

SENATE, No. 2316

STATE OF NEW JERSEY

INTRODUCED DECEMBER 11, 1997

By Senator CONNORS

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

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

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

9 7. The provisions of this act shall not apply to any person who is:

10 a. a real estate appraiser licensed or certified in another state in
11 compliance with federal requirements while on temporary assignment
12 appraising real property located in this State [as part of a federally
13 related transaction], however, such appraiser shall be subject to
14 registration requirements promulgated by the board; or

15 b. a tax assessor or an assistant tax assessor holding a valid tax
16 assessor certificate employed by a county or municipal government or
17 any political subdivision thereof whose appraisal activities are limited
18 to appraisals in the course of his employment ; or

19 c. a State employee (1) whose appraisal activities are limited to
20 appraisals of parcels of property to be acquired for a public purpose
21 with a fair market value, including damages to the remainder, if any,
22 of each parcel to be acquired of not more than \$25,000,
23 notwithstanding the total value of the property in which the parcel is
24 located that is owned by the prospective condemnee whose property
25 is to be taken; and (2) whose appraisal activities are limited to
26 appraisals in the course of his employment.

27 (cf: P.L.1991, c.68, s.7)

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

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

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.

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

5 c. [Except as otherwise provided in subsection e. of this section,
6 no] No person other than a State licensed real estate appraiser, a State
7 certified real estate appraiser or a person who assists in the
8 preparation of an appraisal under the direct supervision of a State
9 licensed or certified appraiser shall perform or offer to perform an
10 appraisal assignment in regard to real estate located in this State
11 including, but not limited to, any transaction involving a third party,
12 person, government or quasi-governmental body, court, quasi-judicial
13 body or financial institution.

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

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

25 e. [(1) An appraisal of real estate in this State with a value of
26 \$150,000 or less may be performed by a person who is not a State
27 certified real estate appraiser or a State licensed real estate appraiser.

28 (2) An appraisal of real estate in this State, other than an appraisal
29 for a federally related transaction, may be performed by a person who
30 is not a State certified real estate appraiser or a State licensed real
31 estate appraiser if the person for whom it is performed is using the
32 appraisal as information in making his or its own personal or business
33 decisions.] (Deleted by amendment, P.L. ,c.) (now pending before
34 the Legislature as this bill).

35 (cf: P.L.1995, c.349, s.2)

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37 3. (New section) a. An applicant for licensure or certification
38 under P.L.1991, c.68 (C.45:14F-1 et seq.) shall not be eligible for
39 licensure or certification, as the case may be, and any holder of a
40 license or certification under P.L.1991, c.68 (C.45:14F-1 et seq.) shall
41 have his license or certification revoked if the State Real Estate
42 Appraiser Board determines, consistent with the requirements and
43 standards of this section and section 4 of P.L. , c. (C.)
44 (now pending before the Legislature as this bill), that criminal history
45 record information exists on file in the Federal Bureau of
46 Investigation, Identification Division, or in the State Bureau of

1 Identification in the Division of State Police, which would disqualify
2 that individual from being licensed or certified. An applicant or a
3 holder of a license or certification shall be disqualified from licensure
4 or certification if that individual's criminal history record check reveals
5 a record of conviction of any of the following crimes and offenses:

- 6 (1) In New Jersey, any crime or disorderly persons offense:
7 (a) Involving danger to the person, meaning those crimes and
8 disorderly persons offenses set forth in N.J.S.2C:11-1 et seq.,
9 N.J.S.2C:12-1 et seq., N.J.S.2C:13-1 et seq., N.J.S.2C:14-1 et seq.,
10 or N.J.S.2C:15-1 et seq.; or
11 (b) Involving theft as set forth in chapter 20 of Title 2C of the New
12 Jersey Statutes; or
13 (c) Involving any controlled dangerous substances or controlled
14 substance analog as set forth in chapter 35 of Title 2C of the New
15 Jersey Statutes except as set forth in paragraph (4) of subsection a. of
16 N.J.S.2C:35-10.

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

20 b. Notwithstanding the provisions of subsection a. of this section,
21 no individual shall be disqualified from licensure or certification on the
22 basis of any conviction disclosed by a criminal history record check
23 performed pursuant to this section if the individual has affirmatively
24 demonstrated to the board clear and convincing evidence of his
25 rehabilitation. In determining whether an individual has affirmatively
26 demonstrated rehabilitation, the following factors shall be considered:

- 27 (1) The nature and responsibility of the position which the
28 convicted individual would hold;
29 (2) The nature and seriousness of the offense;
30 (3) The circumstances under which the offense occurred;
31 (4) The date of the offense;
32 (5) The age of the individual when the offense was committed;
33 (6) Whether the offense was an isolated or repeated incident;
34 (7) Any social conditions which may have contributed to the
35 offense; and
36 (8) Any evidence of rehabilitation, including good conduct in
37 prison or in the community, counseling or psychiatric treatment
38 received, acquisition of additional academic or vocational schooling,
39 successful participation in correctional work-release programs, or the
40 recommendation of persons who have had the individual under their
41 supervision.

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43 4. (New section) a. An applicant and holder of a license or
44 certificate shall submit to the board his name, address and fingerprints
45 taken on standard fingerprint cards by a State or municipal law
46 enforcement agency. The board is authorized to exchange fingerprint

1 data with and receive criminal history record information from the
2 Federal Bureau of Investigation and the Division of State Police for
3 use in making the determinations required by section 3 of
4 P.L. , c. (C.) (now pending before the Legislature as this
5 bill).

6 b. Upon receipt of the criminal history record information for a
7 person from the Federal Bureau of Investigation or the Division of
8 State Police, the board shall notify the applicant, licensee or certified
9 individual, as applicable, in writing, of the person's qualification or
10 disqualification for licensure or certification under section 3 of
11 P.L. , c. (C.) (now pending before the Legislature as this
12 bill). If the applicant, licensee or certified individual, as applicable, is
13 disqualified, the conviction or convictions which constitute the basis
14 for the disqualification shall be identified in the written notice.

15 c. The applicant, licensee or certified individual, as the case may
16 be, shall have 30 days from the date of written notice of
17 disqualification to petition the board for a hearing on the accuracy of
18 the criminal history record information or to establish his rehabilitation
19 under subsection b. of section 3 of P.L. , c. (C.) (now
20 pending before the Legislature as this bill). The board may refer any
21 case arising hereunder to the Office of Administrative Law for
22 administrative proceedings pursuant to P.L.1968, c.410 (C.52:14B-1
23 et seq.).

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

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31 5. (New section) The Director of the Division of Consumer Affairs
32 in the Department of Law and Public Safety shall establish a toll-free
33 hotline telephone number for persons to call with inquiries concerning
34 the licensure status of a real estate appraiser, including information
35 concerning any disciplinary actions or complaints filed against the
36 appraiser.

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38 6. This act shall take effect on the 180th day after enactment.
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42 STATEMENT

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44 This bill would require applicants and those persons already
45 licensed or certified under the provisions of the "Real Estate
46 Appraisers Act," P.L.1991, c.68 (C.45:14F-1 et seq.) to submit to a
State and federal criminal history background check, to determine

1 whether those persons are fit to be so licensed or certified. The State
2 Real Estate Appraiser Board would be required to determine that an
3 applicant for licensure or certification is unfit to be licensed or
4 certified, as the case may be, and shall revoke the licensure or
5 certification of a person currently licensed or certified if that person
6 meets the criteria for disqualification as provided in the bill.

7 The bill would also require that persons performing appraisals on
8 real estate, regardless of the value or the purpose for which the
9 appraisal is being performed, be certified or licensed in accordance
10 with the provisions of the "Real Estate Appraisers Act" P.L.1991.
11 Under current law, a person not licensed or certified as an appraiser
12 may appraise real estate with a value of \$150,000 or less, or may
13 perform an appraisal, other than an appraisal for a federally related
14 transaction, if the person for whom it is being performed is using the
15 appraisal as information in making his or its own personal or business
16 decisions.

17 In addition, the bill would exempt from the provisions of the "Real
18 Estate Appraisers Act," tax assessors and assistant tax assessors
19 holding valid tax assessor certificates and employed by a county or
20 municipal government or any political subdivision thereof whose
21 appraisal activities are limited to appraisals in the course of their
22 employment, State employees under certain circumstances when their
23 appraisal activities are limited to the course of their employment, and
24 real estate appraisers licensed or certified in another state in
25 compliance with federal requirements while on temporary assignment
26 appraising real property located in this State, even when that
27 assignment is not part of a federally-related transaction.

28 The bill also would provide that the Director of the Division of
29 Consumer Affairs must establish a toll-free hotline telephone number
30 for persons to call with inquiries concerning the status of a real estate
31 appraiser, including information concerning any disciplinary actions or
32 complaints filed against the appraiser.

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37 Revises various provisions of the "Real Estate Appraisers Act."