

Subsections (c) and (e) deleted, recodification.
New Rule, R.1985 d.601, effective November 18, 1985.
See: 17 N.J.R. 2230(a), 17 N.J.R. 2779(a).

Repealed this section dealing with "Fingerprinting" and adopted New Rule.

Amended by R.1995 d.23, effective January 17, 1995.

See: 26 N.J.R. 3111(a), 27 N.J.R. 370(a).

11:5-3.4 Examination rules

(a) In the administration of examinations for licensure as a real estate broker, broker-salesperson or salesperson, the following examination rules shall apply:

1. Examinees shall not be permitted to refer to any notes, books, or memoranda.

2. The copying of questions or making of notes for personal use is strictly prohibited.

3. No examinee shall leave the examining room except at the discretion of the examiner.

4. The real estate broker license and salesperson license examinations, required by N.J.S.A. 45:15-10 to be taken and successfully passed by all applicants for a real estate broker, broker-salesperson or salesperson license before said license may be issued, shall be in the form of a multiple choice examination prepared by a testing service as designated by the Commission. Fees charged applicants to take the real estate examinations shall be considered service fees to be paid directly to the testing service separate and apart from any fee required by N.J.S.A. 45:15-9 to be paid to the Commission at the time of the license application.

(b) A request for special accommodations may be made if the applicant qualifies for such accommodations as provided in the Americans With Disabilities Act or any other applicable law. Such requests shall initially be made to the firm administering the licensing examinations. The Commission shall retain final authority to determine whether such requests shall be granted.

As amended, R.1972 d.168, effective August 26, 1972.

See: 4 N.J.R. 160(d), 4 N.J.R. 190(a).

As amended, R.1973 d.43, effective February 5, 1973.

See: 5 N.J.R. 13(b), 5 N.J.R. 86(b).

As amended, R.1973 d.306, effective October 25, 1973.

See: 5 N.J.R. 350(a), 5 N.J.R. 338(a).

As amended, R.1983 d.471, effective November 7, 1983.

See: 15 N.J.R. 1343(a), 15 N.J.R. 1865(c).

"Salesman" replaced by "salesperson".

Amended by R.1995 d.23, effective January 17, 1995.

See: 26 N.J.R. 3111(a), 27 N.J.R. 370(a).

Amended by R.1998 d.497, effective October 5, 1998.

See: 30 N.J.R. 2333(a), 30 N.J.R. 3646(a).

Rewrote (b).

11:5-3.5 Requests for disclosure of social security numbers

(a) The Commission may request that licensees and license applicants, including registrants for license examinations, submit their social security numbers to the

Commission. All such requests shall either include or be accompanied by a notice stating:

1. The purpose or purposes for which the Commission intends to use the social security numbers;

2. That disclosure made pursuant to the request is either voluntary or mandatory; and

3. That the request is authorized by this section and by such other law as may be applicable.

New Rule, R.1994 d.268, effective June 20, 1994 (operative July 1, 1994).

See: 26 N.J.R. 735(a), 26 N.J.R. 1222(a), 26 N.J.R. 2585(a).

Repeal and New Rule, R.1997 d.160, effective April 7, 1997.

See: 29 N.J.R. 302(a), 29 N.J.R. 1324(c).

Section was "Collection of Social Security numbers of licensees".

11:5-3.6 Salesperson's license; age requirement

(a) No salesperson's license shall be issued to any person who has not attained the age of 18 years.

(b) Every applicant for licensure as a salesperson shall present with his/her application for licensure a certificate of satisfactory completion of a course of education in real estate subjects at a school licensed by the Commission pursuant to N.J.S.A. 45:15-10.1(a) and 10.4 and N.J.A.C. 11:5-2.2, unless waived by the Commission in accordance with the provisions of N.J.S.A. 45:15-10.2.

(c) An applicant must apply for and request the issuance of a salesperson's license not later than one year after the date of successful completion of the course prescribed at N.J.A.C. 11:5-2.1. Any person who fails to apply for the issuance of a salesperson's license within the one year period shall be required to retake and successfully complete the prescribed course in real estate and the examination.

(d) All applicants for licensure as a salesperson shall certify that they possess a high school education or equivalency. The Commission may require the production of evidence of such education or equivalency as a condition to issuing a license to any applicant.

As amended, R.1973 d.214, effective August 2, 1973.

See: 5 N.J.R. 228(f), 5 N.J.R. 316(a).

As amended, R.1974 d.307, effective November 13, 1974.

See: 6 N.J.R. 246(c), 6 N.J.R. 478(e).

As amended, R.1981 d.261, effective July 9, 1981.

See: 13 N.J.R. 306(a), 13 N.J.R. 440(c).

(b) "On or after September 1, 1967" deleted; "for licensure as a salesman" added.

(d) added.

As amended, R.1983 d.471, effective November 7, 1983.

See: 15 N.J.R. 1343(a), 15 N.J.R. 1865(c).

"Salesman" changed to "salesperson".

As amended, R.1984 d.218, effective June 4, 1984.

See: 16 N.J.R. 489(a), 16 N.J.R. 1352(a).

New subsections (d) through (f) added.

Amended by R.1995 d.23, effective January 17, 1995.

See: 26 N.J.R. 3111(a), 27 N.J.R. 370(a).

Amended by R.1998 d.497, effective October 5, 1998.

See: 30 N.J.R. 2333(a), 30 N.J.R. 3646(a).

In (b) and (c), changed N.J.S.A. and N.J.A.C. references; rewrote (d); and deleted former (e) through (f).

11:5-3.7 Employment of salesperson sponsored by broker

No broker shall knowingly sponsor an applicant for licensure as a real estate salesperson who does not bear a good reputation for honesty and fair dealings.

As amended, R.1983 d.471, effective November 7, 1983.

See: 15 N.J.R. 1343(a), 15 N.J.R. 1865(c).

"Salesman" replaced by "salesperson".

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); and deleted former (b).

11:5-3.8 Qualifications for licensing; broker and broker-salesperson

(a) All references in this section to "brokers" shall include broker-salespersons. The experience requirement for licensure as a broker imposed by N.J.S.A. 45:15-9 is construed to require a demonstration by the applicant of their commitment to real estate brokerage as their primary vocation, as evidenced by their involvement in the real estate brokerage business on a full-time basis.

1. With the exception of persons licensed as brokers in other states, all applicants for licensure as a broker must have been continuously licensed and employed on a full-time basis as a real estate salesperson during the three years immediately preceding their application. Such full-time employment shall be demonstrated by a showing that:

i. The applicant has worked as a salesperson under the authority of the broker(s) with whom they were licensed for at least 40 hours per week and during the hours of approximately 10:00 A.M. to 8:00 P.M.;

ii. Such work in (a)1i above was performed during any five days in each week of the three year period; and

iii. If the applicant was employed in any other occupation during the three year period, such other employment was on a part-time basis and did not exceed 25 hours per calendar week.

2. No applications for approval of an applicant's experience to qualify for licensure as a broker shall be made until an applicant:

i. Has been continuously licensed as a salesperson for at least the three years immediately preceding such application;

ii. Has completed the 90-hour general broker's prelicensure course and the two 30-hour courses referred to in N.J.A.C. 11:5-2.1(g).

(b) The Commission shall give due consideration to the following in reviewing the experience of an applicant:

1. Evidence of having been actively involved in the real estate brokerage business as a real estate salesperson on a full-time basis during each year of the three year period. Written statements by the brokers with whom the applicant was licensed during the three year period which certify the applicant's activity as a salesperson while licensed through those brokers must be submitted.

2. Applicants and/or brokers may also be required to submit supporting documentation relating to the closed transactions on which the applicant received compensation as a salesperson from the broker, or to supply other evidence of full-time activity, such as extensive involvement in a specialized field of real estate brokerage.

3. In no event will an applicant whose brokerage activity was limited to solely making referrals to other licensees be deemed to have fulfilled the full-time, active involvement in the brokerage business requirement for licensure.

(c) Broker-salespersons shall meet the same qualifications as brokers, including the qualifications as set forth in (a) and (b) above. A person licensed as a broker-salesperson must be employed by and act under the supervision of a duly licensed real estate broker and shall not independently maintain an office or escrow account. A broker-salesperson may be authorized to serve as an office supervisor or a branch office in accordance with the provisions of N.J.S.A. 45:15-12.

(d) Every applicant for licensure as a broker or broker-salesperson shall present with his or her application for licensure examination a certificate of satisfactory completion of courses in real estate and related subjects at a school licensed by the Commission or offered by another approved provider pursuant to N.J.S.A. 45:15-10.1(b) and N.J.A.C. 11:5-2.1 and 2.2, unless waived by the Commission in accordance with the provisions of N.J.S.A. 45:15-10.2 and N.J.A.C. 11:5-2.1.

(e) An applicant must pass the State broker license examination and apply for and request the issuance of a license as a broker or broker-salesperson not later than one year after successful completion of the 150-hour broker prelicensure education requirements. Any person who fails to apply for the issuance of a license as a broker or broker-salesperson within the said one year time period shall be required to retake and successfully complete all prescribed courses and the examination and must submit evidence of having again fulfilled the experience requirement during the three years immediately preceding the new application.

As amended, R.1972 d.150, effective July 27, 1972.

See: 4 N.J.R. 160(d), 4 N.J.R. 190(a).

As amended, R.1974 d.307, effective November 13, 1974.

See: 6 N.J.R. 246(c), 6 N.J.R. 478(e).

As amended, R.1981 d.261, effective July 9, 1981.

See: 13 N.J.R. 306(a), 13 N.J.R. 440(c).

Substantially amended.

As amended, R.1983 d.471, effective November 7, 1983.

See: 15 N.J.R. 1343(a), 15 N.J.R. 1865(c).

Former subsections (a) and (f) deleted, recodified, "salesman" changed to "salesperson".

Amended by R.1987 d.68, effective January 20, 1987.

See: 18 N.J.R. 1782(a), 19 N.J.R. 232(a).

Deleted text in (a) "full-time during his apprenticeship as a salesperson" and added text "on a full . . . per calendar week."

Amended by R.1994 d.56, effective February 7, 1994 (operative July 1, 1994).

See: 25 N.J.R. 4849(b), 26 N.J.R. 798(a).

Amended by R.1998 d.497, effective October 5, 1998.

See: 30 N.J.R. 2333(a), 30 N.J.R. 3646(a).

In (a)2ii and (d), changed N.J.A.C. references.

Case Notes

Real estate salesman was not authorized to sue to collect commission to which employer may have been entitled. *Harper-Lawrence, Inc. v. United Merchants and Mfrs., Inc.*, 261 N.J.Super. 554, 619 A.2d 623 (A.D.1993), certification denied 134 N.J. 478, 634 A.2d 525.

Real estate licensing law exemption for attorneys held only to authorize attorneys to sell or rent real estate incidental to their normal practice of law; denial of broker's license to attorney who did not meet statutory apprenticeship and testing requirements upheld. *Spirito v. State, New Jersey Real Estate Commission*, 180 N.J.Super. 180, 434 A.2d 623 (App.Div.1981).

Unlicensed real estate business must cease and desist engaging in real estate brokerage activity. *New Jersey Real Estate Commission v. Goldstar Capital, Inc.*, 97 N.J.A.R.2d (REC) 35.

11:5-3.9 Return of license when broker ceases to be active; office closing; change of broker of record

(a) Each broker who ceases to be active shall immediately return to the Commission his license, and licenses of all salespersons and broker-salespersons for cancellation.

(b) Each employee's license must be accompanied by a letter terminating employment in compliance with N.J.S.A. 45:15-14.

(c) No broker engaging in the real estate brokerage business as a sole proprietor, as a broker of record of a partnership or as a broker of record of a corporation shall be relicensed as broker or salesperson unless within 30 days of the date of which the broker ceases engaging in the real estate brokerage business he or she shall complete and submit an affidavit to the Commission certifying that:

1. The broker's license, the corporate or partnership license, and the licenses of all salespersons and broker-salespersons have been returned to the Commission for cancellation;

2. The broker's trust account has been closed and that all funds held in trust for others have been disbursed to proper parties;

3. All commissions owed to salespersons and broker-salespersons have been paid, or, if not yet received by the broker, will be paid upon receipt;

4. No further commissions are due the broker except that any commissions for services previously rendered and payable in the future upon the occurrence of specified events are described on a list attached to the affidavit. The list shall describe the nature and amounts of such outstanding commissions with sufficient information to identify each transaction;

5. The broker has notified all principals in ongoing transactions, in writing, that the broker has ceased engaging in the real estate brokerage business or that the broker will hereinafter engage in the real estate brokerage business in another capacity. The notice shall describe the disposition of pending transactions and the name of custodian and place of deposit of any funds received from principals;

6. The broker has removed from the licensed premises all signs indicating that the premises contains the office of a licensed real estate broker;

7. The broker has recalled all signs and other advertisements or trade materials indicating that the broker is engaged in the real estate brokerage business;

8. The broker has advised the appropriate telephone services that the firm is no longer engaged in the real estate brokerage business, and that further telephone directories should not contain the name of the individual or firm as licensed brokers;

9. There are no outstanding fines or penalties due and owing the Real Estate Commission;

10. The broker acknowledges his or her responsibility to maintain records as required in N.J.A.C. 11:5-5.4. The broker must provide the address of the place of depository of such records and acknowledge responsibility to advise the Commission of any change in the name of the custodian or place of depository for a period of six years.

(d) When a new broker of record of a corporation or partnership is being substituted for the existing broker of record, the existing broker of record satisfies the certification requirements of (c) above when in compliance with the substitution procedures of (e) below.

(e) No new broker of record of a corporation or partnership shall be substituted unless the new broker of record and the former broker of record prepare and submit a joint affidavit to the Commissioner certifying that:

1. Custody of all funds held in trust for principals has been assumed by the new broker of record;

2. The new broker of record has reviewed all pending transactions and is satisfied that all funds held in trust have been accounted for;

3. All salespersons' commissions are paid to date;

4. The new broker acknowledges responsibility to pay salespersons' commissions in accordance with the policy for payment existing on the date of substitution;

5. No fines are presently owed to the Real Estate Commission, and if any fines are assessed after the date of substitution for actions occurring prior to substitution, both the former broker and new broker are jointly and severally responsible for payment;

6. All signs and advertisements have been changed to reflect the broker now authorized to transact business in the name of the firm;

7. All records required to be maintained pursuant to N.J.A.C. 11:5-5.4 have been turned over to the new broker, and the new broker acknowledges responsibility to maintain such records for a period of six years;

8. The new broker acknowledges that he or she will be responsible to transact business in the name and on behalf of the firm.

As amended, R.1983 d.471, effective November 7, 1983.

See: 15 N.J.R. 1343(a), 15 N.J.R. 1865(c).

"Salesman" changed to "salesperson", language simplified.

Amended by R.1985 d.186, effective April 15, 1985.

See: 16 N.J.R. 2228(b), 17 N.J.R. 970(b).

Amended by R.1998 d.497, effective October 5, 1998.

See: 30 N.J.R. 2333(a), 30 N.J.R. 3646(a).

In (c), changed N.J.A.C. reference and deleted "permanent type" following "maintain" in 10; and in (e), changed N.J.A.C. reference in 7.

11:5-3.10 Sponsoring of license applications or transfers of license

(a) The New Jersey Real Estate Commission, Department of Insurance, hereby grants to brokers of record or employing brokers the right to have initial applications for licenses of salespersons or broker-salespersons who will be in their employ sponsored by one other person, other than the authorized broker of record or employing broker. This other person must be the holder of a broker's license and an officer of the broker of record's corporation or a member of his or her partnership, as the case may be. In the event the employing broker is a sole proprietor, such a designee shall be licensed as a broker-salesperson in the employ of the employing broker. The broker of record or employing broker, as applicable, shall file with the New Jersey Real Estate Commission a power of attorney granting this authority to the designated person at least 10 days prior to delegating performance of the function of that person.

(b) Any employing broker or broker of record may authorize one individual in their employ to sign and surrender to the Real Estate Commission, in accordance with the requirements of N.J.S.A. 45:15-14, the real estate salesperson or broker-salesperson license of any licensee whose employment relationship with that employing broker or broker of record is terminated. The employing broker or broker of record shall, on a form to be provided by the Commission, notify the Commission in writing of the designation of the employee so authorized, which person need not be the holder of a real estate license. The form designating the authorized person shall be filed with the Real Estate Commission at least 10 days prior to delegating performance of the function of that person. The employing broker or broker of record shall immediately notify the Real Estate Commission in writing in the event that, for any reason, the authority of the person so designated to perform that function is revoked, and shall indicate whether a new designee is to be named. Only the employing broker or broker of record and one other person duly designated and identified to the Real Estate Commission as provided in this section may perform the said license transfer functions at any one time.

R.1972 d.127, effective June 28, 1972.

See: 4 N.J.R. 71(a).

Amended by R.1983 d.471, effective November 7, 1983.

See: 15 N.J.R. 1343(a), 15 N.J.R. 1865(c).

"Salesman" replaced by "salesperson".

Amended by R.1987 d.119, effective March 2, 1987.

See: 18 N.J.R. 2418(a), 19 N.J.R. 409(b).

Substantially amended.

11:5-3.11 Expediting of license issuance and transfer procedures

(a) For the purpose of expediting the right of licensees to engage in real estate activities, where license certificates cannot be issued without delay after all conditions have been fulfilled, the Commission directs that a certificate of authority in the form of a letter to the licensee be sent to serve as a temporary license for a limited period of time.

(b) In cases where a licensee who is transferring from one broker to another requests that their current broker deliver their license to them, rather than return it to the Commission, so as to expedite the transfer process, the license shall be so delivered, provided that:

1. The rear of the license certificate is signed and dated by the terminating broker in the appropriate location prior to the delivery of the license to the departing licensee;

2. At the time of the delivery of the license to the departing licensee, the termination confirmation section of the license, reflecting the effective date of the licensee's separation from that broker, has been completed, signed and retained by the terminating broker; and

3. Within five business days of the delivery of the license to the departing licensee, the terminating broker shall mail to the Commission the completed and signed termination confirmation section of the license and send a copy of it to the departing licensee at their last known residence address.

(c) A transferring licensee who receives their license from the terminating broker after that broker has signed the license and entered the date of termination on it may then take that license to their new employing broker. Prior to the transferring person commencing work as a licensee for the new employing broker, that broker shall:

1. Enter on the license in the appropriate location the effective date of the individual's employment with that broker and sign the license as the new employing broker;

2. Detach the temporary license stub portion from the main license document and place it with the licenses of the other persons licensed with that broker; and

3. Mail to the Commission the dated and signed license of the transferring individual with the required transfer fee (see N.J.S.A. 45:15-14) in the form of a certified or cashier's check or money order or broker's business account check. See N.J.A.C. 11:5-3.2.