

2022 Regular Session

SENATE BILL NO. 291

BY SENATOR LAMBERT

REAL ESTATE. Authorizes the Louisiana Real Estate Appraisers Board to access certain criminal history record information of applicants. (8/1/22)

1 AN ACT

2 To amend and reenact R.S. 44:4.1(B)(23) and to enact R.S. 37:3395.2, relative to the
3 authority of the Louisiana Real Estate Appraisers Board to access certain criminal
4 history record information; to provide for definitions; to provide an exemption to the
5 Public Records Law; to provide for terms, procedures, requirements, and limitations;
6 and to provide for related matters.

7 Be it enacted by the Legislature of Louisiana:

8 Section 1. R.S. 37:3395.2 is hereby enacted to read as follows:

9 **§3395.2. Authorization to obtain criminal history record information**

10 **As used in this Section, the following terms shall have the following**
11 **meanings:**

12 **(1) "Applicant" means any individual who has made application to the**
13 **board for the issuance or reinstatement of any license or certification to**
14 **participate in any appraisal activity in this state that the board is authorized to**
15 **issue by law.**

16 **(2) "Bureau" means the Louisiana Bureau of Criminal Identification and**
17 **Information of the office of state police within the Department of Public Safety**

1 and Corrections.

2 (3) "Criminal history record information" means all state records of
3 arrest, prosecution, conviction, including records expunged or dismissed
4 pursuant to Code of Criminal Procedure Article 893, and national records
5 which shall include fingerprints of the applicant, biometrics, and other
6 identifying information.

7 (4) "FBI" means the Federal Bureau of Investigation of the United States
8 Department of Justice.

9 A. Beginning January 1, 2023, in addition to any other requirements
10 established by law, the board shall request and obtain state and national
11 criminal history record information from the bureau or the FBI regarding each
12 applicant for licensure or certification.

13 B. The board shall do all of the following:

14 (1) Comply with any lawful requirement imposed by the bureau, in
15 accordance with 28 C.F.R. §20.1 et seq. and the Criminal Justice Information
16 Services Security Policy, as periodically amended and approved by the Federal
17 Bureau of Investigation Criminal Justice Information Service Advisory Board.

18 (2) Prescribe a form to be completed by each applicant prior to any
19 fingerprint submission, which shall include at a minimum all of the following:

20 (a) An acknowledgment that any fingerprints submitted to the bureau
21 or board shall be used by the bureau and the board to review the national
22 criminal history records maintained by the FBI.

23 (b) A statement describing how the collected information will be used,
24 retained, and shared by the board.

25 (c) An inquiry requiring the applicant to specifically identify or state the
26 specific reason the applicant has submitted fingerprints to the bureau or the
27 board.

28 (d) A statement providing the procedure and contact information
29 necessary to challenge the accuracy of information contained in the applicant's

1 FBI identification record.

2 (e) Any other notice or information required by the bureau to be
3 disclosed to an applicant prior to the submission of fingerprints.

4 C. The board may require any applicant for licensure to do all of the
5 following:

6 (1) Complete and submit any form or application prescribed by or in any
7 manner required by the bureau, including but not limited to a complete,
8 satisfactory set of the applicant's fingerprints.

9 (2) Permit the board to request and obtain state and national criminal
10 history record information relating to the applicant.

11 D.(1) The provisions of this Section shall not apply to any registrant or
12 licensee who was registered or licensed and in good standing with the board on
13 or before December 31, 2022.

14 (2) Notwithstanding the provisions of Paragraph (1) of this Subsection,
15 any real estate appraiser trainee or residential certified real estate appraiser
16 who is licensed on or before December 31, 2022, and who subsequently applies
17 on or after January 1, 2023, either for licensure as a residential certified real
18 estate appraiser or a certified general real estate appraiser, shall be subject to
19 requirements imposed by this Section.

20 E. Any state or national criminal history record information obtained
21 by the board from the bureau or FBI which is not already a matter of public
22 record shall be deemed nonpublic and confidential information restricted to the
23 exclusive use of the board, its members, officers, investigators, agents, and
24 attorneys in evaluating the applicant's eligibility or disqualification for
25 licensure. No information or records related to the criminal history background
26 shall, except with the written consent of the applicant or by order of a court of
27 competent jurisdiction, be released or otherwise disclosed by the board to any
28 person or agency.

29 Section 2. R.S. 44:4.1(B)(23) is hereby amended and reenacted to read as follows:

1 §4.1. Exceptions

2 * * *

3 B. The legislature further recognizes that there exist exceptions, exemptions,
 4 and limitations to the laws pertaining to public records throughout the revised
 5 statutes and codes of this state. Therefore, the following exceptions, exemptions, and
 6 limitations are hereby continued in effect by incorporation into this Chapter by
 7 citation:

8 * * *

9 (23) R.S. 37:74, 86, 90, 147, 691, 711.10, 763, 763.1, 781, 920.1, 969.1,
 10 1123(E), 1277, 1278, 1285, 1326, 1338.1, 1360.53.1, 1360.104.1, 1518, 1745.15,
 11 1747, 1806, 2156.1, 2406, 2505.1, 2863.1, **3395.2**, 3481, 3507.1

12 * * *

The original instrument was prepared by Xavier Alexander. The following digest, which does not constitute a part of the legislative instrument, was prepared by Cheryl Serrett.

DIGEST

SB 291 Reengrossed

2022 Regular Session

Lambert

Present law provides for the licensure and regulation of real estate appraisers and provides for the duties and powers of the La. Real Estate Appraisers Board (board).

Proposed law requires the board to request and obtain state and national criminal history information.

Proposed law defines applicant, bureau, criminal history record information, and FBI.

Proposed law provides criminal history record information obtained on an applicant shall be used only for the purpose of determining licensure or reinstatement of the applicant's eligibility.

Proposed law provides that the board shall do all of the following:

- (1) Comply with any lawful requirement imposed by the bureau.
- (2) Prescribe a form to be completed by each applicant prior to fingerprint submission and provides, at a minimum, what is to be included on the form.

Proposed law provides that the board may require an applicant to do the following:

- (1) Complete any form or application required by the bureau, including a set of applicant's fingerprints.
- (2) Permit the board to request and obtain applicant's criminal history record.

Proposed law shall not apply to any licensee that is in good standing with the board on or before December 31, 2022.

Proposed law provides that any registered trainee or licensed appraiser, who is registered on or before December 1, 2022, and who subsequently applies for licensure as a certified real estate appraiser or a certified general real estate appraiser on or after January 1, 2023, is subject to the provisions of proposed law.

Present law provides relative to Public Records Law.

Proposed law provides that certain criminal history record information received by the board from the bureau shall be nonpublic and confidential and exempt from the Public Records Law.

Effective August 1, 2022.

(Amends R.S. 44:4.1(B)(23); adds R.S. 37:3395.2)

Summary of Amendments Adopted by Senate

Committee Amendments Proposed by Senate Committee on Commerce, Consumer Protection, and International Affairs to the original bill

1. Defines "criminal history record information" as all state records of arrest, prosecution, conviction, including records expunged or dismissed pursuant to Code of Criminal Procedure Article 893, and national records which shall include fingerprints of the applicant, biometrics, and other identifying information.

Senate Floor Amendments to engrossed bill

1. Removes provisions relative to payments for administrative costs to the bureau.