

5. A builder acting as a mortgage broker incident to the builder's own construction or for the sale of the builder's construction; and

6. A registered solicitor employed by a licensed mortgage banker who acts on behalf of the mortgage banker, and a registered solicitor employed by a licensed mortgage broker who acts as a broker on behalf of the mortgage broker. A person who is simultaneously employed as a solicitor by more than one licensee shall not qualify for this exemption and must be licensed.

Amended by R.1992 d.431, effective November 2, 1992 (operative January 1, 1993).

See: 24 N.J.R. 1937(a), 24 N.J.R. 4032(a).

Added text to (a)4.

Case Notes

Defining phrase "the business of a mortgage banker or broker" by amount charged for mortgage services, and including real estate brokers charging more than \$250 for helping buyer obtain mortgage, was reasonable. Mortgage Bankers Ass'n of New Jersey v. New Jersey Real Estate Com'n, 283 N.J.Super. 233, 661 A.2d 832 (A.D. 1995).

3:38-5.3 Registration of solicitors

(a) Before acting as a solicitor for a licensee, an individual must be registered with the Department for that licensee.

(b) To register a solicitor, the prospective employing licensee shall send the following to the Department of Banking:

1. A completed registration form, which shall include the solicitor's name, birth date and residence address and the name of the employing licensee; and

2. A \$50.00 registration fee which is payable every two years upon renewal. A solicitor who changes employing mortgage banker or broker within the two-year registration period must be re-registered by the new employing licensee by filing a new registration form with the \$50.00 fee. The employing licensee may obtain a duplicate certificate for \$10.00 in the event the original certificate is lost or destroyed.

(c) The Department shall provide all licensees with a solicitor registration certificate which shall be renewable every two years. The registration shall run from January 1, 1993 to December 31, 1994, and for two-year intervals thereafter.

(d) The registration certificate shall contain the name of the solicitor, the name of the employing licensee, and the address of the principal office of the employing licensee.

The employing licensee shall display the registration certificate at the office or work station of the solicitor.

(e) Within 30 calendar days after a solicitor ceases his or her affiliation with a licensee, the licensee shall return the registration certificate to the Department. It is not necessary for a licensee to return the registration certificate of a solicitor who changes from one branch location of the licensee to another branch office of that licensee.

(f) The Commissioner shall refuse to register any person who changes affiliation two or more times in the calendar year if the Commissioner determines that the change is for the purpose of evading the licensing requirements of the Act.

New Rule, R.1992 d.226, effective June 1, 1992 (operative January 1, 1993).

See: 23 N.J.R. 3406(b), 23 N.J.R. 3686(c), 24 N.J.R. 2048(b).

Amended by R.1992 d.431, effective November 2, 1992 (operative January 1, 1993).

See: 24 N.J.R. 1937(a).

Revised (b)2 and (c).

Amended by R.1994 d.629, effective December 19, 1994.

See: 26 N.J.R. 4124(b), 26 N.J.R. 4999(a).

SUBCHAPTER 6. APPEAL PROCEDURE

3:38-6.1 Appeal procedure

(a) Before any license is denied, suspended or revoked, or before any penalties are assessed against a licensee, the Commissioner shall afford the aggrieved party a hearing, if requested in writing and received by the Department within 20 days of receipt by the aggrieved party of an order to show cause asking why the denial, suspension, revocation or penalty should not be taken or assessed. The order to show cause shall clearly set forth the ground or grounds upon which the contemplated action is based.

(b) For a period not to exceed 30 days following receipt of the request for a hearing, the Department shall attempt to settle the dispute by conducting such proceedings, meetings and conferences as it deems appropriate.

(c) If these efforts at settlement fail, the Department shall proceed according to the applicable provisions of the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq. and N.J.S.A. 52:14F-1 et seq., as implemented by N.J.A.C. 1:1, the Uniform Administrative Procedures Rules of Practice.