

[Passed Both Houses]

[Third Reprint]

SENATE, No. 2316

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# STATE OF NEW JERSEY

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INTRODUCED DECEMBER 11, 1997

By Senator CONNORS, Assemblymen Moran, Impreveduto,  
Connors, T.Smith and Corodemus

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

3

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

6

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.

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:

<sup>1</sup> Senate SCO committee amendments adopted December 11, 1997.

<sup>2</sup> Senate floor amendments adopted December 15, 1997.

<sup>3</sup> Senate amendments adopted in accordance with Governor's recommendations January 12, 1998.

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

2

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

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

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

13 c. ~~[Except as otherwise provided in subsection e. of this section,~~  
14 ~~no]~~<sup>2</sup>~~[No]Except as otherwise provided in subsection f. of this section,~~  
15 ~~no~~<sup>2</sup> person other than a State licensed real estate appraiser, a State  
16 certified real estate appraiser or a person who assists in the  
17 preparation of an appraisal under the direct supervision of a State  
18 licensed or certified appraiser shall perform or offer to perform an  
19 appraisal assignment in regard to real estate located in this State  
20 including, but not limited to, any transaction involving a third party,  
21 person, government or quasi-governmental body, court, quasi-judicial  
22 body or financial institution.

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

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

34 e. [(1) An appraisal of real estate in this State with a value of  
35 \$150,000 or less may be performed by a person who is not a State  
36 certified real estate appraiser or a State licensed real estate appraiser.

37 (2) An appraisal of real estate in this State, other than an appraisal  
38 for a federally related transaction, may be performed by a person who  
39 is not a State certified real estate appraiser or a State licensed real  
40 estate appraiser if the person for whom it is performed is using the  
41 appraisal as information in making his or its own personal or business  
42 decisions.] ~~(Deleted by amendment, P.L. .c. ) (now pending before~~  
43 ~~the Legislature as this bill).~~

44 <sup>2</sup>~~f. A State or federally chartered bank, savings bank or savings and~~  
45 ~~loan association may obtain and use appraisals made by a person who~~  
46 ~~is not certified or licensed pursuant to the provisions of P.L.1991, c.68~~

1 (C.45:14F-1 et seq.) in any circumstance where the underlying  
2 transaction is a federally related transaction for which federal law and  
3 regulation do not require that a certified or licensed appraiser be used.  
4 For the purposes of this subsection, "federal law" means Title XI of  
5 Pub. L.101-73 (12 U.S.C. 3331 et seq.); and "federally related  
6 transaction" has the meaning as set forth in section 1121 of Title XI of  
7 Pub. L.101-73 (12 U.S.C. 3350).<sup>2</sup>  
8 (cf: P.L.1995, c.349, s.2)

9  
10 3. (New section) a. An applicant for licensure or certification  
11 under P.L.1991, c.68 (C.45:14F-1 et seq.) shall not be eligible for  
12 licensure or certification, as the case may be, and any holder of a  
13 license or certification under P.L.1991, c.68 (C.45:14F-1 et seq.) shall  
14 have his license or certification revoked if the State Real Estate  
15 Appraiser Board determines, consistent with the requirements and  
16 standards of this section and section 4 of P.L. , c. (C. )  
17 (now pending before the Legislature as this bill), that criminal history  
18 record information exists on file in the Federal Bureau of  
19 Investigation, Identification Division, or in the State Bureau of  
20 Identification in the Division of State Police, which would disqualify  
21 that individual from being licensed or certified. An applicant or a  
22 holder of a license or certification shall be disqualified from licensure  
23 or certification if that individual's criminal history record check reveals  
24 a record of conviction of any of the following crimes and offenses:

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

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

39 b. Notwithstanding the provisions of subsection a. of this section,  
40 no individual shall be disqualified from licensure or certification on the  
41 basis of any conviction disclosed by a criminal history record check  
42 performed pursuant to this section if the individual has affirmatively  
43 demonstrated to the board clear and convincing evidence of his  
44 rehabilitation. In determining whether an individual has affirmatively  
45 demonstrated rehabilitation, the following factors shall be considered:

46 (1) The nature and responsibility of the position which the

1 convicted individual would hold;

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

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

4 (4) The date of the offense;

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

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

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

9 (8) Any evidence of rehabilitation, including good conduct in  
10 prison or in the community, counseling or psychiatric treatment  
11 received, acquisition of additional academic or vocational schooling,  
12 successful participation in correctional work-release programs, or the  
13 recommendation of persons who have had the individual under their  
14 supervision.

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16 4. (New section) a. An applicant and holder of a license or  
17 certificate shall submit to the board his name, address and fingerprints  
18 taken on standard fingerprint cards by a State or municipal law  
19 enforcement agency. The board is authorized to exchange fingerprint  
20 data with and receive criminal history record information from the  
21 Federal Bureau of Investigation and the Division of State Police for  
22 use in making the determinations required by section 3 of  
23 P.L. , c. (C. ) (now pending before the Legislature as this  
24 bill).

25 b. Upon receipt of the criminal history record information for a  
26 person from the Federal Bureau of Investigation or the Division of  
27 State Police, the board shall notify the applicant, licensee or certified  
28 individual, as applicable, in writing, of the person's qualification or  
29 disqualification for licensure or certification under section 3 of  
30 P.L. , c. (C. ) (now pending before the Legislature as this  
31 bill). If the applicant, licensee or certified individual, as applicable, is  
32 disqualified, the conviction or convictions which constitute the basis  
33 for the disqualification shall be identified in the written notice.

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

43 d. The board shall not maintain any individual's criminal history  
44 record information or evidence of rehabilitation submitted under this  
45 section for more than six months from the date of a final determination  
46 by the board as to the individual's qualification or disqualification to

1 be licensed or certified pursuant to the provisions of this section and  
2 section 3 of this amendatory and supplementary act.

3 <sup>3</sup>e. All costs associated with performing the criminal history check  
4 required by P.L. , c. (C. ) (now pending before the Legislature as  
5 this bill shall be borne by the applicant for licensure or certification or  
6 the holder of any license or certification.<sup>3</sup>

7

8 <sup>1</sup>[5. (New section) The Director of the Division of Consumer  
9 Affairs in the Department of Law and Public Safety shall establish a  
10 toll-free hotline telephone number for persons to call with inquiries  
11 concerning the licensure status of a real estate appraiser, including  
12 information concerning any disciplinary actions or complaints filed  
13 against the appraiser.]<sup>1</sup>

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15 <sup>1</sup>[6.] 5.<sup>1</sup> This act shall take effect on the 180th day after enactment.

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