-
32 salesperson **[or]**, salesperson or referral agent or an unlicensed
33 employee of a real estate broker; provided, however, that the
34 amount of such recovery shall not exceed in the aggregate the sum
35 of \$10,000 in connection with any one transaction regardless of the
36 number of claims, persons aggrieved, or parcels of, or interests in
37 real estate involved in the transaction. The maximum amount
38 recoverable per transaction shall be increased to \$20,000 for claims
39 filed on the basis of causes of action which accrue after the
40 effective date of P.L.1993, c.51 (C.45:15-12.3 et al.).
41 (cf: P.L.1993, c.51, s.35)

42
43 18. Section 2 of P.L.1976, c.112 (C.45:15-35) is amended to
44 read as follows:

45 2. Upon the initial issuance of a biennial license as a real estate
46 broker, broker-salesperson **[or]**, salesperson or referral agent the
47 licensee shall pay to the commission, in addition to the license fee

1 fixed by R.S.45:15-15, an additional amount to be forwarded by the
2 commission to the State Treasurer and accounted for and credited
3 by him to the real estate guaranty fund. The additional amount
4 payable by a broker or broker-salesperson shall be \$20 and by a
5 salesperson or referral agent, \$10.

6 (cf: P.L.1996, c.38, s.4)

7
8 19. Section 4 of P.L.1976, c.112 (C.45:15-37) is amended to
9 read as follows:

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

21 No order shall be entered unless the claimant, either at the time
22 of filing the civil action or thereafter, files a certification affirming
23 that a criminal complaint alleging the misappropriation of funds by
24 the broker, broker-salesperson, salesperson **[or]** , referral agent or
25 unlicensed employee has been filed with a law enforcement agency
26 of this State or of a county or municipality in this State. The
27 criminal complaint shall refer to the same conduct to which
28 reference is made in the civil action as forming the basis for a claim
29 against the real estate guaranty fund. The certification shall specify
30 the date on which the criminal complaint was filed and the law
31 enforcement agency with which it was filed. A copy of the
32 certification shall be provided to the New Jersey Real Estate
33 Commission upon its being filed. The requirement to file a
34 certification shall apply prospectively only to claims seeking
35 reimbursement from the fund filed on the basis of causes of action
36 which accrue after the effective date of P.L.1993, c.51 (C.45:15-
37 12.3 et al.).

38 Upon delivery by the New Jersey Real Estate Commission to the
39 State Treasurer of a certified copy of the court order together with
40 an assignment to the New Jersey Real Estate Commission of the
41 judgment creditor's right, title and interest in the judgment to the
42 extent of the amount of the court order, the State Treasurer shall
43 make payment to the claimant from the real estate guaranty fund.

44 (cf: P.L.1993, c.51, s.37)

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

1 6. Any person to whom is issued a license to be a real estate
2 broker, broker-salesperson **[or]**, salesperson or referral agent shall,
3 by the securing of said license, make and constitute the secretary of
4 the commission or the person in charge of the office of the
5 commission as agent for the acceptance of process in any civil
6 proceeding hereunder.

7 (cf: P.L.1993, c.51, s.38)

8
9 21. Section 7 of P.L.1976, c.112 (C.45:15-40) is amended to
10 read as follows:

11 7. a. If at any time the funds available in the real estate guaranty
12 fund are insufficient to satisfy in full court orders for payment
13 therefrom, payment shall be made in the order in which such court
14 orders were issued; and the New Jersey Real Estate Commission
15 shall by regulation impose further additional amounts to be paid by
16 brokers, broker-salespersons **[and]**, salespersons and referral agents
17 to replenish the guaranty fund. No such additional amount assessed
18 at any one time shall exceed the amounts specified in section 2 of
19 this act.

20 b. If at any time the funds available in the real estate guaranty
21 fund are, in the opinion of the New Jersey Real Estate Commission,
22 in excess of amounts anticipated to be necessary to meet claims for
23 a period of at least two years, the commission may, with the
24 approval of the Commissioner of Banking and Insurance, allocate
25 and receive from the guaranty fund a specified amount thereof for
26 research and educational projects to increase the proficiency and
27 competency of real estate licensees.

28 (cf: P.L.1993, c.51, s.39)

29
30 22. Section 8 of P.L.1976, c.112 (C.45:15-41) is amended to
31 read as follows:

32 8. Upon the issuance of a court order for payment from the real
33 estate guaranty fund the license of the broker, broker-salesperson
34 **[or]**, salesperson or referral agent, whose acts gave rise to the
35 claim, shall be revoked and no such broker, broker-salesperson **[or]**
36 , salesperson or referral agent shall be eligible for reinstatement of
37 his license until he shall have satisfied the judgment in full
38 including reimbursement of the real estate guaranty fund together
39 with interest.

40 (cf: P.L.1993, c.51, s.40)

41
42 23. (New section) a. The New Jersey Real Estate Commission
43 shall require each natural person licensed as a real estate broker,
44 broker-salesperson or salesperson, as a condition of biennial license
45 renewal pursuant to R.S.45:15-10, to complete not more than 16
46 hours of continuing education requirements imposed by the

1 commission pursuant to this section and sections 24 through 28 of
2 this amendatory and supplementary act.

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. ,
14 c. (C.) (pending before the Legislature as this bill). Real
15 estate trade associations that qualify under the standards to be
16 established by commission rule as approved providers may offer
17 approved continuing education courses.

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

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

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

45 (3) Confer continuing education credits for courses completed
46 and offered in this State on topics deemed of a timely nature which
47 have not been granted prior approval by the advisory committee,

1 provided that such courses are advertised prior to the time of
2 offering as not having been approved; that the course provider shall
3 submit such course offering for approval and the course is
4 subsequently approved as provided in subparagraph (a) of
5 paragraph (1) of this subsection; and that satisfactory evidence of
6 licensees' attendance at and completion of such courses is provided
7 to the commission by the course provider.

8 (4) Set parameters for the auditing and monitoring of course
9 providers.

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

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

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

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

1 examination testing the licensee's knowledge of the entire course
2 content.

3
4 25. (New section) Continuing education requirements, as set
5 forth by the New Jersey Real Estate Commission, shall be
6 completed on or before April 30 of the year in which the biennial
7 license expires. Any licensee required to complete continuing
8 education requirements who fails to do so prior to May 1 of the
9 second year of a biennial license term shall be subject to a
10 reasonable processing fee, as determined by the commission, of not
11 more than \$200.

12
13 26. (New section) A person who, during a biennial licensing
14 term, successfully completes one or more broker pre-licensure
15 education courses as prescribed by the New Jersey Real Estate
16 Commission shall be deemed to have fulfilled the continuing
17 education requirement applicable to the license that such a person
18 may seek to renew upon the conclusion of that license term. A
19 person who is initially licensed as a salesperson during the first year
20 of a two-year license term shall complete all applicable continuing
21 education requirements in order to renew that license upon the
22 conclusion of that license term. A person who is initially licensed
23 as a salesperson in the second year of the two-year license term
24 shall not be required to fulfill any continuing education
25 requirements in order to renew that license at the conclusion of that
26 license term.

27
28 27. (New section) a. Not less than 50 percent of the continuing
29 education courses of study that a broker, broker-salesperson or
30 salesperson are required to complete as a condition for license
31 renewal shall be comprised of one or more of the following core
32 topics:

- 33 (1) Agency;
34 (2) Disclosure;
35 (3) Legal issues;
36 (4) Ethics;
37 (5) Fair housing;
38 (6) Rules and regulations; and
39 (7) Any other core topics that the New Jersey Real Estate
40 Commission may prescribe by rule.

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

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

1 28. (New section) Course providers shall maintain records of the
2 successful completion of continuing education courses by licensees
3 and shall transmit this data to the New Jersey Real Estate
4 Commission or its designee in a manner as directed by the
5 commission.

6
7 29. (New section) The New Jersey Real Estate Commission
8 shall adopt rules and regulations pursuant to the “Administrative
9 Procedure Act,” P.L.1968, c.410 (C.52:14B-1 et seq.), necessary to
10 effectuate the purposes of this act.

11
12 30. This act shall take effect July 1, 2011, but the New Jersey
13 Real Estate Commission may take such anticipatory rulemaking and
14 other administrative action in advance as shall be necessary for the
15 implementation of this act.

16

17

18

STATEMENT

19

20 This bill requires real estate brokers, broker-salespersons and
21 salespersons to complete continuing education requirements as a
22 condition of biennial licensing renewal. The bill provides that the
23 New Jersey Real Estate Commission shall approve continuing
24 education courses, course providers, and instructors recommended
25 to the commission by a newly established Volunteer Advisory
26 Committee.

27 The bill provides that not more than 16 hours of continuing
28 education for brokers, broker-salespersons and salespersons will be
29 required as a condition of license renewal. Not less than 50 percent
30 of the continuing education courses of study shall be comprised of
31 one or more of the following core topics: agency; disclosure; legal
32 issues; ethics; fair housing; rules and regulations; and any other
33 topics that the New Jersey Real Estate Commission may prescribe
34 by rule. In addition, in no event shall the commission require that
35 courses in these core topics comprise more than 60 percent of the
36 total continuing education hours required for the renewal of any
37 license.

38 As stipulated in the bill, continuing education courses may be
39 delivered in a classroom setting or via the Internet, distance
40 learning, correspondence or video modalities, subject to the
41 approval by the New Jersey Real Estate Commission of the
42 providers and the content of such courses and of the measures
43 utilized to ensure the security and integrity of the course delivery
44 process.

45 This bill creates a Volunteer Advisory Committee which shall
46 consist of 14 members to be comprised of real estate licensees and
47 other subject matter experts, whose members shall be appointed by

1 and serve at the pleasure of the Commissioner of Banking and
2 Insurance. One real estate licensee shall be selected upon the
3 recommendation of the President of the Senate and one real estate
4 licensee shall be selected upon the recommendation of the Speaker
5 of the General Assembly. Three members of the advisory
6 committee shall be members of the commission or their designees,
7 and not less than eight of the members, other than the commission
8 members, shall be real estate licensees. Members shall be
9 appointed to affect balanced geographic representation from the
10 central, northern and southern areas of the State, with not less than
11 three members serving from each of these areas at any time on the
12 advisory committee.

13 The bill also establishes a new type of real estate licensee:
14 referral agents. Referral agents are required to be employed by and
15 operate under the supervision of a licensed real estate broker, and a
16 licensed real estate referral agent's real estate brokerage-related
17 activities are limited to referring prospects for the sale, purchase,
18 exchange leasing or rental of real estate or an interest therein.
19 Referral agent licensees shall only refer prospects to the real estate
20 broker by whom they are licensed as a referral agent and shall only
21 accept compensation for their activity as a referral agent from that
22 broker. The bill states that a referral agent at the time of license
23 renewal is required to sign a certification by the licensed real estate
24 broker by whom the referral agent is or will be employed,
25 indicating an understanding of the restrictions of the referral
26 licensee category. Furthermore, a real estate referral agent shall not
27 be subject to any continuing education requirements.