

SENATE BUDGET AND APPROPRIATIONS COMMITTEE

STATEMENT TO

SENATE, No. 4260

STATE OF NEW JERSEY

DATED: DECEMBER 16, 2021

The Senate Budget and Appropriations Committee reports favorably Senate Bill No. 4260.

This bill provides that, in the case of a written agreement defining a broker-salesperson or salesperson of a broker as an independent contractor, the broker-salesperson or salesperson is deemed to be an independent contractor during the period that the written agreement is or was effective. The broker-salesperson or salesperson is not to be considered an employee for any purpose under any law, rule or regulation during that period, except that the broker-salesperson or salesperson must satisfy the test set forth in R.S.43:21-19(i)(7)(K) in order to be deemed an independent contractor under the unemployment compensation law, but does not have to satisfy that test or any other test for any other law, rule or regulation, including, but not limited to, the State's wage payment law, P.L.1965, c.173 (C.34:11-4.1 et seq.) and the State's wage and hour law, P.L.1966, c.113 (C.34:11-56A et seq.) to be deemed an independent contractor, for the purposes of any other law, rule or regulation.

The bill reaffirms the intent of the Legislature, as stated in the existing law (P.L.2018, c.71) regarding the licensing of real estate brokers, that broker-salespersons and salespersons who agree with a broker to be independent contractors are not to be and historically have not been deemed employees of the broker under any law, rule or regulation, and retroactively enforces any past written agreements regarding same, but the bill makes the clarification that, in the sole case of the unemployment compensation law, the agreement to regard them as independent contractors must also be in compliance with the specific requirement of that law for them to be regarded as independent contractors, which is that they must be compensated wholly on a commission basis.

FISCAL IMPACT:

This bill is not certified as requiring a fiscal note.