SENATE COMMERCE COMMITTEE

STATEMENT TO

SENATE, No. 430

with committee amendments

STATE OF NEW JERSEY

DATED: FEBRUARY 15, 2018

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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