

[First Reprint]

**SENATE, No. 2551**

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**STATE OF NEW JERSEY**  
**215th LEGISLATURE**

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INTRODUCED FEBRUARY 7, 2013

**Sponsored by:**

**Senator JEFF VAN DREW**

**District 1 (Atlantic, Cape May and Cumberland)**

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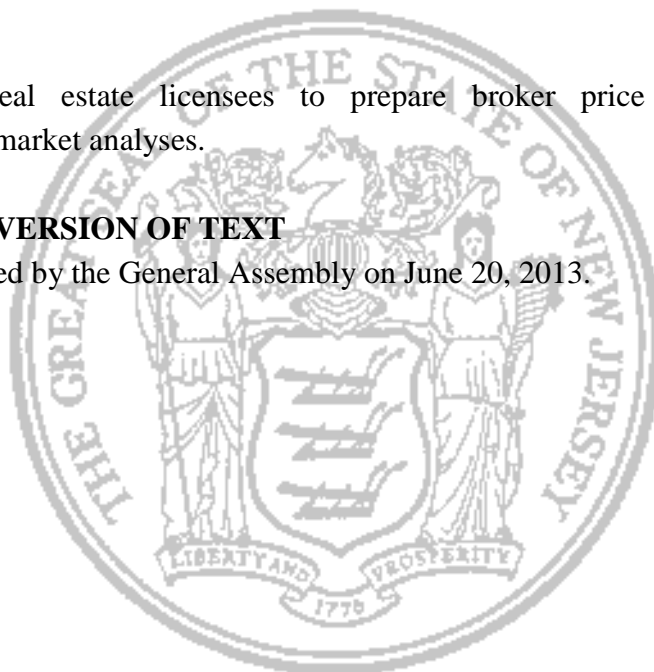
**Senators O'Toole, Allen, Assemblyman Rumana and Senator Whelan**

**SYNOPSIS**

Permits real estate licensees to prepare broker price opinions and comparative market analyses.

**CURRENT VERSION OF TEXT**

As amended by the General Assembly on June 20, 2013.



**(Sponsorship Updated As Of: 6/28/2013)**

1 AN ACT concerning real estate licensees and amending P.L.1991,  
2 c.68 and R.S.45:15-3.

3

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

6

7 1. Section 21 of P.L.1991, c.68 (C.45:14F-21) is amended to  
8 read as follows:

9 21. a. A person who is not certified pursuant to the provisions  
10 of this act shall not describe or refer to any appraisal or other  
11 evaluation which he performs on real estate located in this State as  
12 "a certified appraisal."

13 b. A person who is not licensed pursuant to the provisions of  
14 this act shall not describe or refer to any appraisal or other  
15 evaluation which he performs on real estate located in this State as  
16 "a licensed appraisal."

17 c. Except as otherwise provided in subsection f. of this section,  
18 no person other than a State licensed real estate appraiser, a State  
19 certified real estate appraiser or a person who assists in the  
20 preparation of an appraisal under the direct supervision of a State  
21 licensed or certified appraiser shall perform or offer to perform an  
22 appraisal assignment in regard to real estate located in this State  
23 including, but not limited to, any transaction involving a third party,  
24 person, government or quasi-governmental body, court, quasi-  
25 judicial body or financial institution.

26 Nothing in P.L.1991, c.68 (C.45:14F-1 et seq.) shall be construed  
27 to preclude a person not licensed or certified pursuant to this act  
28 from giving or offering to give, for a fee or otherwise, counsel and  
29 advice on pricing, listing, selling and use of real property, directly  
30 to a property owner or prospective purchaser if the intended use of  
31 the counsel or advice is solely for the individual knowledge of or  
32 use by the property owner or prospective purchaser.

33 d. Nothing in this act shall be construed to preclude a person  
34 not certified or licensed pursuant to this act from assisting in the  
35 preparation of an appraisal to the extent permitted under subsection  
36 **[(d)] (e)** of section 1122 of Title XI of Pub. L.101-73 (12 U.S.C.  
37 s.3351<sup>1</sup>**[(d)] (e)**<sup>1</sup>).

38 e. (Deleted by amendment, P.L.1997, c.401).

39 f. A State or federally chartered bank, savings bank or savings  
40 and loan association may obtain and use appraisals made by a  
41 person who is not certified or licensed pursuant to the provisions of  
42 P.L.1991, c.68 (C.45:14F-1 et seq.) in any circumstance where the  
43 underlying transaction is a federally related transaction for which  
44 federal law and regulation do not require that a certified or licensed

**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:

<sup>1</sup>Assembly floor amendments adopted June 20, 2013.

1 appraiser be used. For the purposes of this subsection, "federal  
2 law" means Title XI of Pub. L.101-73 (12 U.S.C. s.3331 et seq.);  
3 and "federally related transaction" has the meaning as set forth in  
4 section 1121 of Title XI of Pub. L.101-73 (12 U.S.C. s.3350).

5 g. Nothing in P.L.1991, c.68 (C.45:14F-1 et seq.) shall be  
6 construed to preclude a real estate broker, broker-salesperson or  
7 salesperson licensed under R.S.45:15-1 et seq. who is not licensed  
8 or certified pursuant to P.L.1991, c.68 (C.45:14F-1 et seq.) from  
9 preparing a broker price opinion or comparative market analysis <sup>1</sup>,  
10 except that a broker price opinion or comparative market analysis  
11 shall not be used in conjunction with condemnation proceedings or  
12 proceedings filed in a Tax Court in this State unless otherwise  
13 ordered by the Court with regard to such proceedings<sup>1</sup>. As used in  
14 this subsection, "broker price opinion" and "comparative market  
15 analysis" mean an estimate prepared by a real estate broker, broker-  
16 salesperson or salesperson that details the probable selling price of  
17 a particular piece of real property and provides a varying level of  
18 detail about the property's condition, market, and neighborhood,  
19 and information on comparable sales, but does not include an  
20 automated valuation model, as defined by Title XIV of Pub. L. 111-  
21 203 (12 U.S.C. s.3354 et seq.).

22 <sup>1</sup>Any written broker price opinion or comparative market  
23 analysis provided by a real estate broker, broker-salesperson or  
24 salesperson to a consumer shall include the following statement: "A  
25 broker price opinion or comparative market analysis is an estimate  
26 that details the probable selling price of a particular piece of  
27 property. It is not an appraisal and should not be considered the  
28 equivalent of an appraisal, which only can be prepared by a  
29 certified or licensed appraiser. A broker price opinion or  
30 comparative market analysis shall not be used in conjunction with  
31 condemnation proceedings or proceedings filed in a Tax Court in  
32 this State unless otherwise ordered by the Court with regard to such  
33 proceedings." This statement shall appear in print as large as the  
34 predominant size print in any writing reporting the results of the  
35 broker price opinion or comparative market analysis.<sup>1</sup>

36 (cf: P.L.1997, c.401, s.2)

37  
38 2. R.S.45:15-3 is amended to read as follows:

39 45:15-3. A real estate broker, for the purposes of R.S.45:15-1 et  
40 seq., is defined to be a person, firm or corporation who, for a fee,  
41 commission or other valuable consideration, or by reason of a  
42 promise or reasonable expectation thereof, lists for sale, sells,  
43 exchanges, buys or rents, or offers or attempts to negotiate a sale,  
44 exchange, purchase or rental of real estate or an interest therein, or  
45 collects or offers or attempts to collect rent for the use of real estate  
46 or solicits for prospective purchasers or assists or directs in the  
47 procuring of prospects or the negotiation or closing of any  
48 transaction which does or is contemplated to result in the sale,

1 exchange, leasing, renting or auctioning of any real estate or  
2 negotiates, or offers or attempts or agrees to negotiate a loan  
3 secured or to be secured by mortgage or other encumbrance upon or  
4 transfer of any real estate for others, or any person who, for  
5 pecuniary gain or expectation of pecuniary gain conducts a public  
6 or private competitive sale of lands or any interest in lands. In the  
7 sale of lots pursuant to the provisions of R.S.45:15-1 et seq., the  
8 term "real estate broker" shall also include any person, partnership,  
9 association or corporation employed by or on behalf of the owner or  
10 owners of lots or other parcels of real estate, at a stated salary, or  
11 upon a commission, or upon a salary and commission, or otherwise,  
12 to sell such real estate, or any parts thereof, in lots or other parcels,  
13 and who shall sell or exchange, or offer or attempt or agree to  
14 negotiate the sale or exchange, of any such lot or parcel of real  
15 estate.

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

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 by and  
36 operates under the supervision of a licensed real estate broker to  
37 perform the functions of a real estate salesperson as defined herein.

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

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

6 A duly licensed real estate broker, broker-salesperson or  
7 salesperson of this State shall be permitted to prepare a broker price  
8 opinion or comparative market analysis<sup>1</sup>, except that a broker price  
9 opinion or comparative market analysis shall not be used in  
10 conjunction with condemnation proceedings or proceedings filed in  
11 a Tax Court in this State unless otherwise ordered by the Court with  
12 regard to such proceedings<sup>1</sup>. As used herein, “broker price  
13 opinion” and “comparative market analysis” mean an estimate  
14 prepared by a real estate broker, broker-salesperson or salesperson  
15 that details the probable selling price of a particular piece of real  
16 property and provides a varying level of detail about the property’s  
17 condition, market, and neighborhood, and information on  
18 comparable sales, but does not include an automated valuation  
19 model, as defined by Title XIV of Pub. L. 111-203 (12 U.S.C.  
20 s.3354 et seq.).

21 <sup>1</sup>Any written broker price opinion or comparative market  
22 analysis provided by a real estate broker, broker-salesperson or  
23 salesperson to a consumer shall include the following statement: “A  
24 broker price opinion or comparative market analysis is an estimate  
25 that details the probable selling price of a particular piece of  
26 property. It is not an appraisal and should not be considered the  
27 equivalent of an appraisal, which only can be prepared by a  
28 certified or licensed appraiser. A broker price opinion or  
29 comparative market analysis shall not be used in conjunction with  
30 condemnation proceedings or proceedings filed in a Tax Court in  
31 this State unless otherwise ordered by the Court with regard to such  
32 proceedings.” This statement shall appear in print as large as the  
33 predominant size print in any writing reporting the results of the  
34 broker price opinion or comparative market analysis.<sup>1</sup>

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

41 No person claiming to be entitled to compensation as a referral  
42 agent, salesperson or broker-salesperson for the performance of any  
43 of the acts mentioned in R.S.45:15-1 et seq. shall bring or maintain  
44 any action in the courts of this State for the collection of  
45 compensation against any person, firm, partnership or corporation  
46 other than the licensed broker with whom the referral agent,  
47 salesperson or broker-salesperson was employed at the time the  
48 alleged cause of action arose and no action shall be brought or

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1 maintained without the claimant alleging and proving that he was a  
2 duly licensed real estate referral agent, salesperson or broker-  
3 salesperson at the time the alleged cause of action arose.

4 (cf: P.L.2009, c.238, s.2)

5

6 3. This act shall take effect immediately.