

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 information collected
3 by state and federal criminal justice agencies on individuals consisting of
4 identifiable descriptions and notations of arrests, detentions, indictments, bills
5 of information, or any formal criminal charges, and any disposition arising
6 therefrom, including sentencing, criminal correctional supervision, and release,
7 but does not include intelligence information gathered for investigatory
8 purposes or any identification information that does not indicate involvement
9 of the individual in the criminal justice system.

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

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

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

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

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

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

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

28 (c) An inquiry requiring the applicant to specifically identify or state the
29 specific reason the applicant has submitted fingerprints to the bureau or the

1 board.

2 (d) A statement providing the procedure and contact information
3 necessary to challenge the accuracy of information contained in the applicant's
4 FBI identification record.

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

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

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

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

14 (3) Pay to the bureau an amount equal to the administrative costs
15 imposed by or on behalf of the bureau, relating to submission and processing
16 of applicant's fingerprints for review of criminal history record information.

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

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

26 E. Any state or national criminal history record information obtained
27 by the board from the bureau or FBI which is not already a matter of public
28 record shall be deemed nonpublic and confidential information restricted to the
29 exclusive use of the board, its members, officers, investigators, agents, and

1 attorneys in evaluating the applicant's eligibility or disqualification for
2 licensure. No information or records related to the criminal history background
3 shall, except with the written consent of the applicant or by order of a court of
4 competent jurisdiction, be released or otherwise disclosed by the board to any
5 person or agency.

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

7 §4.1. Exceptions

8 * * *

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

14 * * *

15 (23) R.S. 37:74, 86, 90, 147, 691, 711.10, 763, 763.1, 781, 920.1, 969.1,
16 1123(E), 1277, 1278, 1285, 1326, 1338.1, 1360.53.1, 1360.104.1, 1518, 1745.15,
17 1747, 1806, 2156.1, 2406, 2505.1, 2863.1, **3395.2**, 3481, 3507.1

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The original instrument and the following digest, which constitutes no part
of the legislative instrument, were prepared by Xavier I. Alexander.

SB 291 Original DIGEST 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.
- (3) Pay the bureau an amount equal to administrative cost imposed by the bureau for the submission and processing of fingerprints for review of criminal history record information.

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)