

[First Reprint]

ASSEMBLY, No. 3397

STATE OF NEW JERSEY

214th LEGISLATURE

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Sponsored by:

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District 15 (Mercer)

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SYNOPSIS

Regulates deed procurement services.

CURRENT VERSION OF TEXT

As reported by the Assembly Regulated Professions Committee on December 8, 2011, with amendments.



(Sponsorship Updated As Of: 1/10/2012)

1 AN ACT concerning deed ¹**[solicitors]** procurement services¹ and
2 supplementing P.L.1960, c.39 (C.56:8-1 et seq.).
3

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

7 1. As used in this act:

8 “Deed” means a written instrument entitled to be recorded in the
9 office of a county recording officer which purports to convey or
10 transfer title to a freehold interest in any lands, tenements, or other
11 realty in this State by way of grant or bargain and sale thereof from
12 the named grantor to the named grantee. A leasehold interest for 99
13 years or more or a proprietary lease of a cooperative unit and any
14 assignment of a proprietary lease of a cooperative unit, shall be
15 treated as a "freehold" for the purpose of this act. Instruments
16 providing for common driveways; for exchanges of easements or
17 rights-of-way; for revocable licenses to use, to adjust, or to clear
18 defects of or clouds on title; to provide for utility service lines such
19 as drainage, sewerage, water, electric, telephone, or other such
20 service lines; or to quitclaim possible outstanding interests, shall
21 not be "deeds" for the purposes of this act.

22 ¹**[“Deed solicitor”]** “Deed procurement services”¹ means ¹**[any**
23 **person who engages in the business of procuring]** the provision by
24 a non-governmental entity of one or more¹ copies of deeds for
25 lands, tenements, or other realty in this State ¹to a property owner¹,
26 for a fee ¹in excess of the amount authorized under Title 22A of the
27 New Jersey Statutes that the county clerk’s office assesses for
28 providing copies of deeds,¹ and not in relation to the transfer or sale
29 of ¹ , or the mortgage origination, mortgage servicing, mortgage
30 refinancing, property tax servicing, or other action initiated by or on
31 behalf of the owner with respect to,¹ such lands, tenements, or
32 realty.

33 “Director” means the Director of the Division of Consumer
34 Affairs in the Department of Law and Public Safety.

35 ¹**[“Division” means the Division of Consumer Affairs in the**
36 **Department of Law and Public Safety.]**¹
37

38 ¹**[2. a. No person shall procure for a fee, or offer to procure for**
39 **a fee, a copy of any deed for any lands, tenements, or other realty in**
40 **this State unless registered with the Division of Consumer Affairs**
41 **in accordance with the provisions of P.L. , c. (C.) (pending**
42 **before the Legislature as this bill).**

43 b. Every deed solicitor shall annually register with the director.

EXPLANATION – Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹Assembly ARP committee amendments adopted December 8, 2011.

1 Application for registration shall be on a form provided by the
2 division and shall be accompanied by a reasonable fee, set by the
3 director in an amount sufficient to defray the division's expenses
4 incurred in administering and enforcing P.L. , c. (C.)
5 (pending before the Legislature as this bill).

6 c. Every deed solicitor required to register under this act shall
7 file an amended registration within 20 days after any change in the
8 information required to be included thereon. No fee shall be
9 required for the filing of an amendment.】¹

10
11 ¹【3.Any person who advertises in print, or puts out any sign,
12 card, or other device which would indicate to the public that he is a
13 deed solicitor, or who causes his name or business name to be
14 included in a classified advertisement or directory in New Jersey
15 under a classification for deed solicitors covered by this act, is
16 subject to the provisions of P.L. , c. (C.) (pending before the
17 Legislature as this bill). This section shall not be construed to apply
18 to simple residential alphabetical listings in standard telephone
19 directories.】¹

20
21 ¹【4.In addition to any other procedure, condition, or information
22 required by this act:

23 a. The director may refuse to issue or may suspend or revoke
24 any registration issued by him upon proof that the applicant or
25 holder of the registration:

26 (1) has obtained a registration through fraud, deception, or
27 misrepresentation;

28 (2) has engaged in the use or employment of dishonesty, fraud,
29 deception, misrepresentation, false promise, or false pretense;

30 (3) has engaged in gross negligence, gross malpractice, or gross
31 incompetence;

32 (4) has engaged in repeated acts of negligence, malpractice, or
33 incompetence;

34 (5) has engaged in professional or occupational misconduct as
35 may be determined by the director;

36 (6) has had his authority to engage in the activity regulated by
37 the director revoked or suspended by any other state, agency, or
38 authority for reasons consistent with this section; or

39 (7) has violated or failed to comply with the provisions of
40 P.L. , c. (C.) (pending before the Legislature as this bill) or
41 any regulation administered by the director.

42 b. An applicant whose registration is denied, suspended, or
43 revoked pursuant to this section shall, upon a written request
44 transmitted to the director within 30 calendar days of that action, be
45 afforded an opportunity for a hearing in a manner provided for
46 contested cases pursuant to the "Administrative Procedure Act,"
47 P.L.1968, c.410 (C.52:14B-1 et seq.).

1 c. An applicant shall have the continuing duty to provide any
2 assistance or information requested by the director, and to cooperate
3 in any inquiry, investigation, or hearing conducted by the
4 director.】¹

5
6 ¹【5.a. The director may refuse to issue or renew, and may
7 revoke, any registration for failure to comply with, or violation of,
8 the provisions of P.L. , c. (C.) (pending before the
9 Legislature as this bill) or for any other good cause shown within
10 the meaning and purpose of P.L. , c. (C.) (pending before the
11 Legislature as this bill). A refusal or revocation shall not be made
12 except upon reasonable notice to, and opportunity to be heard by,
13 the applicant or registrant.

14 b. The director, in lieu of revoking a registration, may suspend
15 the registration for a reasonable period of time, or assess a penalty
16 in lieu of suspension, or both, and may issue a new registration,
17 notwithstanding the revocation of a prior registration, if the
18 applicant is found to have become entitled to the new registration.】¹

19
20 ¹【6. Any deed solicitor who uses】 2. a. It shall be an unlawful
21 practice and a violation of P.L.1960, c.39 (C.56:8-1 et seq.) for any
22 person to:

23 (1) use¹ a written form of communication to solicit ¹【new】
24 clients ¹【shall:

25 a. Include on】 for deed procurement services unless¹ the
26 written form of communication ¹displays,¹ in a clear, conspicuous,
27 and prominent manner ¹, which makes the information stand out
28 from the rest of the text of the communication,¹ the address and
29 telephone number of the appropriate county clerk's office through
30 which the recipient could obtain a copy of the deed directly,
31 ¹【and】¹ the ¹amount of the¹ fee provided for in Title 22A of the
32 New Jersey Statutes that the county clerk's office assesses for
33 providing copies of deeds ¹【;】¹, and ¹any other language that the
34 director may prescribe by regulation; or

35 (2) create a false impression in a solicitation for deed
36 procurement services that the recipient is in any way legally
37 required to use the person's services in order to obtain a copy of a
38 deed.¹

39 b. ¹【File】 Any person who uses a written form of
40 communication to solicit clients for deed procurement services
41 shall, at least 15 days prior to distribution, provide¹ a copy of such
42 written form of communication ¹【used to solicit new clients with
43 the director and the appropriate】 to the¹ county clerk's office ¹【at
44 least 15 days prior to distribution】 in each of the counties in which
45 the written form of communication will be distributed¹.

1 '【7.It is an unlawful practice and a violation of P.L.1960, c.39
2 (C.56:8-1 et seq.) to violate any provision of P.L. , c. (C.)
3 (pending before the Legislature as this bill).】'

4

5 '【8.】3.' The director, pursuant to the provisions of the
6 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
7 seq.), shall promulgate rules and regulations to effectuate the
8 purposes of this act.

9

10 '【9.】 4.' This act shall take effect '【on the first day of the
11 19th month following enactment, but the Director of the Division of
12 Consumer Affairs may take such anticipatory acts in advance of that
13 date as may be necessary for the timely implementation of this act】
14 immediately'.