

CHAPTER 401

AN ACT concerning real estate appraisers and amending and supplementing P.L.1991, c.68.

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

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

C.45:14F-7 Act not applicable to certain licensees or activities.

7. The provisions of this act shall not apply to any person who is:
 - a. a real estate appraiser licensed or certified in another state in compliance with federal requirements while on temporary assignment appraising real property located in this State, however, such appraiser shall be subject to registration requirements promulgated by the board; or
 - b. a tax assessor or an assistant tax assessor holding a valid tax assessor certificate employed by a county or municipal government or any political subdivision thereof whose appraisal activities are limited to appraisals in the course of his employment; or
 - c. a State employee (1) whose appraisal activities are limited to appraisals of parcels of property to be acquired for a public purpose with a fair market value, including damages to the remainder, if any, of each parcel to be acquired of not more than \$25,000, notwithstanding the total value of the property in which the parcel is located that is owned by the prospective condemnee whose property is to be taken; and (2) whose appraisal activities are limited to appraisals in the course of his employment.

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

C.45:14F-21 Certification requirements for persons performing appraisal; exception.

21. a. A person who is not certified pursuant to the provisions of this act shall not describe or refer to any appraisal or other evaluation which he performs on real estate located in this State as "a certified appraisal."
- b. A person who is not licensed pursuant to the provisions of this act shall not describe or refer to any appraisal or other evaluation which he performs on real estate located in this State as "a licensed appraisal."
- c. Except as otherwise provided in subsection f. of this section, no person other than a State licensed real estate appraiser, a State certified real estate appraiser or a person who assists in the preparation of an appraisal under the direct supervision of a State licensed or certified appraiser shall perform or offer to perform an appraisal assignment in regard to real estate located in this State including, but not limited to, any transaction involving a third party, person, government or quasi-governmental body, court, quasi-judicial body or financial institution.

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

d. Nothing in this act shall be construed to preclude a person not certified or licensed pursuant to this act from assisting in the preparation of an appraisal to the extent permitted under subsection (d) of section 1122 of Title XI of Pub. L.101-73 (12 U.S.C. s.3351(d)).

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

f. A State or federally chartered bank, savings bank or savings and loan association may obtain and use appraisals made by a person who is not certified or licensed pursuant to the provisions of P.L.1991, c.68 (C.45:14F-1 et seq.) in any circumstance where the underlying transaction is a federally related transaction for which federal law and regulation do not require that a certified or licensed appraiser be used. For the purposes of this subsection, "federal law" means Title XI of Pub. L.101-73 (12 U.S.C. s.3331 et seq.); and "federally related transaction" has the meaning as set forth in section 1121 of Title XI of Pub. L.101-73 (12 U.S.C. s.3350).

C.45:14F-10.1 Ineligibility, revocation of licensure, certification due to criminal record; rehabilitation.

3. a. An applicant for licensure or certification under P.L.1991, c.68 (C.45:14F-1 et seq.)

shall not be eligible for licensure or certification, as the case may be, and any holder of a license or certification under P.L.1991, c.68 (C.45:14F-1 et seq.) shall have his license or certification revoked if the State Real Estate Appraiser Board determines, consistent with the requirements and standards of this section and section 4 of P.L.1997, c.401 (C.45:14F-10.2), that criminal history record information exists on file in the Federal Bureau of Investigation, Identification Division, or in the State Bureau of Identification in the Division of State Police, which would disqualify that individual from being licensed or certified. An applicant or a holder of a license or certification shall be disqualified from licensure or certification if that individual's criminal history record check reveals a record of conviction of any of the following crimes and offenses:

- (1) In New Jersey, any crime or disorderly persons offense:
 - (a) Involving danger to the person, meaning those crimes and disorderly persons offenses set forth in N.J.S.2C:11-1 et seq., 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 N.J.S.2C:15-1 et seq.; or
 - (b) Involving theft as set forth in chapter 20 of Title 2C of the New Jersey Statutes; or
 - (c) Involving any controlled dangerous substances or controlled substance analog as set forth in chapter 35 of Title 2C of the New Jersey Statutes except as set forth in paragraph (4) of subsection a. of N.J.S.2C:35-10.
- (2) In any other state or jurisdiction, conduct which, if committed in New Jersey, would constitute any of the crimes or disorderly persons offenses described in paragraph (1) of this subsection.
 - b. Notwithstanding the provisions of subsection a. of this section, no individual shall be disqualified from licensure or certification on the basis of any conviction disclosed by a criminal history record check performed pursuant to this section if the individual has affirmatively demonstrated to the board clear and convincing evidence of his rehabilitation. In determining whether an individual has affirmatively demonstrated rehabilitation, the following factors shall be considered:
 - (1) The nature and responsibility of the position which the convicted individual would hold;
 - (2) The nature and seriousness of the offense;
 - (3) The circumstances under which the offense occurred;
 - (4) The date of the offense;
 - (5) The age of the individual when the offense was committed;
 - (6) Whether the offense was an isolated or repeated incident;
 - (7) Any social conditions which may have contributed to the offense; and
 - (8) Any evidence of rehabilitation, including good conduct in prison or in the community, counseling or psychiatric treatment received, acquisition of additional academic or vocational schooling, successful participation in correctional work-release programs, or the recommendation of persons who have had the individual under their supervision.

C.45:14F-10.2 Information submitted by applicant, holder of license; record check; costs.

4. a. An applicant and holder of a license or certificate shall submit to the board his name, address and fingerprints taken on standard fingerprint cards by a State or municipal law enforcement agency. The board is authorized to exchange fingerprint data with and receive criminal history record information from the Federal Bureau of Investigation and the Division of State Police for use in making the determinations required by section 3 of P.L.1997, c.401 (C.45:14F-10.1).

b. Upon receipt of the criminal history record information for a person from the Federal Bureau of Investigation or the Division of State Police, the board shall notify the applicant, licensee or certified individual, as applicable, in writing, of the person's qualification or disqualification for licensure or certification under section 3 of P.L.1997, c.401 (C.45:14F-10.1). If the applicant, licensee or certified individual, as applicable, is disqualified, the conviction or convictions which constitute the basis for the disqualification shall be identified in the written notice.

c. The applicant, licensee or certified individual, as the case may be, shall have 30 days from the date of written notice of disqualification to petition the board for a hearing on the accuracy of the criminal history record information or to establish his rehabilitation under subsection b.

of section 3 of P.L.1997, c.401 (C.45:14F-10.1). The board may refer any case arising hereunder to the Office of Administrative Law for administrative proceedings pursuant to P.L.1968, c.410 (C.52:14B-1 et seq.).

d. The board shall not maintain any individual's criminal history record information or evidence of rehabilitation submitted under this section for more than six months from the date of a final determination by the board as to the individual's qualification or disqualification to be licensed or certified pursuant to the provisions of this section and section 3 of this amendatory and supplementary act.

e. All costs associated with performing the criminal history check required by P.L.1997, c.401 (C.45:14F-10.1 et al.) shall be borne by the applicant for licensure or certification or the holder of any license or certification.

5. This act shall take effect on the 180th day after enactment.

Approved January 19, 1998.