

## CHAPTER 199

**AN ACT** concerning criminal history background checks, amending various parts of the statutory law and supplementing Title 40 of the Revised Statutes.

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

1. N.J.S.2B:1-3 is amended to read as follows:

Criminal history record information.

2B:1-3. Criminal History Record Information. The Supreme Court is authorized to receive criminal history record information from the Federal Bureau of Investigation for use in licensing and disciplining attorneys-at-law of this State. Each applicant for licensure shall submit to the Board of Bar Examiners the applicant's name, address, fingerprints and written consent for a criminal history record background check to be performed. The Board of Bar Examiners is authorized to receive criminal history record information from the State Bureau of Identification in the Division of State Police and the Federal Bureau of Investigation consistent with applicable State and federal laws, rules and regulations. The applicant shall bear the cost for the criminal history record background check, including all costs of administering and processing the check.

2. Section 14 of P.L.1940, c.17 (C.5:5-34) is amended to read as follows:

C.5:5-34 Requirements for licensure by Racing Commission.

14. No person shall be licensed in any capacity whatsoever by the Racing Commission or employed in any capacity whatsoever at any place, track or enclosure where a horse race meeting is permitted who has been convicted of a crime involving moral turpitude. Each person seeking licensure or employment shall submit to the executive director the person's name, address and written consent for a criminal history record background check to be performed. The applicant shall submit to being fingerprinted in accordance with applicable State and federal laws, rules and regulations. The executive director is authorized to receive criminal history record information from the State Bureau of Identification in the Division of State Police and the Federal Bureau of Investigation consistent with applicable State and federal laws, rules and regulations. Upon receipt of such notification, the executive director shall make a determination regarding the person's eligibility for licensure or employment. The applicant shall bear the cost for the criminal history record background check, including all costs of administering and processing the check. The Division of State Police shall promptly notify the executive director in the event a current or prospective licensee or employee, who was the subject of a criminal history record background check pursuant to this section, is convicted of a crime or offense in this State after the date the background check was performed.

3. Section 1 of P.L.1946, c.167 (C.5:5-34.1) is amended to read as follows:

C.5:5-34.1 Ownership of stock, interest in racing corporation; approval, revocation, criminal record background check.

1. Whenever any association or corporation has been or shall be granted a permit to hold or conduct a horse race meeting, no person shall in any manner become the owner or holder, directly or indirectly, of any shares of stock or certificates or other evidence of ownership comprising a five percent or greater interest in such association or corporation without first having obtained the approval of the commission therefor; and the commission may, after hearing, revoke such permit granted to any corporation or association which shall register on its books in the name of any person its shares of stock or certificates or other evidence of ownership of any such interest in such association or corporation without the approval of the commission having first been obtained, or which shall knowingly permit a person to be directly or indirectly interested in these shares of stock or certificates or other evidence of ownership of any interest in such association or corporation without reporting the same to the commission. Whenever the commission shall give to any person its approval to own or hold these shares of stock or certificates or other evidence of ownership of any such interest in any such association or corporation, it shall by registered mail notify the secretary of such association or corporation of such approval; provided, however, that under no circumstances shall the commission give such

approval to any person who has been convicted of a crime involving moral turpitude, or has violated any of the provisions of the racing laws of the State of New Jersey or any rule or regulation of the commission, or has at any time been denied a license or permit of any kind by the commission.

A person seeking approval of the commission to become the owner or holder, directly or indirectly, of any shares of stock or certificates or other evidence of ownership comprising a five percent or greater interest in such association or corporation shall submit the applicant's name, address, and written consent to the executive director for a criminal history record background check to be performed. The executive director is authorized to receive criminal history record information from the State Bureau of Identification in the Division of State Police and the Federal Bureau of Investigation consistent with applicable State and federal laws, rules and regulations. Upon receipt of such notification, the executive director shall make a determination regarding the eligibility of the current or prospective owner. The person seeking approval shall bear the cost for the criminal history record background check, including all costs of administering and processing the check. The Division of State Police shall promptly notify the executive director in the event the person seeking approval, who was the subject of a criminal history record background check pursuant to this section, is convicted of a crime or offense in this State after the date the background check was performed.

4. Section 6 of P.L.1954, c.7 (C.5:8-6) is amended to read as follows:

C.5:8-6 Duties of commission.

6. It shall be the duty of the commission to supervise the administration of the Bingo Licensing Law and the Raffles Licensing Law and to adopt, amend and repeal rules and regulations governing the issuance and amendment of licenses thereunder and the holding, operating and conducting of games of chance under such licenses, establishing schedules of rentals or charges which may be paid for the leasing, sale or providing of equipment for use in or in connection with the holding, operating or conducting of any game or games of chance authorized to be held, operated or conducted under the Bingo Licensing Law or the Raffles Licensing Law, and prescribing fees for registrations, licenses and other services provided pursuant to P.L.1954, c.7 (C.5:8-1 et seq.), as amended and supplemented, which shall have the force of law and shall be binding upon all municipalities issuing licenses under either or both of said laws and upon all licensees thereunder and lessors, sellers or providers of equipment to licensees, to the end that such licenses shall be issued to qualified licensees only and that said games of chance shall be fairly and properly conducted for the purposes and in the manner in said laws prescribed and to prevent the games of chance authorized to be conducted by said laws from being conducted for commercial purposes instead of for the purposes authorized in said laws, and in order to provide uniformity in the administration of said laws throughout the State, the commission shall prescribe forms of applications for licenses, licenses, amendment of licenses, reports of the conduct of games and other matters incident to the administration of said laws. The commission shall receive and investigate applications from organizations wishing to hold, operate or conduct any game or games of chance pursuant to the Bingo Licensing Law or the Raffles Licensing Law, as amended and supplemented. If the commission determines that the applicant is a bona fide organization or association of veterans of any war in which the United States has been engaged or a church or a religious congregation or a religious organization or a charitable, educational or fraternal organization, or a civic or service club, or a senior citizen association or club, or an officially recognized volunteer fire company or an officially recognized volunteer first aid or rescue squad, the commission shall issue to it a registration certificate as proof of such a determination. The certificate shall be sufficient proof to a municipal governing body that the organization holding it is eligible to apply for a license to hold, operate and conduct games of chance in accordance with the provisions of the Bingo Licensing Law or the Raffles Licensing Law, as the case may be. The commission shall have power also to approve any person, persons or corporation, applying to it for approval, to lease, sell or provide any equipment for use in or in connection with the holding, operating or conducting of any game or games of chance authorized to be held, operated or conducted under the Bingo Licensing Law

or the Raffles Licensing Law as to such person's or persons' good moral character and freedom from conviction of crime or, if a corporation, as to the good moral character and freedom from conviction of crime of all of its officers and each of its stockholders who hold 10% or more of its stock issued and outstanding, and any such application may be disapproved by the commission after hearing and due notice thereof if it shall find that the applicant is not of good moral character and free from conviction of crime as hereinbefore prescribed. For the purposes of this section, upon the request of the commissioner, each applicant for approval to lease, sell or provide any equipment for use in or in connection with the holding, operating or conducting of any game or games of chance authorized to be held, operated or conducted under the Bingo Licensing Law or the Raffles Licensing Law, shall submit to the commission the applicant's name, address, fingerprints and written consent for a criminal history record background check to be performed. The commission is hereby authorized to exchange fingerprint data with and receive criminal history record information from the State Bureau of Identification in the Division of State Police and the Federal Bureau of Investigation consistent with applicable State and federal laws, rules and regulations. The applicant shall bear the cost for the criminal history record background check, including all costs of administering and processing the check. The Division of State Police shall promptly notify the commission in the event an applicant or prospective applicant, who was the subject of a criminal history record background check pursuant to this section, is arrested for a crime or offense in this State after the date the background check was performed.

5. Section 84 of P.L.1977, c.110 (C.5:12-84) is amended to read as follows:

C.5:12-84 Casino license - applicant requirements.

84. Casino License--Applicant Requirements. Any applicant for a casino license must produce information, documentation and assurances concerning the following qualification criteria:

a. Each applicant shall produce such information, documentation and assurances concerning financial background and resources as may be required to establish by clear and convincing evidence the financial stability, integrity and responsibility of the applicant, including but not limited to bank references, business and personal income and disbursement schedules, tax returns and other reports filed with governmental agencies, and business and personal accounting and check records and ledgers. In addition, each applicant shall, in writing, authorize the examination of all bank accounts and records as may be deemed necessary by the commission or the division.

b. Each applicant shall produce such information, documentation and assurances as may be necessary to establish by clear and convincing evidence the integrity of all financial backers, investors, mortgagees, bondholders, and holders of indentures, notes or other evidences of indebtedness, either in effect or proposed, which bears any relation to the casino proposal submitted by the applicant or applicants; provided, however, that this section shall not apply to banking or other licensed lending institutions exempted from the qualification requirements of subsections c. and d. of section 85 of P.L.1977, c.110 (C.5:12-85) and institutional investors waived from the qualification requirements of those subsections pursuant to the provisions of subsection f. of section 85 of P.L.1977, c.110 (C.5:12-85). Any such banking or licensed lending institution or institutional investor shall, however, produce for the commission or the division upon request any document or information which bears any relation to the casino proposal submitted by the applicant or applicants. The integrity of financial sources shall be judged upon the same standards as the applicant. In addition, the applicant shall produce whatever information, documentation or assurances as may be required to establish by clear and convincing evidence the adequacy of financial resources both as to the completion of the casino proposal and the operation of the casino.

c. Each applicant shall produce such information, documentation and assurances as may be required to establish by clear and convincing evidence the applicant's good character, honesty and integrity. Such information shall include, without limitation, information pertaining to family, habits, character, reputation, criminal and arrest record, business activities, financial

affairs, and business, professional and personal associates, covering at least the 10-year period immediately preceding the filing of the application. Each applicant shall notify the commission of any civil judgments obtained against any such applicant pertaining to antitrust or security regulation laws of the federal government, of this State or of any other state, jurisdiction, province or country. In addition, each applicant shall produce letters of reference from law enforcement agencies having jurisdiction in the applicant's place of residence and principal place of business, which letters of reference shall indicate that such law enforcement agencies do not have any pertinent information concerning the applicant, or if such law enforcement agency does have information pertaining to the applicant, shall specify what the information is. If the applicant has conducted gaming operations in a jurisdiction which permits such activity, the applicant shall produce letters of reference from the gaming or casino enforcement or control agency which shall specify the experiences of such agency with the applicant, his associates, and his gaming operation; provided, however, that if no such letters are received within 60 days of request therefor, the applicant may submit a statement under oath that he is or was during the period such activities were conducted in good standing with such gaming or casino enforcement or control agency.

d. Each applicant shall produce such information, documentation and assurances as may be required to establish by clear and convincing evidence that the applicant has sufficient business ability and casino experience as to establish the likelihood of creation and maintenance of a successful, efficient casino operation. The applicant shall produce the names of all proposed casino key employees as they become known and a description of their respective or proposed responsibilities, and a full description of security systems and management controls proposed for the casino and related facilities.

e. Each applicant shall produce such information, documentation and assurances to establish to the satisfaction of the commission the suitability of the casino and related facilities subject to subsection i. of section 83 of P.L.1977, c.110 (C.5:12-83) and its proposed location will not adversely affect casino operations. Each applicant shall submit an impact statement which shall include, without limitation, architectural and site plans which establish that the proposed facilities comply in all respects with the requirements of this act and the requirements of the master plan and zoning and planning ordinances of Atlantic City, without any use variance from the provisions thereof; a market impact study which analyzes the adequacy of the patron market and the effect of the proposal on such market and on the existing casino facilities licensed under this act; and an analysis of the effect of the proposal on the overall economic and competitive conditions of Atlantic City and the State of New Jersey.

f. For the purposes of this section, each applicant shall submit to the commission the applicant's name, address, fingerprints and written consent for a criminal history record background check to be performed. The commission is hereby authorized to exchange fingerprint data with and receive criminal history record information from the State Bureau of Identification in the Division of State Police and the Federal Bureau of Investigation consistent with applicable State and federal laws, rules and regulations. The applicant shall bear the cost for the criminal history record background check, including all costs of administering and processing the check. The Division of State Police shall promptly notify the commission in the event a current or prospective licensee, who was the subject of a criminal history record background check pursuant to this section, is arrested for a crime or offense in this State after the date the background check was performed.

6. Section 89 of P.L.1977, c.110 (C.5:12-89) is amended to read as follows:

C.5:12-89 Licensing of casino key employees.

89. Licensing of Casino Key Employees.

a. No person may be employed as a casino key employee unless he is the holder of a valid casino key employee license issued by the commission.

b. Each applicant must, prior to the issuance of any casino key employee license, produce information, documentation and assurances concerning the following qualification criteria:

(1) Each applicant for a casino key employee license shall produce such information,

documentation and assurances as may be required to establish by clear and convincing evidence the financial stability, integrity and responsibility of the applicant, including but not limited to bank references, business and personal income and disbursements schedules, tax returns and other reports filed with governmental agencies, and business and personal accounting and check records and ledgers. In addition, each applicant shall, in writing, authorize the examination of all bank accounts and records as may be deemed necessary by the commission or the division.

(2) Each applicant for a casino key employee license shall produce such information, documentation and assurances as may be required to establish by clear and convincing evidence the applicant's good character, honesty and integrity. Such information shall include, without limitation, data pertaining to family, habits, character, reputation, criminal and arrest record, business activities, financial affairs, and business, professional and personal associates, covering at least the 10-year period immediately preceding the filing of the application. Each applicant shall notify the commission of any civil judgments obtained against such applicant pertaining to antitrust or security regulation laws of the federal government, of this State or of any other state, jurisdiction, province or country. In addition, each applicant shall, upon request of the commission or the division, produce letters of reference from law enforcement agencies having jurisdiction in the applicant's place of residence and principal place of business, which letters of reference shall indicate that such law enforcement agencies do not have any pertinent information concerning the applicant, or if such law enforcement agency does have information pertaining to the applicant, shall specify what that information is. If the applicant has been associated with gaming or casino operations in any capacity, position or employment in a jurisdiction which permits such activity, the applicant shall, upon request of the commission or division, produce letters of reference from the gaming or casino enforcement or control agency, which shall specify the experience of such agency with the applicant, his associates and his participation in the gaming operations of that jurisdiction; provided, however, that if no such letters are received from the appropriate law enforcement agencies within 60 days of the applicant's request therefor, the applicant may submit a statement under oath that he is or was during the period such activities were conducted in good standing with such gaming or casino enforcement or control agency.

(3) (Deleted by amendment, P.L.1995, c.18.)

(4) Each applicant shall be a resident of the State of New Jersey prior to the issuance of a casino key employee license; provided, however, that upon petition by the holder of a casino license, the commission may waive this residency requirement for any applicant whose particular position will require him to be employed outside the State.

The commission may also, by regulation, require that all applicants for casino key employee licenses be residents of this State for a period not to exceed six months immediately prior to the issuance of such license, but application may be made prior to the expiration of the required period of residency. The commission shall, by resolution, waive the required residency period for an applicant upon a showing that the residency period would cause undue hardship upon the casino licensee which intends to employ said applicant, or upon a showing of other good cause.

(5) For the purposes of this section, each applicant shall submit to the commission the applicant's name, address, fingerprints and written consent for a criminal history record background check to be performed. The commission is hereby authorized to exchange fingerprint data with and receive criminal history record information from the State Bureau of Identification in the Division of State Police and the Federal Bureau of Investigation consistent with applicable State and federal laws, rules and regulations. The applicant shall bear the cost for the criminal history record background check, including all costs of administering and processing the check. The Division of State Police shall promptly notify the commission in the event a current or prospective licensee, who was the subject of a criminal history record background check pursuant to this section, is arrested for a crime or offense in this State after the date the background check was performed.

c. (Deleted by amendment, P.L.1995, c.18.)

d. The commission shall deny a casino key employee license to any applicant who is disqualified on the basis of the criteria contained in section 86 of this act.

e. Upon petition by the holder of a casino license, the commission may issue a temporary

license to an applicant for a casino key employee license, provided that:

- (1) The applicant for the casino key employee license has filed a complete application as required by the commission;
- (2) The division either certifies to the commission that the completed casino key employee license application as specified in paragraph (1) of this subsection has been in the possession of the division for at least 15 days or agrees to allow the commission to consider the application in some lesser time;
- (3) (Deleted by amendment, P.L.1995, c.18.)
- (4) The petition for a temporary casino key employee license certifies, and the commission finds, that an existing casino key employee position of the petitioner is vacant or will become vacant within 60 days of the date of the petition and that the issuance of a temporary key employee license is necessary to fill the said vacancy on an emergency basis to continue the efficient operation of the casino, and that such circumstances are extraordinary and not designed to circumvent the normal licensing procedures of this act;
- (5) The division does not object to the issuance of the temporary casino key employee license.

In the event that an applicant for a casino key employee license is the holder of a valid casino employee license issued pursuant to section 90 of this act, and if the provisions of paragraphs (1), (2), and (5) of this subsection are satisfied, the commission may issue a temporary casino key employee license upon petition by the holder of a casino license, if the commission finds the issuance of a casino key employee license will be delayed by necessary investigations and the said temporary casino key employee license is necessary for the operation of the casino.

Unless otherwise terminated pursuant to this act, any temporary casino key employee license issued pursuant to this subsection shall expire nine months from the date of its issuance.

7. Section 90 of P.L.1977, c.110 (C.5:12-90) is amended to read as follows:

C.5:12-90 Licensing of casino employees.

90. Licensing of Casino Employees.

a. No person may commence employment as a casino employee unless he is the holder of a valid casino employee license.

b. Any applicant for a casino employee license must, prior to the issuance of any such license, produce sufficient information, documentation and assurances to meet the qualification criteria, including New Jersey residency, contained in subsection b. of section 89 of this act and any additional residency requirement imposed under subsection c. of this section.

c. The commission may, by regulation, require that all applicants for casino employee licenses be residents of this State for a period not to exceed six months immediately prior to the issuance of such license, but application may be made prior to the expiration of the required period of residency. The commission shall, by resolution, waive the required residency period for an applicant upon a showing that the residency period would cause undue hardship upon the casino licensee which intends to employ said applicant, or upon a showing of other good cause.

d. (Deleted by amendment, P.L.1995, c.18.)

e. The commission shall deny a casino employee license to any applicant who is disqualified on the basis of the criteria contained in section 86 of this act.

f. For the purposes of this section, casino security employees shall be considered casino employees and must, in addition to any requirements under other laws, be licensed in accordance with the provisions of this act.

g. Upon petition by the holder of a casino license, a temporary license may be issued by the commission to an applicant for a casino employee license provided that:

- (1) the applicant for the casino employee license has filed a complete application as required by the commission;
- (2) the division either certifies to the commission that the completed casino employee license application as specified in paragraph (1) of this subsection has been in the possession of the division for at least 15 days or agrees to allow the commission to consider the application in some lesser time;

(3) the petition for a temporary casino employee license certifies, and the commission finds, that the issuance of a plenary license will be restricted by necessary investigations, and the temporary licensing of the applicant is necessary for the operation of the casino and is not designed to circumvent the normal licensing procedures of the "Casino Control Act"; and

(4) the division does not object to the issuance of the temporary casino employee license.

Unless otherwise terminated pursuant to this act, a temporary license issued pursuant to this subsection shall expire six months from the date of its issuance and be renewable, at the discretion of the commission, for one additional six-month period.

h. Notwithstanding the provisions of subsection e. of this section, no applicant shall be denied a casino employee license on the basis of a conviction of any of the offenses enumerated in this act as disqualification criteria or the commission of any act or acts which would constitute any offense under subsection c. of section 86 of P.L.1977, c.110 (C.5:12-86), as specified in subsection g. of that section; provided that the applicant has affirmatively demonstrated his rehabilitation. In determining whether the applicant has affirmatively demonstrated his rehabilitation the commission shall consider the following factors:

- (1) The nature and duties of the position applied for;
- (2) The nature and seriousness of the offense or conduct;
- (3) The circumstances under which the offense or conduct occurred;
- (4) The date of the offense or conduct;
- (5) The age of the applicant when the offense or conduct was committed;
- (6) Whether the offense or conduct was an isolated or repeated incident;
- (7) Any social conditions which may have contributed to the offense or conduct;
- (8) Any evidence of rehabilitation, including good conduct in prison or in the community, counseling or psychiatric treatment received, acquisition of additional academic or vocational schooling, successful participation in correctional work-release programs, or the recommendation of persons who have or have had the applicant under their supervision.

i. For the purposes of this section, each applicant shall submit to the commission the applicant's name, address, fingerprints and written consent for a criminal history record background check to be performed. The commission is hereby authorized to exchange fingerprint data with and receive criminal history record information from the State Bureau of Identification in the Division of State Police and the Federal Bureau of Investigation consistent with applicable State and federal laws, rules and regulations. The applicant shall bear the cost for the criminal history record background check, including all costs of administering and processing the check. The Division of State Police shall promptly notify the commission in the event a current or prospective licensee, who was the subject of a criminal history record background check pursuant to this section, is arrested for a crime or offense in this State after the date the background check was performed.

8. Section 91 of P.L.1977, c.110 (C.5:12-91) is amended to read as follows:

C.5:12-91 Registration of casino service employees.

91. Registration of Casino Service Employees.

a. No person may commence employment as a casino service employee unless the person has been registered with the commission, which registration shall be in accordance with subsection f. of this section.

b. Any applicant for casino service employee registration shall produce such information as the commission may require. Subsequent to the registration of a casino service employee, the commission may revoke, suspend, limit, or otherwise restrict the registration upon a finding that the registrant is disqualified on the basis of the criteria contained in section 86 of P.L.1977, c.110 (C.5:12-86).

c. The commission may, by regulation, require that all applicants for casino service employee registration be residents of this State for a period not to exceed three months immediately prior to such registration, but application may be made prior to the expiration of the required period of residency. The commission shall waive the required residency period for an

applicant upon a showing that the residency period would cause undue hardship upon the casino licensee which intends to employ said applicant, or upon a showing of other good cause.

d. Notwithstanding the provisions of subsection b. of this section, no casino service employee registration shall be revoked on the basis of a conviction of any of the offenses enumerated in this act as disqualification criteria or the commission of any act or acts which would constitute any offense under subsection c. of section 86 of P.L.1977, c.110 (C.5:12-86), as specified in subsection g. of that section, provided that the registrant has affirmatively demonstrated the registrant's rehabilitation. In determining whether the registrant has affirmatively demonstrated the registrant's rehabilitation the commission shall consider the following factors:

- (1) The nature and duties of the registrant's position;
- (2) The nature and seriousness of the offense or conduct;
- (3) The circumstances under which the offense or conduct occurred;
- (4) The date of the offense or conduct;
- (5) The age of the registrant when the offense or conduct was committed;
- (6) Whether the offense or conduct was an isolated or repeated incident;
- (7) Any social conditions which may have contributed to the offense or conduct;
- (8) Any evidence of rehabilitation, including good conduct in prison or in the community, counseling or psychiatric treatment received, acquisition of additional academic or vocational schooling, successful participation in correctional work-release programs, or the recommendation of persons who have or have had the registrant under their supervision.

e. The commission may waive any disqualification criterion for a casino service employee consistent with the public policy of this act and upon a finding that the interests of justice so require.

f. Upon petition by the holder of a casino license, casino service employee registration shall be granted to each applicant for such registration named therein, provided that the petition certifies that each such applicant has filed a completed application for casino service employee registration as required by the commission.

All casino hotel employee registrations shall expire 120 days after the effective date of this amendatory and supplementary act, P.L.2002, c.65. Any holder of a casino hotel employee registration may until that date convert that registration to a casino service employee registration without fee.

g. For the purposes of this section, each applicant shall submit to the commission the applicant's name, address, fingerprints and written consent for a criminal history record background check to be performed. The commission is hereby authorized to exchange fingerprint data with and receive criminal history record information from the State Bureau of Identification in the Division of State Police and the Federal Bureau of Investigation consistent with applicable State and federal laws, rules and regulations. The applicant shall bear the cost for the criminal history record background check, including all costs of administering and processing the check. The Division of State Police shall promptly notify the commission in the event a current or prospective licensee, who was the subject of a criminal history record background check pursuant to this section, is arrested for a crime or offense in this State after the date the background check was performed.

9. Section 1 of P.L.1966, c.79 (C.17:9A-18.1) is amended to read as follows:

C.17:9A-18.1 Persons ineligible to serve as officer, director, employee.

1. Except with the written consent of the commissioner, no person shall serve as an officer, director or employee of a bank, savings bank or bank holding company if (a) that person is convicted of any crime involving dishonesty or breach of trust, or (b) that person is prohibited from serving or continuing to serve in such capacity pursuant to 12 U.S.C. s.1829.

Any person seeking employment as an officer, director, or employee of a bank, savings bank or bank holding company shall submit to the commissioner the person's name, address, fingerprints and written consent for a criminal history record background check to be performed; provided, however, that this requirement may be waived by the commissioner if the person



provides satisfactory proof that such a criminal history record background check has been performed by a federal regulator. The commissioner is hereby authorized to exchange fingerprint data with and receive criminal history record information from the State Bureau of Identification in the Division of State Police and the Federal Bureau of Investigation consistent with applicable State and federal laws, rules and regulations, for the purposes of facilitating determinations concerning licensure eligibility. The applicant shall bear the cost for the criminal history record background check, including all costs of administering and processing the check. The Division of State Police shall promptly notify the commissioner in the event a current holder of a license or prospective applicant, who was the subject of a criminal history record background check pursuant to this section, is arrested for a crime or offense in this State after the date the background check was performed.

10. Section 7 of P.L.1996, c.157 (C.17:11C-7) is amended to read as follows:

C.17:11C-7 Conditions for issuance of license.

7. The commissioner shall issue a license under this act if the following conditions are met:

a. A written application for a new license or for a renewal of a license shall be submitted to the commissioner on the forms and in the manner, and accompanied by such evidence in support of the application, as required by this act and as may be prescribed by the commissioner, and shall be accompanied by the required fees.

b. An individual applicant for a new license shall qualify by examination, the content and form of which shall be approved by the commissioner. The commissioner may designate an independent testing service to prepare and administer the examinations. In addition, the commissioner by regulation may establish additional requirements for licensure as an individual, including education and experience.

c. If the commissioner finds that the financial responsibility, experience, character, and general fitness of the applicant for a new license or for a renewal of a license demonstrate that the business will be operated honestly, fairly, and efficiently within the purposes of this act, and if all other licensing requirements of this act and regulations promulgated by the commissioner are met, the commissioner shall issue the license of the type sought by the applicant.

d. A person holding a license under this act or as a sales finance company pursuant to the "Retail Installment Sales Act of 1960," P.L.1960, c.40 (C.17:16C-1 et seq.), who is in full compliance with this act, the "Retail Installment Sales Act of 1960," and the regulations promulgated thereunder, as applicable, may apply to the commissioner for a license to act as a mortgage banker or mortgage broker, a secondary lender, a consumer lender or a sales finance company, or any combination of these capacities for which the person is not already licensed, by filing with the commissioner an abbreviated application containing the information which the commissioner deems necessary when considering whether to license that person for that specific activity, an application fee, and the necessary additional license fee.

e. Any applicant for a license pursuant to this section and any officer, director, partner or owner of a controlling interest of a corporation or partnership filing for licensure shall submit to the commissioner the applicant's name, address, fingerprints and written consent for a criminal history record background check to be performed. The commissioner is authorized to exchange fingerprint data with and receive criminal history record information from the State Bureau of Identification in the Division of State Police and the Federal Bureau of Investigation consistent with applicable State and federal laws, rules and regulations, for the purposes of facilitating determinations concerning licensure eligibility. The applicant shall bear the cost for the criminal history record background check, including all costs of administering and processing the check. The Division of State Police shall promptly notify the commissioner in the event a current holder of a license or prospective applicant, who was the subject of a criminal history record background check pursuant to this section, is arrested for a crime or offense in this State after the date the background check was performed.

11. R.S.17:17-10 is amended to read as follows:

Certificates authorizing company to commence business; issuance, surrender; replacement

carrier.

17:17-10. a. When satisfied that a company has complied with all the requirements of this subtitle to entitle it to engage in business and that the proposed methods of operation of the company are not such as would render its operation hazardous to the public or its policyholders, the commissioner shall issue to the company a certificate authorizing it to commence business, specifying in the certificate the particular kind or kinds of insurance it is authorized to transact. The commissioner may refuse to issue a certificate of authority if he finds that any of the company's directors or officers has been convicted of a crime involving fraud, dishonesty, or like moral turpitude or that said persons are not persons of good character and integrity. Any applicant for a license pursuant to this section and any officer, director, partner or owner of a controlling interest of a corporation or partnership for licensure shall submit to the commissioner the applicant's name, address, fingerprints and written consent for a criminal history record background check to be performed. The commissioner is authorized to exchange fingerprint data with and receive criminal history record information from the State Bureau of Identification in the Division of State Police and the Federal Bureau of Investigation consistent with applicable State and federal laws, rules and regulations, for the purposes of facilitating determinations concerning licensure eligibility. The applicant shall bear the cost for the criminal history record background check, including all costs of administering and processing the check. The Division of State Police shall promptly notify the commissioner in the event a current holder of a license or prospective applicant, who was the subject of a criminal history record background check pursuant to this section, is arrested for a crime or offense in this State after the date the background check was performed. No company shall transact the business for which it is incorporated until it has received the certificate from the commissioner. If any company fails to obtain the certificate of authority within one year from the date of the certificate of the Attorney General to its certificate of incorporation, as provided in R.S.17:17-5, the company shall, ipso facto, be dissolved and its certificate of incorporation be null and void.

b. No company licensed to transact insurance business in this State pursuant to chapter 17 of Title 17 of the Revised Statutes may surrender its certificate of authority or discontinue writing or renewing any kind or kinds of insurance specified in the certificate, except in accordance an informational filing submitted to the commissioner, which filing shall be subject to the following provisions regarding any withdrawals:

(1) the company shall send a notice to policyholders of the proposed withdrawal no later than thirty days following the submission of the informational filing to the commissioner, which shall state that the insurer intends to withdraw and has filed its intention to withdraw with the commissioner, the terms of the withdrawal, including the date of the proposed commencement of nonrenewal of policies, and the proposed duration of the nonrenewal of the company's book of business;

(2) nonrenewals shall not commence prior to one calendar year and ninety days following the submission of the informational filing;

(3) the company shall send a notice of nonrenewal to every policyholder (a) no later than one calendar year preceding the date of nonrenewal and (b) a subsequent notice of nonrenewal in accordance with any time limit otherwise established by law for that line of insurance;

(4) nonrenewals shall take place in a manner so as to be applicable to all insureds on an equitable basis with respect to risk classification and territorial or other form of rating factor, and shall be effectuated at a uniform rate over a period not exceeding three calendar years, commencing with the date established in paragraph (2) of this subsection; provided, however, that if more than one company files for withdrawal for the same line of business and the companies, in the aggregate, write more than 25% of the market share for that line of business, the commissioner may extend the period of withdrawal provided for herein to five years.

The commissioner's authority with respect to withdrawals as provided for herein shall be limited to enforcing compliance with this subsection and enforcing the terms of the withdrawal plan proposed in the informational filing.

c. Upon receiving the informational filing provided for in subsection b. of this section, the commissioner shall consider, and may require as a condition of approval, whether some or all

of the company's other certificates of authority issued pursuant to Title 17 of the Revised Statutes held by the company or other companies within the same holding company system as the company submitting the plan shall be required to be surrendered.

d. Notwithstanding the provisions of subsection b. of this section, if the company finds a replacement carrier for the business that will not be renewed as the result of the withdrawal either prior to or after the date of the informational filing, the insurer may apply to the commissioner for approval to transfer the business to a replacement carrier or carriers. If the commissioner approves the replacement carrier or carriers, notwithstanding the provisions of paragraphs (1), (2), and (3) of subsection b. of this section, the notice of nonrenewal shall be in compliance with the time limits provided by law for that line of insurance, and the company shall offer every insured coverage with the replacement carrier prior to the effective date of the nonrenewal. The commissioner shall not withhold approval of a replacement carrier or carriers if that insurer is authorized to do business in the same line of business in New Jersey and has the financial and business capability to write and service the business being transferred to it by the withdrawing company. The commissioner shall approve or disapprove the replacement carrier or carriers within 60 days of (1) the date of the filing by both the withdrawing insurer requesting approval of a replacement carrier or carrier or (2) the filing by the replacement carrier or carriers requesting to be a replacement carrier, whichever is later.

e. Notwithstanding the provisions of subsection b. of this section, the commissioner may waive the requirements of paragraph (2) of that subsection, and the one-year nonrenewal notice of paragraph (3) of that subsection, as well as the three-year minimum nonrenewal period provided in paragraph (4) of that subsection if the commissioner deems a waiver to be necessary to protect the solvency of the insurer making the informational filing or if the commissioner deems the withdrawal to have a limited impact on the market.

12. Section 7 of P.L.2001, c.210 (C.17:22A-32) is amended to read as follows:

C.17:22A-32 Application, approval.

7. a. An individual applying for a resident insurance producer license shall make application to the commissioner on the uniform application and declare under penalty of refusal, suspension or revocation of the license that the statements made in the application are true, correct and complete to the best of the individual's knowledge and belief. Before approving the application, the commissioner shall find that the individual:

- (1) Is at least 18 years of age;
- (2) Has not committed any act that is a ground for denial, suspension or revocation set forth in section 15 of this act;
- (3) Has completed a prelicensing course of study for the lines of authority for which the individual has applied as prescribed by the commissioner by regulation;
- (4) Has paid the fees set forth in section 19 of this act; and
- (5) Has successfully passed the examinations for the lines of authority for which the individual has applied.

b. A business entity acting as an insurance producer shall obtain an insurance producer license. Application shall be made using the uniform business entity application. Before approving the application, the commissioner shall find that:

- (1) The business entity has paid the fees set forth in section 19 of this act; and
- (2) The business entity has designated a licensed insurance producer or producers responsible for the business entity's compliance with the insurance laws, rules and regulations of this State.

c. The commissioner may require any documents reasonably necessary to verify the information contained in an application.

d. Each insurer that sells, solicits or negotiates any form of limited line credit insurance shall provide to each individual whose duties will include selling, soliciting or negotiating limited line credit insurance a program of instruction that is approved by the commissioner.

e. Any applicant for a license pursuant to this section and any officer, director, partner or owner of a controlling interest of a corporation or partnership filing for licensure pursuant to this

section shall submit to the commissioner the applicant's name, address, fingerprints and written consent for a criminal history record background check to be performed. The commissioner is hereby authorized to exchange fingerprint data with and receive criminal history record information from the State Bureau of Identification in the Division of State Police and the Federal Bureau of Investigation consistent with applicable State and federal laws, rules and regulations, for the purposes of facilitating determinations concerning licensure eligibility. The applicant shall bear the cost for the criminal history record background check, including all costs of administering and processing the check. The Division of State Police shall promptly notify the commissioner in the event a current holder of a license or prospective applicant, who was the subject of a criminal history record background check pursuant to this section, is arrested for a crime or offense in this State after the date the background check was performed.

13. Section 2 of P.L.1999, c.211 (C.17B:30A-2) is amended to read as follows:

C.17B:30A-2 Licensing required as viatical settlement provider, representative, broker.

2. a. A person shall not operate as a viatical settlement provider, viatical settlement representative or viatical settlement broker without first having obtained a license from the commissioner.

b. Application for a viatical settlement provider, viatical settlement representative or viatical settlement broker license shall be made to the commissioner by the applicant on a form prescribed by the commissioner, and the application shall be accompanied by a fee, the amount of which shall be set by the commissioner by regulation.

c. Licenses may be renewed from year to year on the anniversary date upon payment of the annual renewal fee in an amount set by the commissioner by regulation. Failure to pay the fee by the renewal date shall result in expiration of the license.

d. The applicant shall provide information on forms required by the commissioner. The commissioner shall have authority, at any time, to require the applicant to fully disclose the identity of all stockholders, partners, officers, members and employees, and the commissioner may refuse to issue a license in the name of a legal entity if not satisfied that any officer, employee, stockholder, partner or member thereof who may materially influence the applicant's conduct meets the standards of this act.

e. A license issued to a legal entity authorizes all members, officers and designated employees to act as viatical settlement providers, viatical settlement brokers or viatical settlement representatives, as applicable, under the license, and all those persons shall be named in the application and any supplements to the application.

f. Upon the filing of an application and the payment of the license fee, the commissioner shall make an investigation of each applicant and issue a license if the commissioner finds that the applicant:

- (1) Has provided a detailed plan of operation;
- (2) Is competent and trustworthy and intends to act in good faith in the capacity of the license applied for;
- (3) Has a good business reputation and has had experience, training or education so as to be qualified in the business for which the license is applied for; and
- (4) If a legal entity, provides a certificate of good standing from the state of its domicile.

g. The commissioner shall not issue a license to a nonresident applicant unless a written designation of an agent for service of process is filed and maintained with the commissioner, or the applicant has filed with the commissioner the applicant's written irrevocable consent that any action against the applicant may be commenced against the applicant by service of process on the commissioner.

h. A viatical settlement provider, viatical settlement representative or viatical settlement broker transacting business in this State prior to the effective date of this act may continue to do so pending approval or disapproval of the provider, representative or broker's application for a license as long as the application is filed with the commissioner on or before the 180th day after the effective date of this act.

i. Any applicant for a license pursuant to this section and any officer, director, partner or owner of a controlling interest of a corporation or partnership filing for licensure shall submit to the commissioner the applicant's name, address, fingerprints and written consent for a criminal history record background check to be performed. The commissioner is authorized to exchange fingerprint data with and receive criminal history record information from the State Bureau of Identification in the Division of State Police and the Federal Bureau of Investigation consistent with applicable State and federal laws, rules and regulations, for the purposes of facilitating determinations concerning licensure eligibility. The applicant shall bear the cost for the criminal history record background check, including all costs of administering and processing the check. The Division of State Police shall promptly notify the commissioner in the event a current holder of a license or prospective applicant, who was the subject of a criminal history record background check pursuant to this section, is arrested for a crime or offense in this State after the date the background check was performed.

14. N.J.S.17B:18-42 is amended to read as follows:

Certificate of authority; when issuable.

17B:18-42. When satisfied that a domestic insurer has complied with all the requirements of this code to entitle it to engage in business and that the proposed methods of operation of the insurer are not such as would render its operation hazardous to the public or its policyholders, the commissioner shall issue to the insurer a certificate authorizing it to commence business, specifying in the certificate the particular kind or kinds of insurance it is authorized to transact. The commissioner may refuse to issue a certificate of authority if he finds that any of the insurer's directors or officers has been convicted of a crime involving fraud, dishonesty, or like moral turpitude or that said persons are not persons of good character and integrity. Any applicant for a license pursuant to this section and any officer, director, partner or owner of a controlling interest of a corporation or partnership for licensure shall submit to the commissioner the applicant's name, address, fingerprints and written consent for a criminal history record background check to be performed. The commissioner is authorized to exchange fingerprint data with and receive criminal history record information from the State Bureau of Identification in the Division of State Police and the Federal Bureau of Investigation consistent with applicable State and federal laws, rules and regulations, for the purposes of facilitating determinations concerning licensure eligibility. The applicant shall bear the cost for the criminal history record background check, including all costs of administering and processing the check. The Division of State Police shall promptly notify the commissioner in the event a current holder of a license or prospective applicant, who was the subject of a criminal history record background check pursuant to this section, is arrested for a crime or offense in this State after the date the background check was performed. No insurer shall transact the business for which it is incorporated until it has received the certificate from the commissioner. If any insurer fails to obtain the certificate of authority within one year from the date of the certificate of the commissioner to its certificate of incorporation, as provided in section 17B:18-5, and such failure is the result of its lack of due diligence in meeting the requirements therefor, the insurer shall, ipso facto, be dissolved and its certificate of incorporation be null and void.

15. R.S.45:22-3 is amended to read as follows:

Application for license; contents, criminal history record background check.

Application for such license shall be in writing and shall state the full name and place of residence of the applicant, or, if the applicant be a partnership, of each member thereof, or, if the applicant be a corporation or association, of each officer and stockholder thereof, together with the place or places where the business is to be conducted.

Any applicant for a license pursuant to this section and any officer, director, partner or owner of a controlling interest of a corporation or partnership filing for licensure shall submit to the commissioner the applicant's name, address, fingerprints and written consent for a criminal history record background check to be performed. The commissioner is authorized to exchange

fingerprint data with and receive criminal history record information from the State Bureau of Identification in the Division of State Police and the Federal Bureau of Investigation consistent with applicable State and federal laws, rules and regulations, for the purposes of facilitating determinations concerning licensure eligibility. The applicant shall bear the cost for the criminal history record background check, including all costs of administering and processing the check. The Division of State Police shall promptly notify the commissioner in the event a current holder of a license or prospective applicant, who was the subject of a criminal history record background check pursuant to this section, is arrested for a crime or offense in this State after the date the background check was performed.

16. Section 13 of P.L.1968, c.356 (C.30:11-23) is amended to read as follows:

C.30:11-23 Qualification of applicants, criminal history record background check.

13. Except as to persons who shall qualify for a conditional license pursuant to the provisions of this act, no license shall be issued to a person unless he is a citizen of the United States at the time of the submission of the application, or has declared his intention of becoming a citizen of the United States in the form and manner prescribed by the Commissioner of Health and Senior Services. No license granted to a noncitizen shall be valid or be renewed after six years from the date of his declaration of intention unless he shall furnish evidence of his actually having become a citizen. No license shall be issued to any person under the age of 18 years; to any person who has ever been convicted of a crime involving moral turpitude; or to any person who has been found guilty of violating the provisions of this act by a court of competent jurisdiction or who has admitted such guilt.

For the purposes of this section, each applicant for a license shall submit to the commissioner the applicant's name, address, fingerprints and written consent for a criminal history record background check to be performed. The commissioner is hereby authorized to exchange fingerprint data with and receive criminal history record information from the State Bureau of Identification in the Division of State Police and the Federal Bureau of Investigation consistent with applicable State and federal laws, rules and regulations, for purposes of facilitating determinations concerning licensure eligibility. The applicant shall bear the cost for the criminal history record background check, including all costs of administering and processing the check. The Division of State Police shall promptly notify the commissioner in the event a current holder of a license or prospective applicant, who was the subject of a criminal history record background check pursuant to this section, is arrested for a crime or offense in this State after the date the background check was performed.

17. Section 2 of P.L.1954, c.14 (C.32:23-86) is amended to read as follows:

C.32:23-86 Additional powers of the commission.

2. In addition to the powers and duties elsewhere described in this act, the commission shall have the following powers:

(1) To issue temporary permits and permit temporary registrations under such terms and conditions as the commission may prescribe which shall be valid for a period to be fixed by the commission not in excess of six months.

(2) To require any applicant for a license or registration or any prospective licensee to furnish such facts and evidence as the commission may deem appropriate to enable it to ascertain whether the license or registration should be granted.

(3) In any case in which the commission has the power to revoke, cancel or suspend any stevedore license the commission shall also have the power to impose as an alternative to such revocation, cancellation or suspension, a penalty, which the licensee may elect to pay the commission in lieu of the revocation, cancellation or suspension. The maximum penalty shall be \$5,000.00 for each separate offense. The commission may, for good cause shown, abate all or part of such penalty.

(4) To designate any officer, agent or employee of the commission to be an investigator who shall be vested with all the powers of a peace or police officer of the State of New York in that State, and of the State of New Jersey in that State.

(5) To confer immunity, in the following manner: In any investigation, interview or other proceeding conducted under oath by the commission or any duly authorized officer, employee or agent thereof, if a person refuses to answer a question or produce evidence of any other kind on the ground that he may be incriminated thereby, and notwithstanding such refusal, an order is made upon 24 hours' prior written notice to the appropriate Attorney General of the State of New York or the State of New Jersey, and to the appropriate district attorney or prosecutor having an official interest therein, by the unanimous vote of both members of the commission or their designees appointed pursuant to the provisions of section 3 of Article III of this act, that such person answer the question or produce the evidence, such person shall comply with the order. If such person complies with the order, and if, but for this subdivision, he would have been privileged to withhold the answer given or the evidence produced by him, then immunity shall be conferred upon him, as provided for herein.

"Immunity" as used in this subdivision means that such person shall not be prosecuted or subjected to any penalty or forfeiture for or on account of any transaction, matter or thing concerning which, in accordance with the order by the unanimous vote of both members of the commission or their designees appointed pursuant to the provisions of section 3 of Article III of this act, he gave answer or produced evidence, and that no such answer given or evidence produced shall be received against him upon any criminal proceeding. But he may nevertheless be prosecuted or subjected to penalty or forfeiture for any perjury or contempt committed in answering, or failing to answer, or in producing or failing to produce evidence, in accordance with the order, and any such answer given or evidence produced shall be admissible against him upon any criminal proceeding concerning such perjury or contempt.

Immunity shall not be conferred upon any person except in accordance with the provisions of this subdivision. If, after compliance with the provisions of this subdivision, a person is ordered to answer a question or produce evidence of any other kind and complies with such order, and it is thereafter determined that the appropriate Attorney General or district attorney or prosecutor having an official interest therein was not notified, such failure or neglect shall not deprive such person of any immunity otherwise properly conferred upon him.

(6) To require any applicant or renewal applicant for registration as a longshoreman, any applicant or renewal applicant for registration as a checker or any applicant or renewal applicant for registration as a telecommunications system controller and any person who is sponsored for a license as a pier superintendent or hiring agent, any person who is an individual owner of an applicant or renewal applicant stevedore or any persons who are individual partners of an applicant or renewal applicant stevedore, or any officers, directors or stockholders owning five percent or more of any of the stock of an applicant or renewal applicant corporate stevedore or any applicant or renewal applicant for a license as a port watchman or any other category of applicant or renewal applicant for registration or licensing within the commission's jurisdiction to be fingerprinted by the commission at the cost and expense of the applicant or renewal applicant.

(7) To exchange fingerprint data with and receive criminal history record information from the Federal Bureau of Investigation and the State Bureau of Identification for use in making the determinations required by this section.

(8) Notwithstanding any other provision of law to the contrary, to require any applicant for employment or employee of the commission to be fingerprinted at the cost and expense of the applicant or employee and to exchange fingerprint data with and receive criminal history record information from the Federal Bureau of Investigation and the State Bureau of Identification for use in the hiring or retention of such person.

18. R.S.33:1-25 is amended to read as follows:

Issuance of license, application, qualifications; criminal record background check, fee.

33:1-25. No license of any class shall be issued to any person under the age of 21 years or to any person who has been convicted of a crime involving moral turpitude. Each applicant shall submit to the director the applicant's name, address, fingerprints and written consent for a criminal history record background check to be performed. The director is authorized to receive criminal history record information from the State Bureau of Identification in the Division of

State Police and the Federal Bureau of Investigation consistent with applicable State and federal laws, rules and regulations. The applicant shall bear the cost for the criminal history record background check, including all costs of administering and processing the check. The Division of State Police shall promptly notify the director in the event a current holder of a license or prospective applicant, who was the subject of a criminal history record background check pursuant to this section, is arrested for a crime or offense in this State after the date the background check was performed.

In applications by corporations, except for club licenses, the names and addresses of, and the amount of stock held by, all stockholders holding 1% or more of any of the stock thereof, and the names and addresses of all officers and of all members of the board of directors must be stated in the application, and if one or more of the officers or members of the board of directors or one or more of the owners, directly or indirectly, of more than 10% of the stock would fail to qualify as an individual applicant in all respects, no license of any class shall be granted.

In applications for club licenses, the names and addresses of all officers, trustees, directors, or other governing official, together with the names and addresses of all members of the corporation, association or organization, must be stated in the application.

In applications by partnerships, the application shall contain the names and addresses of all of the partners. No license shall be issued unless all of the partners would qualify as individual applicants.

A photostatic copy of all federal permits necessary to the lawful conduct of the business for which a State license is sought and which relate to alcoholic beverages, or other evidence in lieu thereof satisfactory to the director, must accompany the license application, together with a deposit of the full amount of the required license fee, which deposit to the extent of 90% thereof shall be returned to the applicant by the director or other issuing authority if the application is denied, and the remaining 10% shall constitute an investigation fee and be accounted for as other license fees.

Every applicant for a license that is not a renewal of an annual license shall cause a notice of the making of the application to be published in a form prescribed by rules and regulations, once per week for two weeks successively in a newspaper printed in the English language, published and circulated in the municipality in which the licensed premises are located; but if there shall be no such newspaper, then the notice shall be published in a newspaper, printed in the English language, published and circulated in the county in which the licensed premises are located. No publication shall be required with respect to applications for transportation or public warehouse licenses or with respect to applications for renewal of licenses.

The Division of Alcoholic Beverage Control shall cause a general notice of the making of annual renewal applications and the manner in which members of the public may object to the approving of the applications to be published in a form prescribed by rules and regulations, once per week from the week of April 1 through the week of June 1 in a newspaper printed in the English language published and circulated in the counties in which the premises of applicants for renewals of annual licenses are located. Any application for the renewal of an annual license shall be made by May 1, and none shall be approved before May 1.

Every person filing an application for license, renewal of license or transfer of license with a municipal issuing authority shall, within 10 days of such filing, file with the director a copy of the application together with a nonreturnable filing fee of \$200.

Applicants for licenses shall answer questions as may be asked and make declarations as shall be required by the form of application for license as may be promulgated by the director from time to time. All applications shall be duly sworn to by each of the applicants, except in the case of applicants in the military service of the United States whose applications may be signed in their behalf by an attorney-in-fact holding a power of attorney in form approved by the director, and except in cases of applications by corporations which shall be duly sworn to by the president or vice-president. All statements in the applications required to be made by law or by rules and regulations shall be deemed material, and any person who shall knowingly misstate any material fact, under oath, in the application shall be guilty of a misdemeanor. Fraud, misrepresentation, false statements, misleading statements, evasions or suppression of material facts in the securing of a license are grounds for suspension or revocation of the license.



The provisions of section 26 of P.L.2003, c.117 amendatory of this section shall apply to licenses issued or transferred on or after July 1, 2003, and to license renewals commencing on or after July 1, 2003.

19. R.S.33:1-26 is amended to read as follows:

License, term, transfer; fee.

33:1-26. All licenses shall be for a term of one year from July 1 in each year. The respective fees for any such license shall be prorated according to the effective date of the license and based on the respective annual fee as in this chapter provided. Where the license fee deposited with the application exceeds the prorated fee, a refund of the excess shall be made to the licensee. Licenses are not transferable except as hereinafter provided. A separate license is required for each specific place of business and the operation and effect of every license is confined to the licensed premises. No retail license of any class shall be issued to any holder of a manufacturer's or wholesaler's license, and no manufacturer's or wholesaler's license shall be issued to the holder of a retail license of any class. Any person who shall exercise or attempt to exercise, or hold himself out as authorized to exercise, the rights and privileges of a licensee except the licensee and then only with respect to the licensed premises, shall be guilty of a misdemeanor.

In case of death, bankruptcy, receivership or incompetency of the licensee, or if for any other reason whatsoever the operation of the business covered by the license shall devolve by operation of law upon a person other than the licensee, the director or the issuing authority may, in his or its discretion, extend the license for a limited time, not exceeding its term, to the executor, administrator, trustee, receiver or other person upon whom the same has devolved by operation of law as aforesaid. Under no circumstances, however, shall a license, or rights thereunder, be deemed property, subject to inheritance, sale, pledge, lien, levy, attachment, execution, seizure for debts, or any other transfer or disposition whatsoever, except for payment of taxes, fees, interest and penalties imposed by any State tax law for which a lien may attach pursuant to R.S.54:49-1 or pursuant to the State Tax Uniform Procedure Law, R.S.54:48-1 et seq., or any similar State lien of tax, except to the extent expressly provided by this chapter.

On application made therefor setting forth the same matters and things with reference to the premises to which a transfer of license is sought as are required to be set forth in connection with an original application for license, as to the premises, and after publication of notice of intention to apply for transfer, in the same manner as is required in case of an application for license as to the premises, the director or other issuing authority may transfer, upon payment of a fee of 10% of the annual license fee for the license sought to be transferred, any license issued by him or it respectively to a different place of business than that specified therein, by endorsing permission upon the license.

On application made therefor setting forth the same matters and things with reference to the person to whom a transfer of license is sought as are required to be set forth in connection with an original application for license, which application for transfer shall be signed and sworn to by the person to whom the transfer of license is sought and shall bear the consent in writing of the licensee to the transfer, and after publication of notice of intention by the person to whom the transfer of license is sought, to apply for transfer in the same manner as is required in the case of an original application for license, the director or other issuing authority, as the case may be, may transfer any license issued by him or it respectively to the applicant for transfer by endorsing the license. The application and the applicant shall comply with all requirements of this chapter pertaining to an original application for license and shall be accompanied, in lieu of the license fee required on the original application, by a fee of 10% of the annual license fee for the license sought to be transferred, which 10% shall be retained by the director or other issuing authority, as the case may be, whether the transfer be granted or not, and accounted for as other license fees.

If the other issuing authority shall refuse to grant a transfer the applicant shall be notified forthwith of the refusal by a notice served personally upon the applicant, or sent to him by registered mail addressed to him at the address stated in the application, and the applicant may, within 30 days after the date of service or mailing of the notice, appeal to the director from the

action of the issuing authority. If the other issuing authority shall grant a transfer, any taxpayer or other aggrieved person opposing the grant of the transfer may, within 30 days after the grant of the transfer, appeal to the director from the action of the issuing authority.

No person who would fail to qualify as a licensee under this chapter shall be knowingly employed by or connected in any business capacity whatsoever with a licensee. A person failing to qualify as to age or by reason of conviction of a crime involving moral turpitude may, with the approval of the director, and subject to rules and regulations, be employed by any licensee, but the employee if disqualified by age shall not, in any manner whatsoever serve, sell or solicit the sale or participate in the manufacture, rectification, blending, treating, fortification, mixing, processing or bottling of any alcoholic beverage; and further provided, that no permit shall be necessary for the employment in a bona fide hotel or restaurant of any person failing to qualify as to age so long as the person shall not in any manner whatsoever serve, sell or solicit the sale of any alcoholic beverage, or participate in the mixing, processing or preparation thereof. Each person seeking to be employed or connected in any business capacity whatsoever with a licensee shall submit to the director the applicant's name, address, fingerprints and written consent for a criminal history record background check to be performed. The director is authorized to receive criminal history record information from the State Bureau of Identification in the Division of State Police and the Federal Bureau of Investigation consistent with applicable State and federal laws, rules and regulations. The applicant shall bear the cost for the criminal history record background check, including all costs of administering and processing the check. The Division of State Police shall promptly notify the director in the event a current holder of a license or prospective applicant, who was the subject of a criminal history record background check pursuant to this section, is arrested for a crime or offense in this State after the date the background check was performed.

Any request for relief under this section shall be accompanied by a nonreturnable filing fee of \$100.00 payable to the director.

20. R.S.33:1-31.2 is amended to read as follows:

Application for removal of statutory disqualification; fee.

33:1-31.2. Any person convicted of a crime involving moral turpitude may, after the lapse of five years from the date of conviction, apply to the commissioner for an order removing the resulting statutory disqualification from obtaining or holding any license or permit under this chapter. Whenever any such application is made and it appears to the satisfaction of the commissioner that at least five years have elapsed from the date of conviction, that the applicant has conducted himself in a law-abiding manner during that period and that his association with the alcoholic beverage industry will not be contrary to the public interest, the commissioner may, in his discretion and subject to rules and regulations, enter an order removing the applicant's disqualification from obtaining or holding a license or permit because of the conviction.

On and after the date of the entry of the order, the person therein named shall be qualified to obtain and hold a license or permit under this chapter, notwithstanding the conviction therein referred to, provided he is, in all other respects, qualified under this chapter.

Any request for relief under this section shall be accompanied by a nonreturnable filing fee of \$100.00 payable to the director. Each applicant shall submit to the director the applicant's name, address, fingerprints and written consent for a criminal history record background check to be performed. The director is authorized to receive criminal history record information from the State Bureau of Identification in the Division of State Police and the Federal Bureau of Investigation consistent with applicable State and federal laws, rules and regulations. The applicant shall bear the cost for the criminal history record background check, including all costs of administering and processing the check. The Division of State Police shall promptly notify the director in the event a current holder of a license or employee or prospective applicant, who was the subject of a criminal history record background check pursuant to this section, is arrested for a crime or offense in this State after the date the background check was performed.

21. Section 5 of P.L.1995, c.112 (C.39:8-45) is amended to read as follows:

C.39:8-45 Licensing of private inspection facility, requirements, application fee.

5. a. (1) The chief administrator, after appropriate inquiry and investigation, may license persons to operate private inspection facilities to inspect initially, reinspect and certify all motor vehicles that are subject to inspection pursuant to R.S.39:8-1. A person shall not be licensed unless qualified to conduct the inspections and reinspections, and in possession of the necessary equipment.

(2) The chief administrator, by regulation with the concurrence of the Department of Environmental Protection, may establish a limited number of distinct classes of licenses, may restrict the activities authorized by each distinct class of license, including restrictions as to the vehicles that may be inspected or reinspected, and may restrict the services that holders of each class may perform in addition to the activities authorized by the license. These regulations shall permit private inspection facilities to perform initial inspections on motor vehicles four years old or newer and, to the maximum extent feasible, permit private inspection facilities to perform initial inspections on motor vehicles that are more than four years old and to repair and reinspect all motor vehicles.

b. (1) The chief administrator may license as a private inspection facility any person that is the owner or lessee of 10 or more motor vehicles to initially inspect, reinspect and certify vehicles that the person owns or leases.

(2) The chief administrator, by regulation with the concurrence of the Department of Environmental Protection, may restrict the activities authorized by a license issued pursuant to this subsection, including restrictions as to the vehicles that may be inspected or reinspected, and may restrict the services that holders of this license may perform in addition to the activities authorized by the license.

c. The chief administrator shall require a private inspection facility licensee to have in effect at all times liability insurance or such other proof of financial responsibility as the chief administrator may prescribe; and may require a performance bond.

d. The chief administrator shall prescribe the form and content of the application for a private inspection facility license, and may charge a nonrefundable application fee not to exceed \$20. The chief administrator may charge a license fee, not to exceed \$250, to be paid by a person for each year or part of a year in which that person holds a private inspection facility license. All fees collected pursuant to this subsection shall be paid to the State Treasurer and deposited in the "Motor Vehicle Inspection Fund" established pursuant to subsection j. of R.S.39:8-2.

e. For the purposes of this section, each applicant for a license shall submit to the chief administrator the applicant's name, address, fingerprints and written consent for a criminal history record background check to be performed. The chief administrator is hereby authorized to exchange fingerprint data with and receive criminal history record information from the State Bureau of Identification in the Division of State Police and the Federal Bureau of Investigation consistent with applicable State and federal laws, rules and regulations, for purposes of facilitating determinations concerning licensure eligibility. The applicant shall bear the cost for the criminal history record background check, including all costs of administering and processing the check. The Division of State Police shall promptly notify the chief administrator in the event a current holder of a license or prospective applicant, who was the subject of a criminal history record background check pursuant to this section, is arrested for a crime or offense in this State after the date the background check was performed.

22. R.S.39:10-19 is amended to read as follows:

Dealer's license; eligibility, term, fee.

39:10-19. No person shall engage in the business of buying, selling or dealing in motor vehicles in this State, nor shall a person engage in activity that would qualify the person as a leasing dealer, as defined in section 2 of P.L.1994, c.190 (C.56:12-61), unless: a. he is a licensed real estate broker acting as an agent or broker in the sale of mobile homes without their own motor power other than recreation vehicles as defined in section 3 of P.L.1990, c.103 (C.39:3-10.11), or manufactured homes as defined in section 3 of P.L.1983, c.400 (C.54:4-1.4);

or b. he is authorized to do so under the provisions of this chapter. The director may, upon application in such form as he prescribes, license any proper person as such dealer or leasing dealer. A licensed real estate broker shall be entitled to act as an agent or broker in the sale of a mobile or manufactured home as defined in subsection a. of this section without obtaining a license from the director. For the purposes of this chapter, a "licensed real estate broker" means a real estate broker licensed by the New Jersey Real Estate Commission pursuant to the provisions of chapter 15 of Title 45 of the Revised Statutes. Any sale or transfer of a mobile or manufactured home, in which a licensed real estate broker acts as a broker or agent pursuant to this section, which sale or transfer is subject to any other requirements of R.S.39:10-1 et seq., shall comply with all of those requirements. No person who has been convicted of a crime, arising out of fraud or misrepresentation in the sale, leasing or financing of a motor vehicle, shall be eligible to receive a license. For the purposes of this section, each applicant for a license shall submit to the director the applicant's name, address, fingerprints and written consent for a criminal history record background check to be performed. The director is hereby authorized to exchange fingerprint data with and receive criminal history record information from the State Bureau of Identification in the Division of State Police and the Federal Bureau of Investigation consistent with applicable State and federal laws, rules and regulations, for purposes of facilitating determinations concerning licensure eligibility. The applicant shall bear the cost for the criminal history record background check, including all costs of administering and processing the check. The Division of State Police shall promptly notify the director in the event a current holder of a license or prospective applicant, who was the subject of a criminal history record background check pursuant to this section, is arrested for a crime or offense in this State after the date the background check was performed. Each applicant for a license shall at the time such license is issued have established and maintained, or by said application shall agree to establish and maintain, within 90 days after the issuance thereof, a place of business consisting of a permanent building not less than 1,000 square feet in floor space located in the State of New Jersey to be used principally for the servicing and display of motor vehicles with such equipment installed therein as shall be requisite for the servicing of motor vehicles in such manner as to make them comply with the laws of this State and with any rules and regulations made by the director of motor vehicles governing the equipment, use and operation of motor vehicles within the State. However, a leasing dealer, who is not engaged in the business of buying, selling or dealing in motor vehicles in the State, shall not be required to maintain a place of business with floor space available for the servicing or display of motor vehicles or to have an exterior sign at the lessor's place of business. A license fee of \$100 shall be paid by an applicant upon his initial application for a license. The director may renew an applicant's license from year to year, upon application for renewal on a form prescribed by the director and accompanied each year by a renewal fee of \$100. Every license shall expire on March 31 of each year terminating the period for which it is issued. On and after February 1 of each year the director shall issue licenses for the following yearly period to expire on March 31 of the following year.

For the purposes of this section, a leasing dealer or an assignee of a leasing dealer whose leasing activities are limited to buying motor vehicles for the purpose of leasing them and selling motor vehicles at the termination of a lease shall not be deemed to be engaged in the business of buying, selling or dealing in motor vehicles in this State.

23. Section 2 of P.L.1951, c.216 (C.39:12-2) is amended to read as follows:

C.39:12-2 License required to conduct drivers' school; application; fees.

2. No person shall engage in the business of conducting a drivers' school without being licensed therefor by the Chief Administrator of the New Jersey Motor Vehicle Commission. Application therefor shall be in writing and contain such information therein as he shall require on initial and renewal applications, including the applicant's Federal Tax Identification number, State tax identification number and proof of workers' compensation insurance coverage by a mutual association or stock company authorized to write coverage on such risks in this State or written authorization by the Commissioner of Banking and Insurance to self-insure for workers' compensation pursuant to R.S.34:15-77. The applicant shall file a surety bond in the amount of

\$10,000 issued by a company authorized to transact surety business in this State and payable to the division. A license shall not be issued or renewed unless the applicant or an employee is a qualified supervising instructor. For purposes of this section, a "qualified supervising instructor" shall mean a drivers' school instructor who a. is currently licensed and has been licensed by the division for at least two years prior to submission of the initial or renewal application, b. has successfully provided a minimum of 500 hours of behind-the-wheel instruction, and c. has successfully completed a three credit New Jersey driver education college course offered by a college or university licensed by the New Jersey Commission on Higher Education. The applicant shall furnish, together with the application, satisfactory evidence that the applicant or an employee is a qualified supervising instructor as set forth herein, except that an applicant for license renewal shall have one year after the date this act becomes effective to furnish evidence of completion of a three credit New Jersey driver education college course to the division. If the application is approved, the applicant shall be granted a license to teach approved courses in classroom and behind-the-wheel driver education upon the payment of a fee of \$250.00; provided, however, no license fee shall be charged for the issuance of a license to any board of education, school board, public, private or parochial school, which conducts a course in driver education, approved by the State Department of Education. A license so issued shall be valid during the calendar year. The annual fee for renewal shall be \$200. The chief administrator shall issue a license certificate or license certificates to each licensee, one of which shall be displayed in each place of business of the licensee.

For the purposes of this section, each applicant for a license shall submit to the chief administrator the applicant's name, address, fingerprints and written consent for a criminal history record background check to be performed. The chief administrator is hereby authorized to exchange fingerprint data with and receive criminal history record information from the State Bureau of Identification in the Division of State Police and the Federal Bureau of Investigation consistent with applicable State and federal laws, rules and regulations, for purposes of facilitating determinations concerning licensure eligibility. The applicant shall bear the cost for the criminal history record background check, including all costs of administering and processing the check. The Division of State Police shall promptly notify the chief administrator in the event a current holder of a license or prospective applicant, who was the subject of a criminal history record background check pursuant to this section, is arrested for a crime or offense in this State after the date the background check was performed.

24. Section 5 of P.L.1951, c.216 (C.39:12-5) is amended to read as follows:

C.39:12-5 Instructor's license; motorcycle endorsement; fees.

5. No person shall be employed by any such licensee to give instruction in driving a motor vehicle unless he shall be licensed to act as such instructor by the chief administrator. No person shall be employed by such licensee to instruct a motorcycle safety education course as established pursuant to section 1 of P.L.1991, c.452 (C.27:5F-36) unless he has received from the chief administrator a motorcycle safety education instructor endorsement to his instructor's license. The chief administrator shall issue a motorcycle safety education instructor endorsement to an instructor's license if the person meets the requirements set forth in section 2 of P.L.1991, c.452 (C.27:5F-37).

Application for an instructor's license or for a motorcycle safety education instructor endorsement to an instructor's license shall be in writing and shall contain such information as the chief administrator shall require.

The initial fee for an instructor's license shall be \$75.00 and a fee for an annual renewal thereof shall be \$50. No additional fee shall be charged by the chief administrator for a motorcycle safety education instructor endorsement. The license so issued shall be valid for the calendar year within which it is issued, and renewals shall be for succeeding calendar years.

For the purposes of this section, each applicant for a license shall submit to the chief administrator the applicant's name, address, fingerprints and written consent for a criminal history record background check to be performed. The chief administrator is hereby authorized to exchange fingerprint data with and receive criminal history record information from the State

Bureau of Identification in the Division of State Police and the Federal Bureau of Investigation consistent with applicable State and federal laws, rules and regulations, for purposes of facilitating determinations concerning licensure eligibility. The applicant shall bear the cost for the criminal history record background check, including all costs of administering and processing the check. The Division of State Police shall promptly notify the chief administrator in the event a current holder of a license or prospective applicant, who was the subject of a criminal history record background check pursuant to this section, is arrested for a crime or offense in this State after the date the background check was performed.

25. N.J.S.40A:14-9 is amended to read as follows:

General qualifications of members; temporary appointments; absences from duty.

40A:14-9. Except as otherwise provided by law, no person shall be appointed as a member of the paid or as a paid member of a part-paid fire department and force, unless he:

- (1) is a citizen of the United States;
- (2) is sound in body and of good health sufficient to satisfy the board of trustees of the police and firemen's retirement system of New Jersey as to his eligibility for membership in the retirement system;
- (3) has a high school diploma or an equivalency certificate and is able to read, write and speak the English language well and intelligently;
- (4) is of good moral character; and
- (5) has not been convicted of any criminal offense involving moral turpitude.

For the purposes of this section, each applicant shall submit to the appointing body of the municipality, the applicant's name, address, fingerprints and written consent for a criminal history record background check to be performed. The appointing body of the municipality is authorized to exchange fingerprint data with and receive criminal history record information from the State Bureau of Identification in the Division of State Police and the Federal Bureau of Investigation consistent with applicable State and federal laws, rules and regulations. The applicant shall bear the cost for the criminal history record background check, including all costs of administering and processing the check. The Division of State Police shall promptly notify the appointing body of the municipality in the event a current employee or prospective applicant, who was the subject of a criminal history record background check pursuant to this section, is arrested for a crime or offense in this State after the date the background check was performed. The appointing body, officer or officers of the municipality when authorized so to do, may employ such officers and other personnel for said paid or part-paid fire department and force as temporary employees in emergencies, or for certain specified parts of the year, as needed.

Except as otherwise provided by law, any permanent paid member or officer of such paid or part-paid fire department and force, who is absent from duty without just cause or leave of absence, for a continuous period of 5 days, shall cease to be a member of such paid or part-paid fire department.

26. R.S.45:15-9 is amended to read as follows:

Real estate licenses.

45:15-9. All persons desiring to become real estate brokers, broker-salespersons or salespersons shall apply to the commission for a license under the provisions of this article. Every applicant for a license as a broker, broker-salesperson or salesperson shall be of the age of 18 years or over, and in the case of an association or a corporation the directors thereof shall be of the age of 18 years or over. Application for a license, whether as a real estate broker, broker-salesperson or a salesperson, shall be made to the commission upon forms prescribed by it and shall be accompanied by an application fee of \$50 which fee shall not be refundable. Every applicant for a license whether as a real estate broker, broker-salesperson or salesperson shall have the equivalent of a high school education. The issuance of a license to an applicant who is a nonresident of this State shall be deemed to be his irrevocable consent that service of process upon him as a licensee in any action or proceeding may be made upon him by service upon the

secretary of the commission or the person in charge of the office of the commission. The applicant shall furnish evidence of good moral character, and in the case of an association, partnership or corporation, the members, officers or directors thereof shall furnish evidence of good moral character. The commission may make such investigation and require such proof as it deems proper and in the public interest as to the honesty, trustworthiness, character and integrity of an applicant. Any applicant for licensure pursuant to this section and any officer, director, partner or owner of a controlling interest of a corporation or partnership filing for licensure pursuant to this section shall submit to the commission the applicant's name, address, fingerprints and written consent for a criminal history record background check to be performed. The commission is hereby authorized to exchange fingerprint data with and receive criminal history record information from the State Bureau of Identification in the Division of State Police and the Federal Bureau of Investigation consistent with applicable State and federal laws, rules and regulations, for the purposes of facilitating determinations concerning licensure eligibility. The applicant shall bear the cost for the criminal history record background check, including all costs of administering and processing the check. The Division of State Police shall promptly notify the commissioner in the event a current holder of a license or prospective applicant, who was the subject of a criminal history record background check pursuant to this section, is arrested for a crime or offense in this State after the date the background was performed. Every applicant for a license as a broker or broker-salesperson shall have first been the holder of a New Jersey real estate salesperson's license and have been actively engaged on a full-time basis in the real estate brokerage business in this State for three years immediately preceding the date of application, which requirement may be waived by the commission where the applicant has been the holder of a broker's license in another state and actively engaged in the real estate brokerage business for at least three years immediately preceding the date of his application, meets the educational requirements and qualifies by examination. No license as a broker shall be granted to a general partnership or corporation unless at least one of the partners or officers of said general partnership or corporation qualifies as and holds a license as a broker to transact business in the name and on behalf of said general partnership or corporation as its authorized broker and no such authorized broker shall act as a broker on his own individual account unless he is also licensed as a broker in his individual name; the license of said general partnership or corporation shall cease if at least one partner or officer does not hold a license as its authorized broker at all times. A change in the status of the license of an authorized broker to an individual capacity or vice versa shall be effected by application to the commission accompanied by a fee of \$50. No license as a broker shall be granted to a limited partnership unless its general partner qualifies as and holds a license as a broker to transact business in the name of and on behalf of the limited partnership. In the event that a corporation is a general partner of a limited partnership, no license as a broker shall be granted to the limited partnership unless the corporation is licensed as a broker and one of the officers of the corporation qualifies as and holds a license as the corporation's authorized broker.

In the event that any person to whom a broker's or broker-salesperson's license has been or shall have been issued shall fail to renew such license or obtain a new license for a period of more than two but less than five consecutive years after the expiration of the last license held, prior to issuing another broker or broker-salesperson license to the person, the commission shall require such person to work as a licensed salesperson on a full-time basis for one full year, to pass an examination, and to successfully complete a 90-hour general broker's pre-licensure course at a licensed real estate school, as the commission shall prescribe by regulation. In the event that any person to whom a broker's or broker-salesperson's license has been or shall have been issued fails to maintain or renew the license or obtain a new license for a period of more than five consecutive years after the expiration of the last license held, prior to issuing another broker or broker-salesperson license to the person the commission shall require the person to pass the salesperson's license examination and then to work as a licensed salesperson on a full-time basis for three years, to fulfill all of the educational requirements applicable to first time applicants for a broker or broker-salesperson license and to pass the broker's license examination. The commission may, in its discretion, approve for relicensure the former holder of a broker or broker-salesperson license who has not renewed the license or obtained a new

license for two or more consecutive years upon a sufficient showing that the applicant was medically unable to do so. All applicants so approved shall pass the broker's license examination prior to being relicensed. This paragraph shall not apply to a person reapplying for a broker's or broker-salesperson's license who was licensed as a broker or broker-salesperson and who allowed his license to expire due to subsequent employment in a public agency in this State with responsibility for dealing with matters relating to real estate if the person reapplying does so within one year of termination of that employment.

In the event that any person to whom a salesperson's license has been or shall have been issued shall fail to maintain or renew such license or obtain a new license for a period of two consecutive years or more after the expiration of the last license held, the commission shall require such person to attend a licensed school and pass the State examination prior to issuance of a further license. The commission may, in its discretion, approve for relicensure a salesperson applicant who has not renewed his license or obtained a new license for two or more consecutive years upon a sufficient showing that the applicant was medically unable to do so. All salesperson applicants so approved shall pass the salesperson's license examination prior to being relicensed. This paragraph shall not apply to a person reapplying for a salesperson's license who was a licensed salesperson and who allowed his license to expire due to subsequent employment in a public agency in this State with responsibility for dealing with matters relating to real estate if the person reapplying does so within one year of termination of that employment.

27. Section 49 of P.L.1993, c.51 (C.45:15-10.6) is amended to read as follows:

C.45:15-10.6 Application for, issuance of license as real estate school, fees.

49. a. Every application for licensure as a real estate school shall be accompanied by an application fee of \$100 and a criminal history record check fee for all individual owners, members of a partnership, or officers, directors and owners of a controlling interest in a corporation, which fees shall be non-refundable. Any applicant filing for licensure pursuant to this section and any officer, director, partner or owner of a controlling interest of a corporation or partnership filing for licensure pursuant to this section shall submit to the commission, the applicant's name, address, fingerprints and written consent for a criminal history record background check to be performed. The commission is hereby authorized to exchange fingerprint data with and receive criminal history record information from the State Bureau of Identification in the Division of State Police and the Federal Bureau of Investigation consistent with applicable State and federal laws, rules and regulations, for the purposes of facilitating determinations concerning licensure eligibility. The applicant shall bear the cost for the criminal history record background check, including all costs of administering and processing the check. The Division of State Police shall promptly notify the commissioner in the event a current holder of a license or prospective applicant, who was the subject of a criminal history record background check pursuant to this section, is arrested for a crime or offense in this State after the date the background was performed.

b. All licenses issued to real estate schools shall expire on a date fixed by the commission which date shall not be more than two years from the date of issuance of the license. The license fee for each real estate school license issued in the first 12 months of any two-year real estate school license term established by the commission shall be \$400 for the first location and \$200 for each additional location licensed. The license fee for each real estate school license issued in the second 12 months of any two-year real estate school license term established by the commission shall be \$200 for the first location and \$100 for each additional location licensed. The fee for the renewal of each real estate school license for an additional two-year license term shall be \$400 for the first location and \$200 for each additional location.

c. Any accredited college or university located in this State or any public adult education program conducted by a board of education in this State which otherwise qualifies for licensure as a real estate school shall be issued a license without the payment of any license or license renewal fee.

28. Section 50 of P.L.1993, c.51 (C.45:15-10.7) is amended to read as follows:



C.45:15-10.7 Application for, issuance of license as real estate instructor; fees.

50. Every application for licensure as a real estate instructor shall be accompanied by an application fee of \$50 and a criminal history record check fee, which fees shall be non-refundable. Any applicant filing for licensure pursuant to this section and any officer, director, partner or owner of a controlling interest of a corporation or partnership filing for licensure pursuant to this section shall submit to the commission the applicant's name, address, fingerprints and written consent for a criminal history record background check to be performed. The commission is hereby authorized to exchange fingerprint data with and receive criminal history record information from the State Bureau of Identification in the Division of State Police and the Federal Bureau of Investigation consistent with applicable State and federal laws, rules and regulations, for the purposes of facilitating determinations concerning licensure eligibility. The applicant shall bear the cost for the criminal history record background check, including all costs of administering and processing the check. The Division of State Police shall promptly notify the commissioner in the event a current holder of a license or prospective applicant, who was the subject of a criminal history record background check pursuant to this section, is arrested for a crime or offense in this State after the date the background was performed. All licenses issued to real estate instructors shall expire on a date fixed by the commission which shall be no more than two years from the date of issuance of the license. The license fee for each real estate instructor license issued in the first 12 months of any two-year real estate instructor license term established by the commission shall be \$200 and the fee for an instructor license issued in the second 12 months of the cycle shall be \$100. The fee for the renewal of each real estate instructor license for an additional two-year license term shall be \$100. Upon payment of the renewal fee and the submission of evidence of satisfactory completion of any continuing education requirements which the commission may by regulation prescribe, the commission shall renew the license of a real estate instructor for a two-year period.

29. Section 4 of P.L.1939, c.369 (C.45:19-11) is amended to read as follows:

C.45:19-11 Application for license.

4. Any person, firm, association or corporation desiring to conduct a private detective business or the business of a private detective or investigator shall, for each bureau or agency, subagency, office and branch office to be owned, conducted, managed or maintained by such person, firm, association or corporation for the conduct of such business, submit to the Superintendent of State Police the applicant's name, address, fingerprints and written consent for a criminal history record background check to be performed. The superintendent shall cause such fingerprints to be compared to fingerprints filed with the State Bureau of Identification in the Division of State Police and the Federal Bureau of Investigation consistent with applicable State and federal laws, rules and regulations. The applicant shall bear the cost for the criminal history record background check, including all costs of administering and processing the check. These fingerprints will be provided in addition to a written application duly signed and verified, accompanied, in the case of an application by a person, with the written approval of not less than five reputable citizens who shall be freeholders of the county where such applicant resides or in the county in which it is proposed to conduct such business, and in the case of a firm, the written approval of five reputable citizens for each of the members of the firm who shall be freeholders of the county where each member of the firm resides or the county in which it is proposed to conduct such business, or in the case of an association or corporation, the written approval by five reputable citizens for each officer and director of the corporation who shall be freeholders of the county where such officers and directors reside, or of the county in which it is proposed to conduct such business. Such approvals shall be signed and acknowledged by the respective citizens before an officer authorized to take acknowledgments of conveyances of real property. The application shall state the following: Name, age, residence, present and previous occupations of the applicant, or in case of a firm, of each member of the firm, or in the case of an association or corporation, of each officer and director thereof; that each of the foregoing persons are citizens of the United States; the name of the municipality and the location therein by street number or other apt description where is to be located the principal place of business and the

location of each bureau, agency, subagency, office or branch office for which a license is desired, and such other facts as may be required by the superintendent as will tend to show the character, competency and integrity of each person or individual signing such application. Any person who shall knowingly state any fact falsely shall be guilty of a misdemeanor.

30. Section 9 of P.L.1934, c.369 (C.45:19-16) is amended to read as follows:

C.45:19-16 Employees of licensees; fingerprints, criminal record background checks.

9. No holder of any unexpired license issued pursuant to this act shall knowingly employ in connection with his or its business in any capacity whatsoever, any person who has been convicted of a high misdemeanor or any of the following misdemeanors, or offenses, and who has not subsequent to such conviction received executive pardon therefor removing any civil disabilities incurred thereby, to wit:

- (a) illegally using, carrying or possessing a pistol or other dangerous weapon;
- (b) making or possessing burglar's instruments;
- (c) buying or receiving stolen property;
- (d) unlawful entry of a building;
- (e) aiding escape from prison;
- (f) unlawfully possessing or distributing habit-forming narcotic drugs;
- (g) any person whose private detective or investigator's license was revoked or application for such license was denied by the superintendent or by the authorities of any other State or territory because of conviction of any of the crimes or offenses specified in this section.

Should the holder of an unexpired license falsely state or represent that a person is or has been in his employ, such false statement or misrepresentation shall be sufficient cause for the revocation of such license.

No person shall be employed by any holder of a license until he shall have executed and furnished to such license holder a verified statement, to be known as "employee's statement," setting forth:

- (a) His full name, age, residence address, and place of and date of birth.
- (b) The country of which he is a citizen.
- (c) The business or occupation engaged in for the five years immediately preceding the date of the filing of the statement, setting forth the place or places where such business or occupation was engaged in, and the name or names of employers, if any.
- (d) That he has not been convicted of a high misdemeanor or of any offense involving moral turpitude or of any of the misdemeanors or offenses described in this section.
- (e) Such further information as the superintendent may by rule require to show the good character, competency, and integrity of the person executing the statement.

The employee shall submit to the Superintendent of State Police the employee's name, address, fingerprints and written consent for a criminal history background check to be performed. The superintendent is hereby authorized to exchange fingerprint data with and receive criminal history record information from the State Bureau of Identification in the Division of State Police and the Federal Bureau of Investigation consistent with applicable State and federal laws, rules and regulations. The applicant shall bear the cost for the criminal history background check, including all costs of administering and processing the check. If the superintendent finds that such person has been convicted of a first, second or third degree crime, or any other offense specified in this section, he shall immediately notify the holder of such license and shall also refer the matter to the prosecutor of the pleas of the county in which the employee resides. The superintendent may also from time to time cause such fingerprints to be checked against the fingerprints filed with the State bureau of identification or of other official fingerprint files within or without this State, and if he finds that such person has been convicted of a high misdemeanor or any other offense specified in this section he shall immediately notify the holder of such license and shall also refer the matter to the prosecutor of the pleas of the county in which the employee resides. The superintendent shall at all times be given access to and may from time to time examine the fingerprints retained by the holder of a license as provided in this section.

If any holder of a license shall file with the superintendent the fingerprints of a person other

than the person so employed, he shall be guilty of a misdemeanor.

31. Section 8 of P.L.1978, c.73 (C.45:1-21) is amended to read as follows:

C.45:1-21 Refusal to license or renew, grounds.

8. A board may refuse to admit a person to an examination or may refuse to issue or may suspend or revoke any certificate, registration or license issued by the board upon proof that the applicant or holder of such certificate, registration or license:

a. Has obtained a certificate, registration, license or authorization to sit for an examination, as the case may be, through fraud, deception, or misrepresentation;

b. Has engaged in the use or employment of dishonesty, fraud, deception, misrepresentation, false promise or false pretense;

c. Has engaged in gross negligence, gross malpractice or gross incompetence which damaged or endangered the life, health, welfare, safety or property of any person;

d. Has engaged in repeated acts of negligence, malpractice or incompetence;

e. Has engaged in professional or occupational misconduct as may be determined by the board;

f. Has been convicted of, or engaged in acts constituting, any crime or offense involving moral turpitude or relating adversely to the activity regulated by the board. For the purpose of this subsection a judgment of conviction or a plea of guilty, non vult, nolo contendere or any other such disposition of alleged criminal activity shall be deemed a conviction;

g. Has had his authority to engage in the activity regulated by the board revoked or suspended by any other state, agency or authority for reasons consistent with this section;

h. Has violated or failed to comply with the provisions of any act or regulation administered by the board;

i. Is incapable, for medical or any other good cause, of discharging the functions of a licensee in a manner consistent with the public's health, safety and welfare;

j. Has repeatedly failed to submit completed applications, or parts of, or documentation submitted in conjunction with, such applications, required to be filed with the Department of Environmental Protection;

k. Has violated any provision of P.L.1983, c.320 (C.17:33A-1 et seq.) or any insurance fraud prevention law or act of another jurisdiction or has been adjudicated, in civil or administrative proceedings, of a violation of P.L.1983, c.320 (C.17:33A-1 et seq.) or has been subject to a final order, entered in civil or administrative proceedings, that imposed civil penalties under that act against the applicant or holder;

l. Is presently engaged in drug or alcohol use that is likely to impair the ability to practice the profession or occupation with reasonable skill and safety. For purposes of this subsection, the term "presently" means at this time or any time within the previous 365 days;

m. Has prescribed or dispensed controlled dangerous substances indiscriminately or without good cause, or where the applicant or holder knew or should have known that the substances were to be used for unauthorized consumption or distribution;

n. Has permitted an unlicensed person or entity to perform an act for which a license or certificate of registration or certification is required by the board, or aided and abetted an unlicensed person or entity in performing such an act;

o. Advertised fraudulently in any manner.

The division is authorized, for purposes of facilitating determinations concerning licensure eligibility, to require the fingerprinting of each applicant in accordance with applicable State and federal laws, rules and regulations. Each applicant shall submit the applicant's name, address, and written consent to the director for a criminal history record background check to be performed. The division is authorized to receive criminal history record information from the State Bureau of Identification in the Division of State Police and the Federal Bureau of Investigation. Upon receipt of such notification, the division shall forward the information to the appropriate board which shall make a determination regarding the issuance of licensure. The applicant shall bear the cost for the criminal history record background check, including all costs of administering and processing the check, unless otherwise provided for by an individual

enabling act. The Division of State Police shall promptly notify the division in the event an applicant or licensee, who was the subject of a criminal history record background check pursuant to this section, is convicted of a crime or offense in this State after the date the background check was performed.

For purposes of this act:

"Completed application" means the submission of all of the information designated on the checklist, adopted pursuant to section 1 of P.L.1991, c.421 (C.13:1D-101), for the class or category of permit for which application is made.

"Permit" has the same meaning as defined in section 1 of P.L.1991, c.421 (C.13:1D-101).

32. Section 9 of P.L.1967, c.93 (C.49:3-56) is amended to read as follows:

C.49:3-56 Registration required.

9. (a) It shall be unlawful for any person to act as a broker-dealer, agent, investment adviser or investment adviser representative in this State unless that person is registered or exempt from registration under this act;

(b) A person shall be exempt from registration as a broker-dealer if, during any period of 12 consecutive months, that person (1) does not effect more than 15 transactions with persons other than those specified in paragraph (5) of subsection (c) of section 2 of P.L.1967, c.93 (C.49:3-49) located within New Jersey; (2) does not effect transactions in more than five customer accounts of New Jersey residents; or (3) effects transactions with persons who have no place of residence in New Jersey and who are temporarily located in the State; if at the time of the transactions described in paragraph (1), (2) or (3) of this subsection (b), the broker-dealer has no place of business in this State and is a member in good standing of a recognized self-regulatory organization and is registered in the state in which the broker-dealer is located;

(c) Agents who represent broker-dealers in transactions exempt pursuant to paragraph (1), (2) or (3) of subsection (b) of this section shall be exempt from registration for those transactions if they are members of a recognized self-regulatory organization and registered in the state in which they are located at the time of the transaction;

(d) The burden of proving an exemption from registration under this section shall be on the person claiming the exemption. A person claiming an exemption from registration under this section shall keep his books and records open to inspection by the bureau. If the bureau chief finds it is in the public interest and necessary for the protection of investors, the bureau chief may deny any exemption specified in paragraph (1), (2) or (3) of subsection (b) or in subsection (c) of this section as to any broker-dealer or agent. The bureau chief may proceed in summary fashion or otherwise;

(e) The bureau chief may identify classes of customers, securities, transactions and broker-dealers for the purpose of increasing the number of transactions or accounts available under the exemptions specified in paragraph (1), (2) or (3) of subsection (b) or subsection (c) of this section;

(f) The bureau chief may by order identify the self-regulatory organizations recognized under subsections (b) and (c) of this section and may by rule or order define the conditions under which non-resident persons are temporarily in New Jersey under paragraph (3) of subsection (b) of this section;

(g) A person shall be exempt from registration as an investment adviser or from making a notice filing required by section 10 of P.L.1967, c.93 (C.49:3-57), if:

(1) The person has a place of business in this State and during any period of 12 consecutive months that person does not have more than five clients, who are residents of this State, other than those specified in subparagraph (vi) of paragraph (2) of subsection (g) of section 2 of P.L.1967, c.93 (C.49:3-49); or

(2) The person has no place of business in this State, and during any period of 12 consecutive months that person does not have more than five clients, who are residents of this State, other than those specified in subparagraph (vi) of paragraph (2) of subsection (g) of section 2 of P.L.1967, c.93 (C.49:3-49).

The bureau chief may by rule or order determine the availability of the exemptions provided

by this subsection (g), including the waiver of the conditions in paragraphs (1) and (2) of this subsection;

(h) It shall be unlawful for any broker-dealer or issuer to employ an agent in this State unless the agent is registered. The registration of an agent is not effective during any period when he is not associated with a particular broker-dealer registered under this act or a particular issuer. When an agent begins or terminates a connection with a broker-dealer or issuer, or begins or terminates those activities which make him an agent, the agent as well as the broker-dealer or issuer shall promptly notify the bureau. When an agent terminates his connection with a particular broker-dealer or issuer, his authorization to engage in those activities which make him an agent is terminated;

(i) It shall be unlawful for any person to transact business in this State as an investment adviser unless (1) he is so registered under this act, is exempt from registration under this act, or is excluded from the definition of investment adviser under this act, or (2) he is registered as a broker-dealer without the imposition of a condition under paragraph (5) of subsection (b) of section 11 of P.L.1967, c.93 (C.49:3-58);

(j) It shall be unlawful for any investment adviser required to be registered pursuant to this section to employ an investment adviser representative, unless the investment adviser representative is also registered pursuant to this section. It is unlawful for any person registered or required to be registered as an investment adviser under section 203 of the "Investment Advisers Act of 1940," 15 U.S.C. s.80b-3, to employ, supervise, or associate with an investment adviser representative having a place of business located in this State, unless that investment adviser representative is registered under this act, or is exempt from registration. The registration of an investment adviser representative is not effective during any period when the investment adviser representative is not employed by an investment adviser registered pursuant to this section or registered under section 203 of the "Investment Advisers Act of 1940," 15 U.S.C. s.80b-3. When an investment adviser representative described in this subsection begins or terminates employment with an investment adviser, the investment adviser and the investment adviser representative shall promptly notify the bureau chief. When an investment adviser representative terminates his connection with a particular investment adviser, his authorization to engage in those activities which make him an investment adviser representative is terminated;

(k) The bureau chief may summarily bar, pending final determination of any proceeding under this subsection, any person, who has been convicted of any crime of embezzlement under state, federal or foreign law or any crime involving any theft, forgery or fraudulent practices in regard to any state, federal or foreign securities, banking, insurance, or commodities trading laws or anti-fraud laws, from being a partner, officer or director of an issuer, broker-dealer or investment adviser, or from occupying a similar status or performing a similar function or from directly or indirectly controlling or being under common control or being controlled by an issuer, broker-dealer or investment adviser, or from acting as a broker-dealer, agent or investment adviser in this State. Any person barred by this subsection shall be entitled to request a hearing by the same procedures as set forth in subsection (c) of section 3 of P.L.1967, c.93 (C.49:3-50);

(l) Notwithstanding any other provision of this act, the bureau chief may bring an administrative or court action pursuant to section 29 of this act (C.49:3-70.1), to seek and obtain civil penalties for violations of this section;

(m) Every registration shall expire one year from its effective date unless renewed, except that the bureau chief may by rule provide that registrations shall all expire on the same date;

(n) Except with respect to advisers whose only clients are those described in subparagraph (vi) of paragraph (2) of subsection (g) of section 2 of P.L.1967, c.93 (C.49:3-49), it is unlawful for any person who is registered or required to be registered under section 203 of the "Investment Advisers Act of 1940," 15 U.S.C. s.80b-3, as an investment adviser to conduct advisory business in this State, unless that person files those documents filed with the Securities and Exchange Commission with the bureau chief, as the bureau chief may by rule or otherwise require, and a fee and consent to service of process, as the bureau chief, by rule or otherwise, may require;

(o) Notwithstanding anything to the contrary in this act, until October 11, 1999, the

bureau chief may require the registration of any person who is registered or required to be registered as an investment adviser under section 203 of the "Investment Advisers Act of 1940," 15 U.S.C. s.80b-3, and who has failed to promptly pay the fees required by subsection (n) of this section after being notified in writing by the bureau chief of the non-payment or underpayment of those fees. A person shall be considered to have promptly paid those fees if they are remitted to the bureau chief within 15 days following that person's receipt of the written notification from the bureau chief;

(p) For the purposes of this section, each applicant for registration shall submit to the bureau chief, the applicant's name, address, fingerprints and written consent for a criminal history record background check to be performed. The bureau chief is hereby authorized to exchange fingerprint data with and receive criminal history record information from the State Bureau of Identification in the Division of State Police and the Federal Bureau of Investigation consistent with applicable State and federal laws, rules and regulations. The applicant shall bear the cost for the criminal history record background check, including all costs of administering and processing the check. The Division of State Police shall promptly notify the bureau chief in the event a current holder of a license or prospective applicant, who was the subject of a criminal history record background check pursuant to this section, is arrested for a crime or offense in this State after the date the background check was performed.

C.40:23-54 Criminal history record check requested by county, authority for.

33. a. A county may enact an ordinance or resolution, as appropriate, providing that an authorized county official or officer may request a criminal history record background check of any person for an official governmental purpose, including, but not limited to, employment, licensing and the procurement of services. The ordinance or resolution shall provide that the person shall submit to being fingerprinted in accordance with applicable State and federal laws, rules and regulations. The ordinance or resolution shall further provide that the official or officer is authorized to exchange fingerprint data with and receive criminal history record information from the State Bureau of Identification in the Division of State Police and the Federal Bureau of Investigation.

b. In order to obtain criminal history record information pursuant to the provisions of an ordinance or resolution, the official or officer shall submit fingerprint data to the State Bureau of Identification. The bureau shall receive all criminal history record information from the Federal Bureau of Investigation and shall disseminate that information to the officer or official.

c. The county shall transmit the fees for the criminal history record background check to the State Bureau of Identification.

d. Pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), the Attorney General may promulgate regulations to effectuate the provisions of this section.

C.40:48-1.4 Criminal history record check requested by municipality, authority for.

34. a. A municipality may enact an ordinance providing that an authorized municipal official or officer may request a criminal history record background check of any person for an official governmental purpose, including, but not limited to, employment, licensing and the procurement of services. The ordinance shall provide that the person shall submit to being fingerprinted in accordance with applicable State and federal laws, rules and regulations. The ordinance shall further provide that the official or officer is authorized to exchange fingerprint data with and receive criminal history record information from the State Bureau of Identification in the Division of State Police and the Federal Bureau of Investigation.

b. In order to obtain criminal history record information pursuant to the provisions of an ordinance, the official or officer shall submit fingerprint data to the State Bureau of Identification. The bureau shall receive all criminal history record information from the Federal Bureau of Investigation and shall disseminate that information to the officer or official.

c. The municipality shall transmit the fees for the criminal history record background check to the State Bureau of Identification.

d. Pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), the Attorney General may promulgate regulations to effectuate the provisions of this section.

35. This act shall take effect immediately.

Approved December 24, 2003.