

**CHAPTER 5**

**REAL ESTATE COMMISSION**

**Authority**

N.J.S.A. 45:15-6, 45:15-10.4, 45:15-16.49, 45:15-17(t) and 45:15-17.4.

**Source and Effective Date**

R.1998 d.497, effective September 14, 1998.  
See: 30 N.J.R. 2333(a), 30 N.J.R. 3646(a).

**Executive Order No. 66(1978) Expiration Date**

Chapter 5, Real Estate Commission, expires on September 14, 2003.

**Chapter Historical Note**

Chapter 5, Real Estate Commission, was filed and became effective prior to September 1, 1969. Pursuant to Executive Order No. 66(1978), Chapter 5 expired on August 2, 1983.

Chapter 5, Real Estate Commission, was adopted as new rules by R.1983 d.471, effective November 7, 1983. See: 15 N.J.R. 1343(a), 15 N.J.R. 1865(c).

Pursuant to Executive Order No. 66(1978), Chapter 5, Real Estate Commission, was readopted as R.1988 d.555, effective October 28, 1988. See: 20 N.J.R. 2184(a), 20 N.J.R. 3019(a).

Subchapter 2, Organizational Rules, was adopted as R.1989 d.258, effective April 19, 1989. See: 21 N.J.R. 1364(a).

Subchapter 3, Petitions for Rulemaking, Subchapter 4, Proceedings before the Commission, and Subchapter 5, Appeals of Initial Denials of Licensing Applications, were adopted as R.1989 d.429, effective August 21, 1989. See: 21 N.J.R. 1315(a), 21 N.J.R. 2524(a).

Subchapter 6, Rules Interpreting and Implementing the Real Estate Sales Full Disclosure Act, N.J.S.A. 45:15-16.27 et seq., was adopted as R.1990 d.455, effective September 17, 1990. See: 22 N.J.R. 1421(a), 22 N.J.R. 2969(d).

Pursuant to Executive Order No. 66(1978), Chapter 5, Real Estate Commission, was readopted as R.1993 d.552, effective October 15, 1993. See: 25 N.J.R. 3597(b), 25 N.J.R. 5229(a).

Pursuant to Executive Order No. 66(1978), Chapter 5, Real Estate Commission, was readopted as R.1998 d.497, effective September 14, 1998. As a part of R.1998 d.497, effective October 5, 1998, sections 1.1 through 1.44 of Subchapter 1, Rules and Regulations, were recodified as Subchapter 2, Education; Subchapter 3, Licensing; Subchapter 4, Employment Practices/Office and Licensee Supervision; Subchapter 5, Trust Accounts/Records of Brokerage Activity; Subchapter 6, Conduct of Business; Subchapter 7, Prohibited Activities; and Subchapter 8, Disciplinary Actions/Conditions for Restoration of License/Real Estate Guaranty Fund Claims. Also as a part of R.1998 d.497, effective October 5, 1998, Subchapter 2, Organizational Rules, was recodified as Subchapter 1; Subchapter 6, Rules Interpreting and Implementing the Real Estate Sales Full Disclosure Act, N.J.S.A. 45:15-16.27 et seq., was recodified as Subchapter 9; Subchapter 3, Petitions for Rulemaking, was recodified as Subchapter 10; Subchapter 4, Proceedings before the Commission, was recodified as Subchapter 11, Procedures on Disciplinary Actions, Contested Applications, Declaratory Ruling Requests; and Subchapter 5, Appeals of Initial Denials of Licensing Applications, was recodified as section 11.10. See: Source and Effective Date. See, also, section annotations.

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**SUBCHAPTER 1. ORGANIZATIONAL RULES**

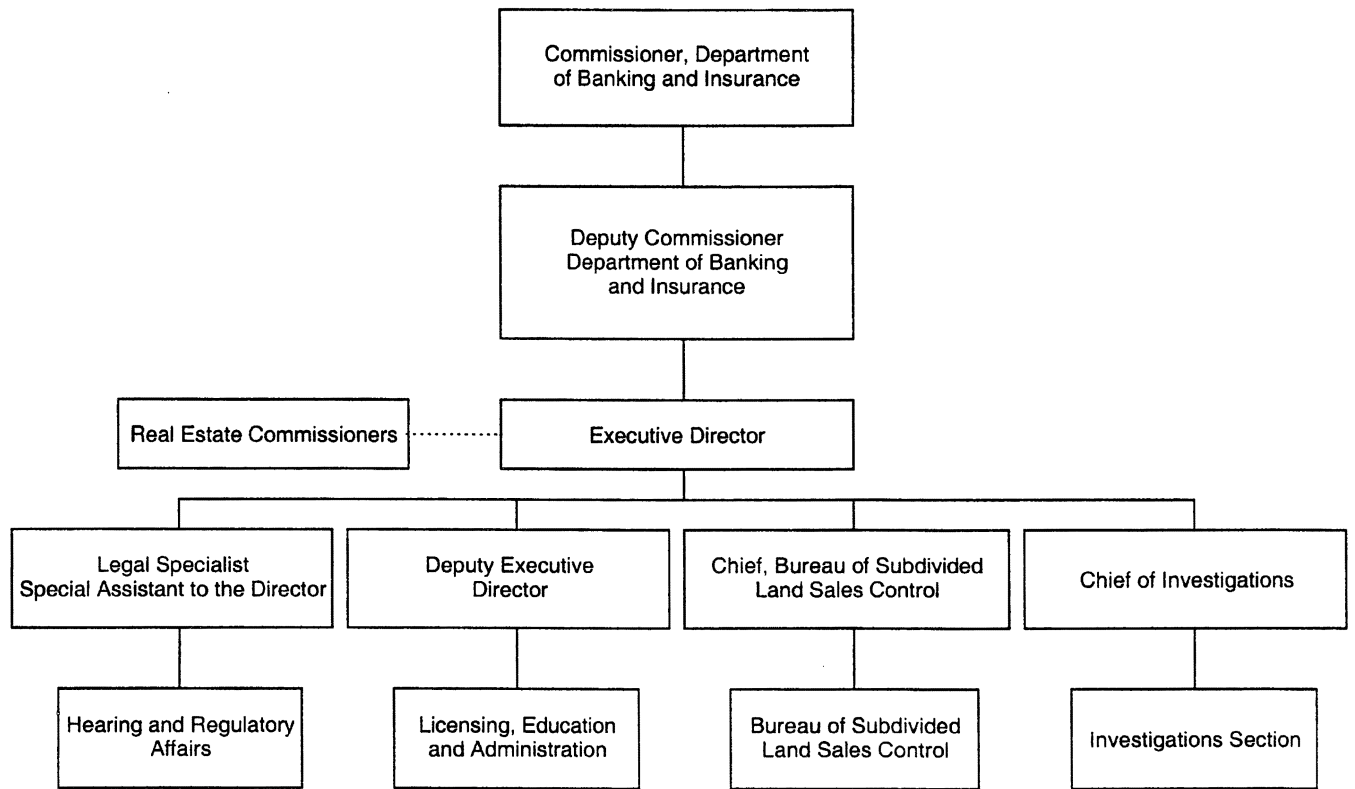
**11:5-1.1 Commission responsibilities**

The Real Estate Commission is responsible for the supervision and regulation of the education, examination and licensing of real estate brokers and salespersons, the regulation of the sale or lease of out-of-state properties to New Jersey residents through promotional activities in New Jersey, the investigation and adjudication of disciplinary actions against licensees, and the administration of the Real Estate Guaranty Fund.

**11:5-1.2 Organization of the Commission**

The organization chart of the Real Estate Commission is as follows:

(OFFICE OF ADMINISTRATIVE LAW NOTE: The following chart is adopted as a replacement for the chart currently part of N.J.A.C. 11:5-1.2.)



Amended by R.1989 d.324, effective May 24, 1989.  
 See: 21 N.J.R. 1364(a), 21 N.J.R. 1709(a).  
 Amended by R.1998 d.497, effective October 5, 1998.  
 See: 30 N.J.R. 2333(a), 30 N.J.R. 3646(a).  
 Updated the Commission Organization Chart.  
 Amended by R.1999 d.15, effective December 15, 1998.  
 See: 31 N.J.R. 544(a).  
 Updated the Commission Organization Chart.

**11:5-1.3 Functions of the Commission**

(a) The Commission is comprised of six sections whose functions are as follows:

1. The Licensing Section is responsible for processing license applications, transfers, terminations, renewals and upgrades, and for providing licensing information to the public and to licensees.
2. The Investigations Section is responsible for investigating the qualifications of applicants for licensure, and for investigating complaints against licensed brokers or sales-persons or individuals who have allegedly engaged in the business of a real estate broker or a salesperson without being licensed to do so.

3. The Real Estate Education Section is responsible for reviewing the qualifications of real estate school and instructor applicants and for regulating their activities as such through the Education Subsection.

4. The Bureau of Subdivided Land Sales Control within the Investigations Section is responsible for enforcing the provisions of the Land Sales Full Disclosure Act. Its duties include, but are not limited to reviewing applications for the registration of new projects, conducting inspections of conditionally registered projects, and reviewing applications for the renewal of projects.

5. The Administration Section is responsible for the budget and accounting functions and also for ensuring that personnel operate in a manner which will accomplish their designated duties in conjunction with the staff of the Department of Banking and Insurance. It is also responsible for other functions including administration of the Real Estate Guaranty Fund.

6. The Hearings and Regulatory Affairs Section is responsible for processing the rulemaking activity of the Commission, the scheduling and processing of contested cases, the prosecution of certain contested matters, and other functions.

Amended by R.1989 d.324, effective May 24, 1989.  
See: 21 N.J.R. 1709(a).

At (a)3, reference to Education Subsection added to end of sentence.  
Amended by R.1998 d.497, effective October 5, 1998.  
See: 30 N.J.R. 2333(a), 30 N.J.R. 3646(a).  
Rewrote (a).

#### **11:5-1.4 Information available to the public**

With the exception of the records designated as non-public in N.J.A.C. 11:5-2.5(g), the public may obtain information or make submissions or requests concerning any Commission functions by contacting the Real Estate Commission, Department of Banking and Insurance, PO Box 328, Trenton, New Jersey 08625-0328.

Amended by R.1998 d.497, effective October 5, 1998.  
See: 30 N.J.R. 2333(a), 30 N.J.R. 3646(a).  
Rewrote the section.

#### **11:5-1.5 Commission records open to public inspection; investigative files not open to the public**

(a) The New Jersey Real Estate Commission makes, maintains and keeps records as listed in (b) through (g) below.

(b) Current and computerized public licensing records are available at the Commission's office for inspection and copying during normal business hours upon sufficient notice to the Commission staff. The Commission staff may require several weeks notice to locate records other than computerized records. Except as otherwise noted in this section, records are maintained for a minimum of three years. Older records may be unavailable. Copies of records can be purchased from the Commission at the fees established in the Right to Know Law, N.J.S.A. 47:1A-2.

(c) Requests for certified copies of the Commission's public licensing records (or for a certificate of the absence of a public record) shall be submitted in writing and must specify which records are requested and the time period covered by the request. The Commission staff requires at least 10 working days to provide certified copies of public records.

(d) The following records are maintained pursuant to the Real Estate Licensing Act:

1. Certifications of license history and status based upon computerized licensing records;

2. Real estate broker, broker-salesperson, salesperson, school and instructor license applications, and materials submitted therewith to obtain, transfer, reinstate or renew such licenses, and the final disposition of such applications. However, criminal history information obtained by the Commission pursuant to N.J.A.C. 11:5-3.3 and personal data on a licensee such as home address, home telephone number and date of birth are considered confidential;

3. Real Estate Commission meeting minutes;

4. Orders to Show Cause and complaints issued by the Attorney General's office charging that a licensee or an unlicensed person has violated provisions of the Real Estate License Act or the Commission's administrative rules; documents accepted into the agency record in any such proceeding; and the final disposition of such proceedings including settlements; and

5. Notices, proposals and other records concerning rulemaking required to be kept or distributed to the public by the Commission pursuant to the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq. and N.J.A.C. 1:30-3 and 4 et seq. Complete records of unadopted proposals are available for one year after publication of the proposal. Complete records of adopted rules are available for three years after each rule's effective date.