

[First Reprint]

ASSEMBLY, No. 2281

STATE OF NEW JERSEY

INTRODUCED SEPTEMBER 16, 1996

By Assemblymen MORAN and IMPREVEDUTO

1 AN ACT concerning the licensing of public movers and warehousemen,
2 ¹[amending P.L.1971, c.60 and P.L.1984, c.140,]¹ amending and
3 supplementing P.L.1981, c.311, and repealing ¹[sections 4 and]
4 section¹ 14 of P.L.1981, c.311.

5

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

8

9 1. Section 2 of P.L.1981, c.311 (C.45:14D-2) is amended to read
10 as follows:

11 2. As used in this act:

12 a. "Accessorial service" means the preparation of articles for
13 shipment, including, but not limited to, the packing, crating, boxing
14 and servicing of appliances, the furnishing of containers, unpacking,
15 uncrating and reassembling of articles, placing them at final destination
16 and the moving or shifting of articles from one location to another
17 within a building, or at a single address;

18 b. ["Board" means the State Board of Public Movers and
19 Warehousemen established under this act;] (~~Deleted by amendment,~~
20 P.L. . . . , c. . . .) ¹"Board" means the State Board of Public Movers and
21 Warehousemen established under P.L.1981, c.311 (C.45:14D-1 et
22 seq.);¹

23 c. (~~Deleted by amendment, P.L.1993, c.365).~~

24 d. "Department" means the Department of Law and Public Safety;

25 e. "Household goods" means personal effects, fixtures, equipment,
26 stock and supplies or other property usually used in or as part of the
27 stock of a dwelling, when it is put into storage or when it is
28 transported by virtue of its removal, in whole or in part, by a
29 householder from one dwelling to another, or from the dwelling of a
30 householder to the dwelling of another householder, or between the
31 dwelling of a householder and a repair or storage facility, or from the

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

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹ Assembly ACP committee amendments adopted September 16, 1996.

1 dwelling to an auction house or other place of sale. The term
2 "household goods" shall not apply to property moving from a factory
3 or store, except property which the householder has purchased and
4 which is transported at his request as part of the movement by the
5 householder from one dwelling to another;

6 f. "Intrastate commerce" means commerce moving wholly between
7 points within the State over all public highways, or at a single location;

8 g. "License" means a license issued by the [board] ¹[director
9 board];

10 h. "Motor vehicle" means any vehicle, machine, tractor, truck or
11 semitrailer, or any combination thereof, propelled, driven or drawn by
12 mechanical power, and used upon the public highways in the
13 transportation of household goods, office goods and special
14 commodities in intrastate commerce;

15 i. "Mover's services" means all of the services rendered by a public
16 mover;

17 j. "Storage services" means all of the services rendered by a
18 warehouseman;

19 k. "Office goods" means personal effects, fixtures, furniture,
20 equipment, stock and supplies or other property usually used in or as
21 part of the stock of any office, or commercial, institutional,
22 professional or other type of establishment, when it is put into storage
23 or when the property is transported by virtue of its removal, in whole
24 or in part, from one location to another, but does not mean or include
25 stock and supplies or other property usually used in or as part of the
26 stock of any office, or commercial, institutional, professional or other
27 type of establishment, when put into storage;

28 l. "Person" means any individual, copartnership, association,
29 company, or corporation, and includes any trustee, receiver, assignee,
30 lessee, or personal representative of any person herein defined;

31 m. "Place of business" means a business office located in New
32 Jersey from which the mover or warehouseman conducts his daily
33 business and where records are kept;

34 n. "Property" means all of the articles in the definition of household
35 goods, office goods or special commodities;

36 o. "Public highway" or "highway" means any public street, road,
37 thoroughfare, bridge and way in this State open to the use of the
38 public as a matter of right for purposes of motor vehicular travel,
39 including those that impose toll charges;

40 p. "Public mover" or "mover" means any person who engages in
41 the transportation of household goods, office goods or special
42 commodities by motor vehicle for compensation in intrastate
43 commerce between points in this State, including the moving of
44 household goods, office goods or special commodities from one
45 location to another at a single address, and any person who engages
46 in the performance of accessorial services; except that the term "public

1 mover" or "mover" shall not apply to any person who engages in, or
2 holds himself out to the general public as engaging in, the
3 transportation of special commodities when such commodities are not
4 transported by virtue of a removal, in whole or in part, and who does
5 not engage, nor hold himself out to the general public as engaging in,
6 the transportation of household or office goods;

7 q. "Special commodities" means uncrated or unboxed works of art,
8 fixtures, appliances, business machines, electronic equipment, displays,
9 exhibits, home, office, store, theatrical or show equipment, musical
10 instruments, or other articles being put into storage or being moved,
11 and which require the use of equipment and personnel usually
12 furnished or employed by warehousemen or public movers, except that
13 the provisions of P.L.1981, c.311 (C.45:14D-1 et seq.) shall not apply
14 to any person engaged in the transportation or storage of special
15 commodities when these commodities are not transported by virtue of
16 a removal, in whole or in part;

17 r. "Storage" means the safekeeping of property in a depository for
18 compensation;

19 s. ["Tariff" means a schedule of rates and charges for the storage
20 or transportation of property in intrastate commerce on file with the
21 board, which shall be used in computing all charges on the storage or
22 transportation of property as of the date of the time in storage or
23 transportation;] (Deleted by amendment, P.L. , c. .)

24 t. "Warehouseman" means a person engaged in the business of
25 storage;

26 u. "Removal" means the physical relocation, in whole or in part, of
27 either household goods, office goods or special commodities from one
28 location to another location, including internal relocations within the
29 same room or facility, for compensation ¹;

30 v. "Director" means the Director of the Division of Consumer
31 Affairs in the Department of Law and Public Safety]¹.

32 (cf: P.L.1993, c.365, s.1)

33

34 2. Section 6 of P.L.1981, c.311 (C.45:14D-6) is amended to read
35 as follows:

36 6. The [board] ¹[director] board¹ shall, in addition to such other
37 powers and duties as [it] ¹[he] it¹ may possess by law:

38 a. Administer and enforce the provisions of this act;

39 b. Adopt and promulgate rules and regulations, pursuant to the
40 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
41 seq.), to effectuate the purposes of this act;

42 c. Examine and pass on the qualifications of all applicants for
43 license under this act, and issue a license to each qualified applicant;

44 d. Establish professional standards for persons licensed under this
45 act;

46 e. Conduct hearings pursuant to the "Administrative Procedure

1 Act," P.L.1968, c.410 (C.52:14B-1 et seq.); except that the [board]
2 ¹[director] board¹ shall have the right to administer oaths to witnesses,
3 and shall have the power to issue subpoenas for the compulsory
4 attendance of witnesses and the production of pertinent books, papers,
5 or records;

6 f. Conduct proceedings before any board, agency or court of
7 competent jurisdiction for the enforcement of the provisions of this
8 act;

9 g. Annually publish a list of the names[,] and addresses [and
10 tariffs] of all persons who are licensed under this act;

11 h. Establish reasonable requirements with respect to proper and
12 adequate movers' and warehousemen's services and the furnishing of
13 estimates, and prescribe a uniform system of accounts, records and
14 reports;

15 i. Adopt and promulgate rules and regulations to protect the
16 interests of the consumer, including, but not limited to, regulations
17 concerning the contents of information brochures which a mover or
18 warehouseman shall give to a customer prior to the signing of a
19 contract for moving or storage services.

20 (cf: P.L.1993, c.365, s.3)

21

22 ¹[3. Section 7 of P.L.1981, c.311 (C.45:14D-7) is amended to read
23 as follows:

24 7. The [board] director may, after notice and opportunity for a
25 hearing, revoke, suspend or refuse to renew or issue any license issued
26 pursuant to this act upon a finding that the applicant or holder of a
27 license:

28 a. Has obtained a license by means of fraud, misrepresentation or
29 concealment of material facts;

30 b. Has engaged in the use or employment of dishonesty, fraud,
31 deception, misrepresentation, false promise or false pretense;

32 c. Has engaged in gross negligence or gross incompetence;

33 d. Has engaged in repeated acts of negligence or incompetence;

34 e. Has repeatedly failed to discharge contractual obligations to any
35 person contracting for moving or storage services;

36 f. Has engaged in occupational misconduct;

37 g. Has been convicted of any crime involving moral turpitude or
38 any crime relating adversely to the activities regulated by P.L.1981,
39 c.311 (C.45:14D-1 et seq.). For the purpose of this subsection, a plea
40 of guilty, non vult, nolo contendere or any other similar disposition of
41 alleged criminal activity shall be deemed a conviction;

42 h. Has had his authority to engage in the activities regulated by
43 P.L.1981, c.311 (C.45:14D-1 et seq.) revoked or suspended by any
44 other state, agency or authority for reasons consistent with that act; or

45 i. Has violated or failed to comply with the provisions of P.L.1981,
46 c.311 (C.45:14D-1 et seq.) or any regulation adopted thereunder.

1 The licensee or applicant shall be furnished with an official
2 statement of the reasons for the [board's] director's proposed action
3 and shall be afforded an opportunity for a hearing.

4 (cf: P.L.1993, c.365, s.4)]¹

5
6 ¹[4. Section 8 of P.L.1981, c.311 (C.45:14D-8) is amended to read
7 as follows:

8 8. The [board] director may, after one year from the date of the
9 revocation of any license, restore the license.

10 (cf: P.L.1993, c.365, s.5)]¹

11
12 ¹[5. Section 9 of P.L.1981, c.311 (C.45:14D-9) is amended to
13 read as follows:

14 9. a. It shall be unlawful for any person to engage in the business
15 of public moving or storage unless he shall have obtained from the
16 [board] director a license to engage in the business and shall have a
17 permanent place of business in this State;

18 b. Application for a license shall be made in writing to the [board]
19 director, be verified under oath by the agent in charge and shall
20 contain the following information: (1) the name and location of the
21 applicant; (2) description of the applicant's moving vehicles and
22 storage facilities; (3) identification of the issuer and amount of any
23 insurance or surety bonds maintained by the applicant. A license shall
24 be issued to a qualified applicant if it is found that the applicant is fit,
25 willing and able to perform the service of a mover or warehouseman,
26 and to conform to the provisions of this act;

27 c. Every person advertising moving or storage services shall
28 include in any advertisement the number of his license, and his New
29 Jersey business address and telephone number;

30 d. No license shall be issued to an applicant if the applicant has:
31 (1) committed any act which if committed by a licensee would be
32 grounds for suspension or revocation; (2) misrepresented any material
33 fact on his application; (3) not registered each vehicle which will be
34 performing intrastate moves in New Jersey, except on vehicles which
35 have been rented or leased and are operated by a public mover licensed
36 under this act; (4) not established or maintained a place of business in
37 New Jersey;

38 e. A copy of the license shall be carried on each truck, tractor,
39 trailer or semitrailer or combination thereof at all times when the
40 vehicle is being used in operations subject to this act.

41 (cf: P.L.1993, c.365, s.6)]¹

42
43 ¹[6. Section 11 of P.L.1981, c.311 (C.45:14D-11) is amended to
44 read as follows:

45 11. Every warehouseman or mover shall provide safe, proper and
46 adequate service and shall observe the [board's] director's rules and

1 regulations concerning the storage or transportation of property.
2 (cf: P.L.1993, c.365, s.7)]¹

3
4 ¹[7. Section 15 of P.L.1981, c.311 (C.45:14D-15) is amended to
5 read as follows:

6 15. a. The [board] director shall by rule or regulation establish,
7 prescribe or change the fees for licenses, renewals of licenses or other
8 services. Licenses shall expire one year from the date of issue unless
9 the holder thereof shall, 30 days before such expiration, pay to the
10 [board] director a renewal fee accompanied by a renewal application
11 on a form prescribed by the [board] director.

12 b. The [board's] director's fees established, prescribed or changed
13 pursuant to this section shall be established, prescribed or changed to
14 such extent as shall be necessary to defray all proper expenses incurred
15 by the [board] director and any staff employed to administer this act;
16 but such fees shall not be fixed at a level that will raise amounts in
17 excess of the amount estimated to be so required.

18 c. All fees and any fines imposed by the [board] director shall be
19 paid to the [board] director and shall be forwarded by the [board]
20 director to the State Treasurer and become part of the General Fund.

21 d. There shall be annually appropriated to the Department of Law
22 and Public Safety for the use of the [board] director such sums as shall
23 be necessary to implement and effectuate the provisions of this act.
24 (cf: P.L.1993, c.365, s.9)]¹

25

26 ¹[8. Section 16 of P.L.1981, c.311 (C.45:14D-16) is amended to
27 read as follows:

28 16. Any person violating any provision of P.L.1981, c.311
29 (C.45:14D-1 et seq.) shall, in addition to any other sanctions provided
30 herein, be liable to a civil penalty of not more than \$2,500.00 for the
31 first offense and not more than \$5,000.00 for the second and each
32 subsequent offense. For the purpose of this section, each transaction
33 or violation shall constitute a separate offense; except a second or
34 subsequent offense shall not be deemed to exist unless an
35 administrative or court order has been entered in a prior, separate and
36 independent proceeding. In lieu of an administrative proceeding or an
37 action in the Superior Court, the Attorney General may bring an action
38 in the name of the [board] director for the collection or enforcement
39 of civil penalties for the violation of any provision of that act. The
40 action may be brought in a summary manner pursuant to "the penalty
41 enforcement law" (N.J.S.2A:58-1 et seq.) and the rules of court
42 governing actions for the collection of civil penalties in the municipal
43 or Special Civil Part of the Law Division of the Superior Court where
44 the offense occurred. Process in the action may be by summons or
45 warrant and if the defendant in the action fails to answer the action,
46 the court shall, upon finding an unlawful act or practice to have been

1 committed by the defendant, issue a warrant for the defendant's arrest
2 in order to bring the person before the court to satisfy the civil
3 penalties imposed. In an action commenced pursuant to this section,
4 the court may order restored to any person in interest any moneys or
5 property acquired by means of an unlawful act or practice. Any action
6 alleging the unlicensed practice of the activities regulated by P.L.1981,
7 c.311 (C.45:14D-1 et seq.) shall be brought pursuant to this section
8 or, where injunctive relief is sought, by an action commenced in the
9 Superior Court. In an action brought pursuant to that act, the [board]
10 director or the court may order the payment of costs for the use of the
11 State.

12 (cf: P.L.1993, c.365, s.10)]¹

13

14 ¹[9. Section 7 of P.L.1984, c.140 (C.45:14D-17) is amended to
15 read as follows:

16 7. Whenever it shall appear to the [board] director or the Attorney
17 General that a person has engaged in, or is engaging in, any act or
18 practice declared unlawful by P.L.1981, c.311 (C.45:14D-1 et seq.),
19 or when the [board] director or the Attorney General shall deem it to
20 be in the public interest to inquire whether a violation may exist, the
21 [board] director through the Attorney General, or the Attorney
22 General acting independently, may:

23 a. Require any person to file, on a form to be prescribed, a
24 statement or report in writing under oath, or otherwise, as to the facts
25 and circumstances concerning the rendition of any service or conduct
26 of any sale incidental to the discharge of any act or practice subject to
27 that act;

28 b. Examine under oath any person in connection with any act or
29 practice subject to that act;

30 c. Inspect any premises from which the activity regulated by that
31 act is conducted;

32 d. Examine any goods, ware or item used in the rendition of any
33 service by a public mover or warehouseman;

34 e. Examine any record, book, document, account or paper
35 maintained by or for any public mover or warehouseman in the regular
36 course of engaging in the activities regulated by that act or regulations
37 promulgated pursuant to that act;

38 f. For the purpose of preserving evidence of an unlawful act or
39 practice, pursuant to an order of the Superior Court, impound any
40 record, book, document, account, paper, goods, ware, or item used or
41 maintained by or for any public mover or warehouseman in the regular
42 course of engaging in the activities regulated by that act or regulations
43 promulgated pursuant to that act. When necessary, the Superior Court
44 may, on application of the Attorney General, issue an order sealing
45 items or material subject to this subsection.

46 In order to accomplish the objectives of P.L.1981, c.311

1 (C.45:14D-1 et seq.) or the regulations promulgated pursuant to that
2 act, the [board] director or the Attorney General may hold
3 investigative hearings as necessary and may issue subpoenas to compel
4 the attendance of any person or the production of books, records or
5 papers at a hearing or inquiry.

6 (cf: P.L.1993, c.365, s.11)]¹

7

8 ¹[10. Section 8 of P.L.1984, c.140 (C.45:14D-18) is amended to
9 read as follows:

10 8. If a person fails or refuses to file any statement or report, or
11 refuses access to premises from which activities regulated by
12 P.L.1981, c.311 (C.45:14D-1 et seq.) are conducted in any lawfully
13 conducted investigative matter or fails to obey a subpoena issued
14 pursuant to that act, the [board] director or the Attorney General may
15 apply to the Superior Court and obtain an order:

16 a. Adjudging that person in contempt of court and assessing civil
17 penalties in accordance with the amounts prescribed by that act; or

18 b. Granting other relief as required; or

19 c. Suspending the license of that person until compliance with the
20 subpoena or investigative demand is effected.

21 (cf: P.L.1993, c.365, s.12)]¹

22

23 ¹[11. Section 10 of P.L.1984, c.140 (C.45:14D-20) is amended to
24 read as follows:

25 10. In addition or as an alternative, as the case may be, to
26 revoking, suspending or refusing to renew any license, the [board]
27 director may, after affording an opportunity to be heard:

28 a. Assess civil penalties in accordance with P.L.1981, c.311
29 (C.45:14D-1 et seq.);

30 b. Order that any person violating any provision of that act cease
31 and desist from future violations thereof or take affirmative corrective
32 action as necessary with regard to any act or practice found to be
33 unlawful by the [board] director;

34 c. Order any person found to have violated any provision of that
35 act to restore or to return to any person aggrieved by an unlawful act
36 or practice any moneys or property, real or personal, acquired by
37 means of that act or practice; except that the [board] director shall not
38 order restoration in a dollar amount greater than those moneys
39 received by a licensee or his agent or any other person violating that
40 act.

41 In any administrative proceeding on a complaint alleging a violation
42 of that act, the [board] director may issue subpoenas to compel the
43 attendance of witnesses or the production of books, records, or
44 documents at the hearing on the complaint.

45 (cf: P.L.1993, c.365, s.13)]¹

46

1 ¹[12. Section 11 of P.L.1984, c.140 (C.45:14D-21) is amended to
2 read as follows:

3 11. Whenever it shall appear to the [board] director or the
4 Attorney General that a violation of P.L.1981, c.311 (C.45:14D-1 et
5 seq.), including the unlicensed practice of the activities regulated
6 therein, has occurred, is occurring, or will occur, the Attorney
7 General, in addition to any other proceeding authorized by law, may
8 seek and obtain in a summary proceeding in the Superior Court an
9 injunction prohibiting the act or practice. In the proceeding the court
10 may assess a civil penalty in accordance with the provisions of that act,
11 order restoration to any person in interest of any moneys or property,
12 real or personal, acquired by means of an unlawful act or practice and
13 may enter any orders necessary to prevent the performance of an
14 unlawful practice in the future and to remedy fully any past unlawful
15 activity. In any action brought pursuant to this section, the court shall
16 not suspend or revoke any license issued by the [board] director.
17 (cf: P.L.1993, c.365, s.14)]¹

18

19 ¹[13. Section 12 of P.L.1984, c.140 (C.45:14D-22) is amended to
20 read as follows:

21 12. Upon the failure of any person to comply within 10 days after
22 service of any order of the [board] director directing payment of
23 penalties or restoration of moneys or property, the Attorney General
24 or the [board] director may issue a certificate to the Clerk of the
25 Superior Court that the person is indebted to the State for the payment
26 of the penalty and the moneys or property ordered restored. A copy
27 of the certificate shall be served upon the person against whom the
28 order was entered. Thereupon the clerk shall immediately enter upon
29 his record of docketed judgments the name of the person so indebted
30 and of the State, a designation of the statute under which the penalty
31 is imposed, the amount of the penalty imposed, and amount of moneys
32 ordered restored, a listing of property ordered restored, and the date
33 of the certification. The entry shall have the same force and effect as
34 the entry of a docketed judgment in the Superior Court, and the
35 Attorney General shall have all rights and remedies of a judgment
36 creditor, in addition to exercising any other available remedies. The
37 entry, however, shall be without prejudice to the right of appeal to the
38 Appellate Division of the Superior Court from the [board's] director's
39 order.

40 An action to enforce the provisions of an order entered by the
41 [board] director or to collect a penalty levied thereby may be brought
42 in any municipal or Special Civil Part of the Law Division of the
43 Superior Court or the Superior Court in a summary manner pursuant
44 to "the penalty enforcement law" (N.J.S. 2A:58-1 et seq.) and the rules
45 of court governing the collection of civil penalties. Process in the
46 action shall be by summons or warrant, and if the defendant fails to

1 answer the action, the court shall issue a warrant for the defendant's
2 arrest for the purpose of bringing the person before the court to satisfy
3 any order entered.

4 (cf: P.L.1993, c.365, s.15)]¹

5
6 ¹[14. Section 13 of P.L.1984, c.140 (C.45:14D-23) is amended to
7 read as follows:

8 13. When it shall appear to the [board] director or the Attorney
9 General that a person against whom a cease and desist order has been
10 entered has violated the order, the [board] director or the Attorney
11 General may initiate a summary proceeding in the Superior Court for
12 the violation thereof. Any person found to have violated a cease and
13 desist order shall pay to the State of New Jersey civil penalties in the
14 amount of not more than \$25,000.00 for each violation of the order.
15 If a person fails to pay a civil penalty assessed by the court for
16 violation of a cease and desist order, the court assessing the unpaid
17 penalty is authorized, upon application of the [board] director or the
18 Attorney General, to grant any relief which may be obtained under any
19 statute or court rule governing the collection and enforcement of
20 penalties.

21 (cf: P.L.1993, c.365, s.16)]¹

22
23 ¹[15. Section 15 of P.L.1984, c.140 (C.45:14D-25) is amended to
24 read as follows:

25 15. No license shall be issued to a warehouseman or mover or
26 remain in force unless the warehouseman or mover complies with the
27 rules or regulations that the [board] director shall prescribe governing
28 policies of insurance, qualifications as a self-insurer or other securities
29 or agreements in the amount that the [board] director may require.

30 (cf: P.L.1993, c.365, s.17)]¹

31
32 ¹[16. Section 1 of P.L.1971, c.60 (C.45:1-2.1) is amended to read
33 as follows:

34 1. The provisions of this act shall apply to the following boards and
35 commissions: the New Jersey State Board of Accountancy, the New
36 Jersey State Board of Architects, the New Jersey State Board of
37 Cosmetology and Hairstyling, the Board of Examiners of Electrical
38 Contractors, the New Jersey State Board of Dentistry, the State Board
39 of Mortuary Science of New Jersey, the State Board of Professional
40 Engineers and Land Surveyors, the State Board of Marriage and
41 Family Therapy Examiners, the State Board of Medical Examiners, the
42 New Jersey Board of Nursing, the New Jersey State Board of
43 Optometrists, the State Board of Examiners of Ophthalmic Dispensers
44 and Ophthalmic Technicians, the Board of Pharmacy, the State Board
45 of Professional Planners, the State Board of Psychological Examiners,
46 the State Board of Examiners of Master Plumbers, the New Jersey

1 Real Estate Commission, the State Board of Shorthand Reporting, the
2 State Board of Veterinary Medical Examiners, the Radiologic
3 Technology Board of Examiners, the Acupuncture Examining Board,
4 the State Board of Chiropractic Examiners, the State Board of
5 Respiratory Care, the State Real Estate Appraiser Board [.] and the
6 State Board of Social Work Examiners [, and the State Board of
7 Public Movers and Warehousemen].

8 (cf: P.L.1995, c.366, s.20)]¹

9

10 ¹[17.] 3.¹ (New section) A person licensed under P.L.1981, c.311
11 (C.45:14D-1 et seq.) shall maintain a bond issued by a surety
12 authorized to transact business in this State or maintain an irrevocable
13 letter of credit by a bank or maintain with the ¹[director] board¹
14 securities, moneys or other security acceptable to the ¹[director]
15 board¹ to fulfill the requirements of this section. The principal sum of
16 the bond, letter of credit, or securities, moneys or other security shall
17 be not less than \$10,000, which amount the ¹[director] board¹ may
18 adjust by regulation. The bond, letter of credit, or securities, moneys
19 or other security shall be filed or deposited with the ¹[director] board¹
20 and shall be executed to the State of New Jersey for the use of any
21 person who, after entering into a contract with a mover or
22 warehouseman, is damaged or suffers any loss for any violation of
23 P.L.1981, c.311 (C.45:14D-1 et seq.). Any person claiming against
24 the bond, letter of credit, or securities, moneys or other security may
25 maintain an action at law against the mover or warehouseman and the
26 surety, bank, or ¹[director] board¹, as the case may be. The aggregate
27 liability of the surety, bank, or the ¹[director] board¹ to all persons for
28 all breaches of the conditions of the bond, letter of credit or the
29 securities, moneys or other security held by the ¹[director] board¹ shall
30 not exceed the amount of the bond, letter of credit, or the securities,
31 moneys or other security held by the ¹[director] board¹.

32 In the case of a bond, the mover or warehouseman shall file a copy
33 of the bond with the ¹[director] board¹ and a certificate by the surety
34 that the surety will notify the ¹[director] board¹ at least 10 days in
35 advance of the date of any cancellation or material change in the bond.

36

37 ¹[18.] 4.¹ (New section) a. An applicant for licensure under
38 P.L.1981, c.311 (C.45:14D-1 et seq.) shall not be eligible for licensure
39 and any holder of a license under that act may have his license revoked
40 if the ¹[director] board¹ determines, consistent with the requirements
41 and standards of P.L.1981, C.311 (C.45:14D-1 et seq.) and this 1996
42 amendatory and supplementary act, that criminal history record
43 information exists on file in the Federal Bureau of Investigation,
44 Identification Division, or in the State Bureau of Identification in the
45 Division of State Police, which would disqualify that individual from
46 being licensed. An applicant shall be, and a holder of a license may be,

1 disqualified from licensure if that individual's criminal history record
2 check reveals a record of conviction of any of the following crimes and
3 offenses:

4 (1) In New Jersey, any crime or disorderly persons offense:

5 (a) Involving danger to the person, meaning those crimes and
6 disorderly persons offenses set forth in N.J.S.2C:11-1 et seq.,
7 N.J.S.2C:12-1 et seq., N.J.S.2C:13-1 et seq., N.J.S.2C:14-1 et seq. or
8 N.J.S.2C:15-1 et seq.; or

9 (b) Against the family, children or incompetents, meaning those
10 crimes and disorderly persons offenses set forth in N.J.S.2C:24-1 et
11 seq.; or

12 (2) In any other state or jurisdiction, of conduct which, if
13 committed in New Jersey, would constitute any of the crimes or
14 disorderly persons offenses described in paragraph (1) of this
15 subsection.

16 b. Notwithstanding the provisions of subsection a. of this section,
17 no individual shall be disqualified from licensure on the basis of any
18 conviction disclosed by a criminal history record check performed
19 pursuant to this section if the individual has affirmatively demonstrated
20 to the ¹[director] board¹ clear and convincing evidence of his
21 rehabilitation. In determining whether an individual has affirmatively
22 demonstrated rehabilitation, the following factors shall be considered:

23 (1) The nature and responsibility of the position which the
24 convicted individual would hold;

25 (2) The nature and seriousness of the offense;

26 (3) The circumstances under which the offense occurred;

27 (4) The date of the offense;

28 (5) The age of the individual when the offense was committed;

29 (6) Whether the offense was an isolated or repeated incident;

30 (7) Any social conditions which may have contributed to the
31 offense; and

32 (8) Any evidence of rehabilitation, including good conduct in
33 prison or in the community, counseling or psychiatric treatment
34 received, acquisition of additional academic or vocational schooling,
35 successful participation in correctional work-release programs, or the
36 recommendation of persons who have had the individual under their
37 supervision.

38

39 ¹[19.] 5.¹ (New section) An applicant and holder of a license shall
40 submit to the ¹[director] board¹ his name, address and fingerprints
41 taken on standard fingerprint cards by a State or municipal law
42 enforcement agency. The ¹[director] board¹ is authorized to exchange
43 fingerprint data with and receive criminal history record information
44 from the Federal Bureau of Investigation and the Division of State
45 Police for use in making the determinations required by section ¹[18]
46 4.¹ of P.L. , c. (C.) (pending before the Legislature as this bill).

1

2 ¹[20.] 6.¹ (New section) a. Upon receipt of an applicant's or
3 licensee's criminal history record information from the Federal Bureau
4 of Investigation or the Division of State Police, as applicable, the
5 ¹[director] board¹ shall notify the applicant or licensee, in writing, of
6 the applicant's or licensee's qualification or disqualification for
7 licensure under P.L.1981, c.311 (C45:14D-1 et seq.). If the applicant
8 or licensee is disqualified, the conviction or convictions which
9 constitute the basis for the disqualification shall be identified in the
10 written notice.

11 b. The applicant or licensee shall have 30 days from the date of
12 written notice of disqualification to petition the ¹[director] board¹ for
13 a hearing on the accuracy of the criminal history record information or
14 to establish his rehabilitation under subsection b. of section ¹[18] 4¹
15 of P.L. , c. (C.) (pending before the Legislature as this bill). The
16 ¹[director] board¹ may refer any case arising hereunder to the Office
17 of Administrative Law for administrative proceedings pursuant to
18 P.L.1978, c.67 (C.52:14F-1 et al.).

19 c. The ¹[director] board ¹shall not maintain any individual's
20 criminal history record information or evidence of rehabilitation
21 submitted under this section for more than six months from the date
22 of a final determination by the ¹[director] board¹ as to the individual's
23 qualification or disqualification to be licensed pursuant to P.L.1981,
24 c.311 (C.45:14D-1 et seq.).

25

26 ¹[21.] 7.¹ ¹[Sections 4 and] Section¹ 14 of P.L.1981, c.311
27 ¹[(C.45:14D-4 and C.45:14D-14) are] (C.45:14D-14) is¹ repealed.

28

29 ¹[22.] 8.¹ This act shall take effect 60 days following enactment.

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34 Revises licensure requirements and eliminates tariffs for public movers
35 and warehousemen.