

## CHAPTER 289

AN ACT concerning sales representatives and amending and supplementing P.L.1990, c.93.

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

1. Section 1 of P.L.1990, c.93 (C.2A:61A-1) is amended to read as follows:

C.2A:61A-1 Definitions.

1. As used in this act:
  - a. "Commission" means compensation accruing to a sales representative for payment by a principal, earned through the last day on which services were performed by the sales representative, the rate of which is expressed as a percentage of the dollar amount of orders or sales or as a specified amount per order or per sale.
  - b. "Principal" means a person, including a person who does not have a permanent or fixed place of business in this State, who manufactures, produces, imports or distributes a product or offers a service; contracts with an independent sales company or other person to solicit orders for the product or service; and compensates those companies or other persons who solicit orders, in whole or in part, by commission.
  - c. "Sales representative" means an independent sales company or other person, other than an employee, who contracts with a principal to solicit orders and who is compensated, in whole or in part, by commission but shall not include one who places orders or purchases exclusively for his own account for resale.
  - d. "Day" means a calendar day including Saturdays, Sundays and legal holidays.
  - e. "Termination" means the end of services performed by the sales representative for the principal by any means.
  - f. (Deleted by amendment, P.L.2007, c.289.)

2. Section 2 of P.L.1990, c.93 (C.2A:61A-2) is amended to read as follows:

C.2A:61A-2 Payment to sales representative after termination of contract.

2. When a contract between a principal and a sales representative to solicit orders is terminated, the commissions and other compensation earned as a result of the representative relationship and unpaid shall become due and payable within 30 days of the date the contract is terminated or within 30 days of the date commissions are due, whichever is later.

A sales representative shall receive commissions on goods ordered up to and including the last day of the contract even if accepted by the principal, delivered, and paid for after the end of the agreement. The commissions shall become due and payable within 30 days after payment would have been due under the contract if the contract had not been terminated.

3. Section 3 of P.L.1990, c.93 (C.2A:61A-3) is amended to read as follows:

C.2A:61A-3 Liability to sales representative for violation; liability for frivolous court action.

3. a. A principal who violates or fails to comply with the provisions of section 2 of this act shall be liable to the sales representative for all amounts due the sales representative, exemplary damages in an amount of three times the amount of commissions owed to the sales representative and all attorney's fees actually and reasonably incurred by the sales representative in the action and court costs.

b. Where the court determines that an action brought by a sales representative against a principal pursuant to this section is frivolous, pursuant to P.L.1988, c.46 (C.2A:15-59.1), the sales representative shall be liable to the principal for attorney's fees actually and reasonably incurred by the principal in defending the action and court costs.

C.2A:61A-8 Inapplicability of C.2A:61A-1 et seq.

4. The provisions of P.L.1990, c.93 (C.2A:61A-1 et seq.) shall not apply to:

a. any real estate sales person licensed or regulated pursuant to chapter 15 of Title 45 of the Revised Statutes;

b. any person licensed or regulated pursuant to subtitle 3 of Title 17 of the Revised Statutes, Title 17B of the New Jersey Statutes or P.L.1973, c.337 (C.26:2J-1 et seq.); or

c. any person registered or regulated by the New Jersey Bureau of Securities pursuant to the "Uniform Securities Law (1997)," P.L.1967, c.93 (C.49:3-47 et seq.), or registered or regulated by the Securities and Exchange Commission pursuant to the provisions of the Securities Act of 1933, 15 U.S.C. s.77a et seq., the Securities Exchange Act of 1934, 15 U.S.C. s.78a et seq., the Investment Company Act of 1940, 15 U.S.C. s.80a-1 et seq., or the Investment Advisers Act of 1940, 15 U.S.C. s.80b-1 et seq.

5. This act shall take effect immediately.

Approved January 13, 2008.