

SENATE, No. 4260

STATE OF NEW JERSEY 219th LEGISLATURE

INTRODUCED DECEMBER 6, 2021

Sponsored by:

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 introduced.



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

1 AN ACT concerning real estate broker-salespersons and
2 salespersons, and amending P.L.2018, c.71.

3

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

6

7 1. Section 3 of P.L.2018, c.71 (C.45:15-3.2) is amended to read
8 as follows:

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

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

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

45 (cf: P.L.2018, c.71, s.3)

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.

