

[First Reprint]

## **ASSEMBLY, No. 6206**

# **STATE OF NEW JERSEY**

## **219th LEGISLATURE**

INTRODUCED DECEMBER 6, 2021

**Sponsored by:**

**Assemblyman BENJIE E. WIMBERLY**

**District 35 (Bergen and Passaic)**

**Senator PATRICK J. DIEGNAN, JR.**

**District 18 (Middlesex)**

**Senator STEVEN V. OROHO**

**District 24 (Morris, Sussex and Warren)**

**Co-Sponsored by:**

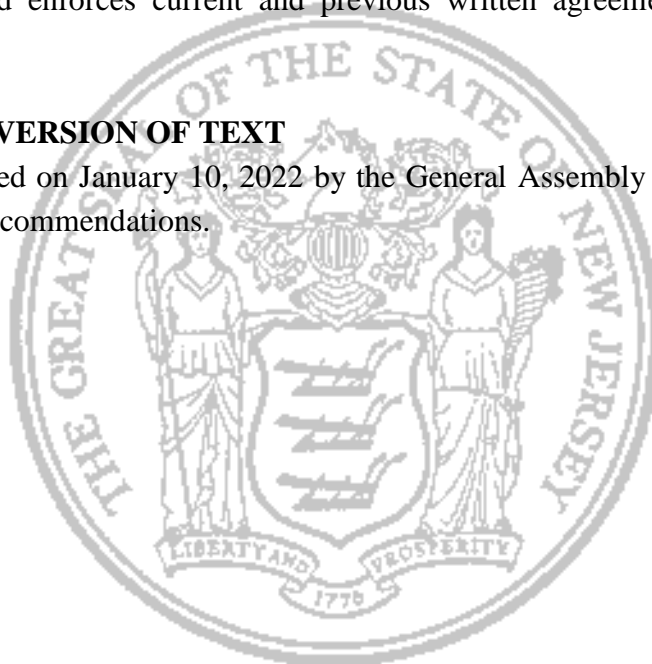
**Senators Pou and O'Scanlon**

### **SYNOPSIS**

Codifies right of real estate broker-salespersons and salespersons to define relationship with broker as one between broker and independent contractor or employee and enforces current and previous written agreements addressing relationship.

### **CURRENT VERSION OF TEXT**

As amended on January 10, 2022 by the General Assembly pursuant to the Governor's recommendations.



**(Sponsorship Updated As Of: 12/20/2021)**

1 AN ACT concerning real estate broker-salespersons and  
2 salespersons, and amending <sup>1</sup>the effective date of<sup>1</sup> P.L.2018,  
3 c.71.  
4

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

8 <sup>1</sup>**[**1. Section 3 of P.L.2018, c.71 (C.45:15-3.2) is amended to  
9 read as follows:

10 3. a. No broker-salesperson or salesperson shall commence  
11 business activity for a broker and no broker shall authorize a  
12 broker-salesperson or salesperson to act on the broker's behalf until  
13 a written agreement, as provided in this subsection, has been signed  
14 by the broker and broker-salesperson or salesperson. Prior to an  
15 individual's commencement of business activity as a broker-  
16 salesperson or salesperson under the authority of a broker, the  
17 broker and broker-salesperson or salesperson shall both sign a  
18 written agreement which recites the terms under which the services  
19 of the broker-salesperson or salesperson have been retained by the  
20 broker.

21 b. Notwithstanding any provision of R.S.45:15-1 et seq. or any  
22 other law, rule, or regulation to the contrary, a business affiliation  
23 between a broker and a broker-salesperson or salesperson may be  
24 that of an employment relationship or the provision of services by  
25 an independent contractor. The nature of the business affiliation  
26 shall be defined in the written agreement required pursuant to  
27 subsection a. of this section.

28 If a current or previously written agreement exists or existed  
29 between the broker and the broker-salesperson or salesperson that  
30 defines, sets forth, identifies, or provides that the broker-  
31 salesperson or salesperson is or at any time has been an independent  
32 contractor of the broker, the broker-salesperson or salesperson shall  
33 be deemed to be or have been an independent contractor during the  
34 period in which the agreement is or was effective and shall not be  
35 classified as an employee for any purpose under any law, rule, or  
36 regulation for that period of time, except that the broker-salesperson  
37 or salesperson shall satisfy the test set forth in R.S.43:21-  
38 19(i)(7)(K) in order to be deemed an independent contractor under  
39 R.S.43:21-1 et seq. The broker-salesperson or salesperson shall not  
40 be required to satisfy any other test for any other law, rule, or  
41 regulation, including, but not limited to, the tests set forth at or  
42 applied to P.L.1965, c.173 (C.34:11-4.1 et seq.) and P.L.1966,  
43 c.113 (C.34:11-56a et seq.) to be deemed an independent contractor

EXPLANATION – Matter enclosed in bold-faced brackets **[thus]** in the above bill is not enacted and is 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>Assembly amendments adopted in accordance with Governor's recommendations January 10, 2022.

1 as provided in this section for purposes of any other law, rule or  
2 regulation.

3 (cf: P.L.2018, c.71, s.3)】<sup>1</sup>

4

5 <sup>1</sup>1. Section 29 of P.L.2018, c.71 is amended to read as follows:

6 29. Section 3 of this act shall take effect immediately and 【the】  
7 shall apply retroactively to enforce but not change any written  
8 agreement between a broker-salesperson or salesperson and a  
9 broker where the written agreement defines, sets forth, identifies or  
10 provides that the broker-salesperson or salesperson is or was an  
11 independent contractor. The remainder of this act shall take effect  
12 on January 1, 2018, except the New Jersey Real Estate Commission  
13 may take any anticipatory administrative action in advance as shall  
14 be necessary for the implementation of this act.<sup>1</sup>

15 (cf: P.L.2018, c.71, s.29)

16

17 2. This act shall take effect immediately and shall <sup>1</sup>【apply  
18 retroactively to enforce but not change any written agreement  
19 between a broker-salesperson or salesperson and a broker where the  
20 written agreement defines, sets forth, identifies or provides that the  
21 broker-salesperson or salesperson is or was an independent  
22 contractor.】 be retroactive to August 10, 2018.<sup>1</sup>