

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.2009 d.287, effective August 27, 2009.
See: 41 N.J.R. 1381(a), 41 N.J.R. 3440(a).

Chapter Expiration Date

In accordance with N.J.S.A. 52:14B-5.1b, Chapter 5, Real Estate Commission, expires on August 27, 2016. See: 43 N.J.R. 1203(a).

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

Chapter 5, Real Estate Commission, was readopted as R.2004 d.130, effective March 5, 2004. See: 35 N.J.R. 4812(a), 36 N.J.R. 1780(a).

Subchapter 9A, Rules Interpreting and Implementing the New Jersey Real Estate Timeshare Act, N.J.S.A. 45:15-16.50 et seq., was adopted as new rules by R.2009 d.222, effective July 6, 2009. See: 40 N.J.R. 3944(a), 41 N.J.R. 2663(a).

Chapter 5, Real Estate Commission, was readopted as R.2009 d.287, effective August 27, 2009. 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 organizational chart of the Division of the Real Estate Commission is as follows:

iv. Instruction on proper qualification and pre-qualification techniques, including requiring demonstrations by the students, and with emphasis upon the significance of training and oversight of other licensees;

v. Statutory and rule requirements pertaining to contracts, leases and listing agreements and to broker advertising;

vi. Closings;

vii. Environmental concerns; and

viii. Instruction on licensure requirements and procedures applicable to license applications, transfers, changes of broker address, branch offices, etc., and office closing requirements.

(h) A complete syllabus for the salesperson and broker courses shall be maintained at the offices of the Real Estate Commission and be open to the public for inspection.

(i) All course hours are suggested and may be modified at the discretion of the director of the approved school subject to written notice to and written approval by the Real Estate Commission.

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.1978 d.135, effective April 27, 1978.

See: 10 N.J.R. 163(b), 10 N.J.R. 256(d).

As amended, R.1978 d.271, effective August 2, 1978.

See: 10 N.J.R. 256(b), 10 N.J.R. 399(b).

As amended, R.1979 d.52, effective February 8, 1979.

See: 10 N.J.R. 498(c), 11 N.J.R. 142(b).

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"; subsection (k) deleted.

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

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

Section substantially amended.

Amended by R.1988 d.411, effective September 6, 1988.

See: 20 N.J.R. 725(b), 20 N.J.R. 2296(a).

Subsections (d) and (e) substantially amended.

Amended by R.1988 d.254, effective June 6, 1988 (operative December 1, 1989).

See: 19 N.J.R. 1051(a), 20 N.J.R. 1205(b).

At (g) old text deleted, new (g) added; brokers pre-licensure syllabus revised.

Notice of Correction, effective May 4, 1992.

See: 24 N.J.R. 1799(a).

Amended by R.1994 d.58, effective February 7, 1994 (operative July 1, 1994).

See: 25 N.J.R. 4852(a), 26 N.J.R. 799(b).

Notice of Correction, effective August 15, 1994.

See: 26 N.J.R. 3442(a).

Amended by R.1997 d.27, effective January 21, 1997.

See: 28 N.J.R. 3065(a), 29 N.J.R. 366(a).

In (f)9, added N.J.S.A. references; in (g)lxv, inserted reference to New Jersey Truth in Renting Law; and inserted N.J.S.A. references. Amended by R.1998 d.497, effective October 5, 1998.

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

In (g), changed the N.J.A.C. references throughout and substituted "Real Estate" for "Land" in 1i; and deleted former (j).

Case Notes

Real Estate Commission did not deny real estate sales person due process by failing to notify her that her real estate license had expired.

Coyle v. New Jersey Real Estate Com'n, 280 N.J.Super. 93, 654 A.2d 986 (A.D.1994).

Applicants (real estate salespersons) who were denied relicensure upon their failure to apply for renewal within a two-year period after expiration of their last licenses were not deprived of vested property right in violation of due process by statutory amendment which required school and test for relicensure following a 90-day grace period. Graham v. N.J. Real Estate Commission, 217 N.J.Super. 130, 524 A.2d 1321 (App.Div.1987).

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).

11:5-2.2 Licensed schools and instructors; requirements

(a) The following regulations are applicable to schools and instructors licensed to conduct courses of education in real estate subjects pursuant to N.J.S.A. 45:15-10.4 and 10.5 and to applicants for such licenses.

1. The original license term for pre-licensure course instructors and schools shall begin on July 1, 1994 and terminate on February 28, 1997. Thereafter, each two-year license term for school and instructor licenses shall run from March 1 to the last day of February of the second following year.

(b) The Commission shall require any school or instructor in making application for licensure to submit certain documents, statements and forms which shall form the basis for the Commission's judgment whether to grant a license. Where the Commission initially denies an application for a school or instructor license, it shall provide to the applicant notification in writing with reasons for such action. The applicant may appeal such a decision to the full Commission. N.J.A.C. 11:5-11.10 shall be applicable to all such appeals.

(c) Public adult education programs conducted under the auspices of a board of education in this State and any college or university accredited as such by the State Department of Higher Education shall be presumed to be qualified providers of real estate courses, so long as their real estate prelicensure education program is under the direction of a licensed instructor or other qualified individual who has affirmatively demonstrated to the Commission his or her good moral character and has met the other requirements of N.J.S.A. 45:15-10.9.

(d) Except as provided in (c) above, all other applicants for a license to operate a real estate prelicensure school, and in the case of a corporation, or limited or general partnership, the members, officers, directors and owners of a controlling interest thereof, shall demonstrate their good moral character, including the absence of any conviction for the crimes or other offenses specified under the provisions of N.J.S.A. 45:15-12.1. The Commission may make such further investigation and require such proof as it deems

proper as to the honesty, trustworthiness, character and integrity of an applicant.

(e) When a school is to be conducted in the name of a corporation, a certified copy of its certificate of incorporation shall accompany the application for licensure. When a school is to be conducted under a trade name, whether a sole proprietorship, firm, general partnership, or limited partnership, a true copy of the certificate of trade name or articles of the general or limited partnership as filed in the office of the county clerk shall accompany the application. A school shall not use the designation of "College" or "University," as part of its name or in any other manner, unless it, in fact, meets the standards and qualifications of the State agency having jurisdiction and has been approved by that agency.

(f) Every school licensed by the Commission shall maintain a bona fide office open to the public during normal business hours for the purpose of assisting former and current students. Schools shall provide adequate space, seating, equipment and instructional materials for their students. The premises, equipment and facilities of the school shall comply with all local, city, county and State regulations, such as fire codes, building and sanitation codes. A certificate from proper authority covering these requirements shall accompany an application for school licensure. The Commission may require proof of ownership or a copy of the lease if the facility is rented. Public adult education programs conducted under the auspices of a board of education in this State and any college or university accredited as such by the State Department of Higher Education, the facilities of which have been approved by a State agency, shall be presumed to have met the requirements of this paragraph, so long as the real estate courses offered are held at the approved facility.

1. Any additional teaching locations must be licensed by the Commission and must comply with all the requirements applicable to licensed schools, their directors and instructors as set forth in the Act and this rule. School directors shall have oversight responsibility for these locations. All courses conducted at such locations must be taught by licensed instructors or guest lecturers, pursuant to N.J.S.A. 45:15-10.5 and this rule.

(g) All schools shall furnish to the Commission at the time of application for initial licensure the school policy and regulations pertaining to standards for satisfactory completion of the courses offered at the school and the issuance of a Certificate, conditions for dismissal of a student and conditions for reinstatement.

1. Any changes in school policy and regulations, as set forth in (g) above, from the information submitted with the original application for school licensure or as otherwise previously supplied, shall be disclosed to the Commission within 10 business days in writing, or on a form which the Commission prescribes.

(h) When a school fulfills all of the requirements for licensure, then a license shall be executed by the President of the Commission as attested by the Executive Director. School licensure shall be limited to the specific ownership and school locations identified on the license document(s).

(i) An individual seeking approval as a director of a licensed real estate school administered by a public adult education program or an accredited college or university who is not licensed as a real estate instructor may nevertheless qualify as the director of such a school, so long as he or she is at least 18 years of age; has a background of good moral character, including the absence of any conviction for the crimes or other offenses specified under the provisions of N.J.S.A. 45:15-12.1; and has fulfilled all of the education requirements imposed upon candidates for licensure as real estate instructors within two years of applying to the Commission for approval to be the director of such a school.

(j) In order to enable the Commission to confirm that courses offered by real estate schools include the required number of hours of instruction as prescribed in N.J.S.A. 45:15-10.1(a) and (b) and N.J.A.C. 11:5-2.1, every six months, each school director shall submit data on courses to be offered by their school in the forthcoming six month period, the starting and ending dates of the courses, the days and hours of class sessions and teaching locations. Such course information shall be provided on forms prescribed by the Commission and shall be retained as permanent records for not less than three years after submission.

(k) No person, other than a guest lecturer, shall teach real estate education courses, the attendance and successful completion of which shall constitute the fulfillment of the educational prerequisites for licensure established under N.J.S.A. 45:15-10.1, unless that person is licensed as an instructor pursuant to N.J.S.A. 45:15-10.5 and this section.

1. Each applicant for licensure as a real estate instructor shall be 18 years of age or older and shall have a background of good moral character, including the absence of any conviction for those certain crimes or other like offenses referred to in N.J.S.A. 45:15-12.1, subject to the applicant's ability to affirmatively demonstrate his or her rehabilitation from such conviction. In order to confirm the absence of any such conviction, the Commission shall require all non-attorney applicants to submit with their application for instructor licensure a New Jersey State Police Request for Criminal History Record Information Form and a certified check or money order in the amount established by the New Jersey State Police as the processing fee for such forms.

2. Each applicant for licensure must hold a bachelor's degree from an accredited college or university, except for the following applicants:

i. New Jersey licensed brokers who have been continuously licensed as such for the two years immediately preceding their application; and

ii. Licensed brokers from other states who have been continuously licensed as such for the three years immediately preceding their application.

3. Except as provided in (l)3i and ii below, all instructor license applicants must successfully complete all of the education requirements for licensure as a New Jersey broker established at N.J.A.C. 11:5-2.1, totaling 150 hours, not more than one year prior to passing the instructor license examination and applying for an instructor license.

i. New Jersey broker licensees who have been licensed as such for at least the two years immediately preceding the application and who have completed the full 150 hours of broker prelicensure courses established at N.J.A.C. 11:5-2.1 shall be deemed to have fulfilled the education requirements for licensure as an instructor.

ii. The following individuals will not be required to take the 90-hour general broker course but must successfully complete the two 30-hour broker prelicensure courses referred to in N.J.A.C. 11:5-2.1 in order to fulfill the instructor prelicensure education requirements:

(1) New Jersey broker licensees who have been licensed as such for the two years preceding their application for an instructor license but who have not previously completed those two courses; and

(2) Licensed brokers from other states who have been licensed as such for the three years immediately preceding application.

4. All instructor license applicants shall successfully complete an instructor license examination as established by the Commission. The examination shall extensively test the applicant's general real estate knowledge and shall include questions on teaching methods. Applicants are advised to engage in independent study and/or to take courses offered by independent providers on teaching methods.

5. Subsequent to passing the instructor license examination, as a prerequisite to being issued an instructor license, all applicants must attend a seminar conducted by or under the direction of the Commission staff covering Commission and licensing procedures. Such seminars shall not exceed one day in length.

(l) Regulations applicable to the renewal of school and instruction licenses are as follows:

1. Pursuant to N.J.S.A. 45:15-10.7, the fee for the renewal of a real estate instructor license for an additional two-year license term shall be \$100.00. The fee for the renewal of a real estate school license shall be \$400.00 for the first teaching location licensed and \$200.00 for each additional licensed location to be renewed.

2. As a prerequisite for the renewal of an instructor license, an instructor must attend a Commission-sponsored seminar updating them on recent developments affecting the real estate brokerage business in New Jersey. Such seminars shall be offered on a minimum of two dates, each in a different location throughout the state, during the second year of each two-year license term. Persons initially licensed as instructors in the last six months of the two-year license term are exempt from this seminar attendance requirement for the first renewal of their instructor license.

3. In the event that any person to whom an instructor's license has been or shall have been issued shall fail to renew such license or obtain a new license for a period of two consecutive years or more after the expiration of the last license held, the Commission shall require such person to again fulfill all the qualifications for initial licensure as an instructor prior to issuance of a further instructor's license. This requirement shall not apply to a person reapplying for an instructor's license who was a licensed instructor and who allowed their license to expire due to subsequent employment in a public agency in this State with responsibility for dealing with matters relating to real estate if the person reapplying does so within one year of termination of that employment.

(m) The maximum teaching load per instructor or guest lecturer shall not exceed the ratio of one instructor or guest lecturer to 60 students per class. Each prelicensure course offered by a licensed school shall be under the supervision of an instructor licensed pursuant to N.J.S.A. 45:15-10.5 and N.J.A.C. 11:5-2.2(k). At least one licensed instructor shall be present in the classroom at all sessions. However, additional instructors or guest lecturers may be utilized for instruction so long as not more than 25 percent of the required instruction is done by guest lecturers. Broker prelicensure courses may be taught by up to three instructors, provided that one licensed instructor is designated as having the responsibility for the quality of instruction in that course. School directors shall maintain as a business record the names of any persons teaching as guest lecturers or as a group of instructors, with an indication of the designated supervising instructor.

(n) All tuition charged by a school shall be specified separately. If additional fees are to be charged for supplies, materials or books needed in course of work, they shall be itemized by the school prior to the payment of any fees and such items shall become the property of the student upon payment.

(o) The tuition and fees shall be specifically set forth in a student contract. The contract shall expressly state the school's policy regarding the return of unearned tuition when a student is dismissed or withdraws voluntarily or because of hardship.

(p) Any person who has a permanent disability or physical handicap which precludes that person from attending regular scheduled classes at a licensed school may request Commission approval to receive special instruction through a licensed school provided this request is supported by sworn statements of doctors or other persons having knowledge of the facts and provided a licensed school is willing to undertake such an agreement.

(q) No school shall, without the approval of the Commission, accept for enrollment as a transfer student any person concurrently enrolled with any other licensed school, unless upon the showing of good cause by said student to the Commission in writing.

(r) Every school shall permanently establish and maintain for each student, complete, accurate and detailed records for a period of not less than three years after student matriculation. Such records shall be available for inspection during regular school hours by the Commission and shall contain the following information:

1. The total number of hours of instruction undertaken by the student;
2. Completed areas of study in real estate subjects prescribed by the Act and these regulations;
3. The student's attendance record; and
4. The names of all supervising instructors and guest lecturers.

(s) To satisfactorily complete any preclicensure course, a student must receive a passing grade and attend at least 80 percent of the class session hours required for the course by N.J.A.C. 11:5-2.1.

(t) Upon a student's satisfactory completion of a course in real estate, the school shall issue to the student a Certificate.

(u) The director of a real estate school shall be responsible for properly closing the school in compliance with this subsection.

1. No later than 10 days after the date on which the school ceases operations, the director shall return the school license, stamp, and all education certificates to the Commission and shall advise the Commission in writing of the date on which the school closed.

2. Within 30 days of the date on which the school ceases operations, the director shall submit an affidavit to the Commission certifying the following:

- i. The location where student records are to be kept in compliance with (r) above and the name of the person who is to act as custodian of the records. The Commission shall be notified immediately of any change in such information. Records shall be kept for a period of not less than three years;

- ii. The name of the owner or authorized representative of the school and the address where he or she may be contacted by the Commission;

- iii. That the school license and school stamp have been returned to the Commission;

- iv. That all students have been timely notified of the school closing, and any tuition received by the school for future courses or courses which were not completed has been returned to the students;

- v. That all signs have been removed, and all advertisements and trade materials which refer to the school have been recalled;

- vi. That the appropriate telephone services have been advised that the school is closed and that future telephone directories should not contain the name of the school; and

- vii. That there are no outstanding fees, fines or penalties due and owing the Commission.

(v) No school shall use any name other than the name in which it is licensed for advertising or publicity purposes; nor shall any school advertise or imply that it is "recommended," "endorsed," "accredited," or "approved" by the Commission, but a licensed school may indicate that it has been "licensed" to conduct courses of education in real estate subjects to qualify applicants for licensure examination. No school shall make any warranties or guarantees that a student will pass the State license examination as a result of taking its course.

(w) (Reserved)

(x) The purpose of this subsection is to assure that there is a total separation between instructional activity conducted by licensed schools and any solicitation of students, which, as defined in (x)2ii below, means any recruiting efforts or brokerage activity directed at students. These provisions will be construed in a manner consistent with that regulatory objective. A violation of any of these provisions will be considered by the Commission as conduct demonstrating unworthiness for licensure, thereby subjecting the offending licensee to sanctions pursuant to N.J.S.A. 45:15-17(e) and (t). The Commission may also impose sanctions for a violation of these provisions pursuant to N.J.S.A. 45:15-10.11. Requirements regulating the involvement of licensed schools in soliciting students to become salespersons for particular real estate brokers are as follows:

1. At the beginning of the first class session of all salesperson preclicensure courses, all licensed schools shall distribute to all students in writing the following:

NOTICE
TO: ALL SALESPERSON COURSE STUDENTS
FROM: NEW JERSEY REAL ESTATE COMMISSION
RE: SOLICITATION OF SALESPERSON LICENSE CANDIDATES AT PRE-LICENSURE SCHOOLS

It is the policy of the New Jersey Real Estate Commission that there be a complete and total separation between the instruction you receive in your prelicensure education course and any efforts by brokers to recruit you to join the firm and/or to secure listings or offers on listed properties from you. This policy is reflected in Commission rule N.J.A.C. 11:5-2.2(x), which is reproduced in its entirety below.

If you are subjected to any recruitment efforts or are solicited for listings or offers during class time you should immediately notify your instructor, the Director of your school, and the New Jersey Real Estate Commission by writing to:

New Jersey Real Estate Commission
20 West State Street
PO Box 328
Trenton, New Jersey 08625-0328
Attn: Director, Real Estate Education

You are free to negotiate the terms of your employment with any broker. It is in your own best interest to talk to several prospective employing brokers before deciding which offers the best compensation plan, including post-termination payment provisions, and support package for you. You should also consider a prospective employer's professionalism and reputation for honesty and integrity when deciding which broker to work for.

In the event an enrolled student does not attend the first session of a salespersons course, a copy of the foregoing notice shall be delivered to that student at the commencement of the first class session which that student does attend.

2. For the purposes of this subsection, the following definitions shall apply:

i. The phrase "brokerage activity" means any activity which, pursuant to N.J.S.A. 45:15-1 and 15-3 would require the person engaging in such activity to hold a license as a real estate broker or real estate salesperson;

ii. The term "solicit" means to recruit, invite or urge a student to seek employment with a particular broker, or to list, purchase or lease through, or to make referrals of listing, purchaser or lessee prospects to a particular broker; and

iii. The phrase "successful completion" means the receipt by the student of a Real Estate Commission school certificate form, duly signed by the instructor and the school director and stamped by the licensed school, certifying to the student's having completed and passed a prelicensure course conducted by that school.

3. With the exception of posting, distributing written materials as provided in (x)5 below, no school director, instructor, guest lecturer or staff member shall, prior to, nor within seven days following, a student's successful completion of a course, solicit a student to become a salesperson for any particular real estate broker, nor shall any such person at any time accept any fee or other compensation for soliciting or recruiting students attending their school to apply for employment with a particular real estate broker.

4. No in-person or electronic solicitation of students to apply for employment as salespersons with a particular real estate broker or any referral program shall be permitted at a licensed school location during the prescribed class hours, nor in the breaks between such class hours. Such soliciting may be scheduled and held at licensed schools before, after or separate from the prescribed class hours, for example as a "career night" for students, provided that students are notified in writing in advance

that their attendance at such recruitment functions is completely voluntary. However, no school director, instructor, guest lecturer or staff member shall engage in such activity at any time prior to, nor within seven days following, a student's successful completion of a course. Licensed instructors who are also licensed brokers or salespersons may conduct prelicensure courses, and licensees who are not licensed instructors may appear as guest lecturers in such courses, so long as their presentations do not include the solicitation of students.

5. Any licensed school which posts, distributes or displays written material which solicits students to inquire about employment as a salesperson with a particular broker must similarly post, distribute or display comparable written material from any real estate broker who requests the school to do so. However, no written material soliciting students to apply for employment with a particular real estate broker or any referral program shall be distributed during the prescribed class hours.

6. No licensed school may offer a reduced tuition rate to students where eligibility for the lower tuition is contingent upon a student making a commitment to becoming licensed through a particular broker subsequent to their qualifying for licensure and no licensed school may otherwise make or imply any promise or guarantee of employment to any student.

7. No oral statements or written text referring to a licensed school may be included or contained in any advertisement by a real estate licensee, and no advertisement of a licensed school may refer to the brokerage operation or include the telephone number of any licensee except that a school which is owned by a real estate licensee or franchisor may use that name in its school name.

i. Any advertisement by a school whose name includes the name of an affiliated licensed real estate broker or franchisor shall include the following disclosure legend:

Attending this school will not obligate you to become employed with our affiliated real estate broker(s), nor guarantee you an interview or a job with our affiliated real estate broker(s).

ii. No advertisement referring to a licensed school may be placed in the Help Wanted classified section of any newspaper or periodical.

8. No licensed school shall conduct prelicensure course sessions in any area which is part of a location which is licensed as a main or branch office of a real estate broker. For the purposes of this paragraph, an area will be considered as part of a licensed office location if any brokerage activity is conducted in that area at any time.

i. Where space on two or more floors in a multi-story building is licensed as a main or branch office

location, it is permissible for prelicensure courses to be conducted in such a building, provided that the primary means of access to and egress from the floor where the courses are conducted does not require the students to walk through any area of the licensed office location wherein brokerage activity occurs.

ii. Where only one floor in a building is licensed as a main or branch office, it is permissible for prelicensure courses to be conducted in another area on that floor, provided that there is a separate entrance to that area either from the exterior of the building or from a common foyer or lobby and provided that the primary means of access to and egress from the area wherein the courses will be conducted does not require students to walk through a portion of the licensed premises wherein brokerage activity takes place.

iii. In all situations where prelicensure courses are conducted in the same building in which brokerage activity occurs under the authority of a broker in any way affiliated with the licensed school conducting such courses, the broker shall post signs either on the exterior of the building or in any common foyer or lobby, directing students either to the separate exterior entrance to the school location or to the primary route of access to the school location from such foyer or lobby.

9. No licensed school shall allow any person to, solicit students enrolled in, or considering enrolling in, a prelicensure course to list, purchase or lease any property; or for referrals of prospective sellers, purchasers or lessees at any time while such students are on school premises.

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

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

Amended by R.1972 d.150, effective July 27, 1972.

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

Amended by R.1980 d.441, effective October 10, 1980.

See: 12 N.J.R. 341(a), 12 N.J.R. 665(e).

(e) and (f): New text.

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

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

Language simplified.

Amended by R.1984, d.218, effective June 4, 1984.

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

Section substantially amended.

Amended by R.1986 d.63, effective March 17, 1986.

See: 17 N.J.R. 376(a), 18 N.J.R. 566(b).

(o)-(p) deleted; old (q) recodified to (p) with text added "instructor(s) name and . . . after student matriculation."; (r)-(w) recodified to (q)-(v).

Amended by R.1988 d.409, effective September 6, 1988.

See: 20 N.J.R. 1161(a), 20 N.J.R. 2298(a).

Substantially amended (j) and (k); added new (l) and recodified (l)-(v) as (m)-(w).

Amended by R.1990 d.378, effective August 6, 1990.

See: 22 N.J.R. 777(a), 22 N.J.R. 2323(a).

Added new x.

Amended by R.1993 d.11, effective January 4, 1993.

See: 24 N.J.R. 3488(a), 25 N.J.R. 180(a).

Subsection (e) deleted and reserved.

Amended by R.1994 d.59, effective February 7, 1994 (operative July 1, 1994).

See: 25 N.J.R. 4855(a), 26 N.J.R. 801(a).

Amended by R.1994 d.267, effective June 20, 1994 (operative July 1, 1994).

See: 26 N.J.R. 730(a), 26 N.J.R. 1194(b), 26 N.J.R. 1222(a), 26 N.J.R. 2581(c).

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

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

Changed N.J.A.C. references throughout.

Amended by R.2004 d.130, effective April 5, 2004.

See: 35 N.J.R. 4812(a), 36 N.J.R. 1780(a).

In (g)1, deleted "paragraph" following "set forth in", deleted "promptly" preceding "disclosed to" and inserted "within 10 business days" following "the Commission"; in (n), inserted "prior to the payment of any fees" following "itemized by the school".

Administrative correction.

See: 36 N.J.R. 5365(a).

11:5-2.3 Applications processed by the Education Bureau of the Real Estate Commission

(a) Applications for the following licenses and approvals are processed by the Education Bureau of the Real Estate Commission:

1. Real Estate Instructor license;
2. Real Estate School license;
3. License for additional teaching location of a licensed real estate school;
4. Approval of Real Estate School Director; and
5. Approval of experience report for broker license applicant.

(b) Applications for the following waivers are processed by the Education Bureau of the Real Estate Commission:

1. Waiver of salesperson prelicensure education requirement;
2. Partial waiver of broker prelicensure education requirement and/or complete waiver of broker experience requirement; and
3. Waiver of broker experience and certain prelicensure education requirements based upon status of applicant as a qualifying disabled veteran pursuant to N.J.S.A. 45:15-11.

New Rule, R.2003 d.440, effective November 3, 2003.

See: 34 N.J.R. 4043(a), 35 N.J.R. 5109(a).

11:5-2.4 Examination eligibility certificates

(a) The Education Bureau issues Certificates of Examination Eligibility to:

1. Broker license candidates who have fulfilled or, to the extent permitted by N.J.A.C. 11:5-3.8 and 2.1(e), had waived the broker license experience and/or education requirements;
2. Instructor license candidates who have fulfilled or, to the extent permitted by N.J.A.C. 11:5-2.2(k), had waived the instructor license education requirement; and
3. Salesperson license candidates who, as provided in N.J.A.C. 11:5-2.1(e), have had the salesperson's license education requirement waived.

New Rule. R.2003 d.440, effective November 3, 2003.
See: 34 N.J.R. 4043(a), 35 N.J.R. 5109(a).

11:5-2.5 Education Bureau forms and processing times

(a) The following forms are utilized by the Education Bureau of the Real Estate Commission:

1. Application for real estate school license for non-public school;
2. Application for licensure of additional teaching location for a non-public real estate school;
3. Application for real estate school license for public college, university or adult education program;
4. Application for real estate instructor license;
5. Application for change in address of administrative office or primary teaching location of non-public real estate prelicensure school;
6. Application for relicensure of public college, university or adult education program with new director;
7. Application for relicensure of non-public school with new director or with new partner(s) (partnership) or new owner(s) of a controlling interest (corporation) or school name change;
8. Application for waiver of salesperson prelicensure education requirement;
9. Application for partial waiver of broker prelicensure education requirement and/or complete waiver of experience requirements;
10. Experience report for Broker License Applicant; and
11. New Jersey State Police, State Bureau of Identification Request for Criminal History Record Information Form.

(b) Following the receipt by the Commission of complete and accurate application forms with the required fee(s) in the correct form, the applications specified below are generally processed by the Education Bureau within the time frames indicated:

1. Applications for real estate instructor licenses, school licenses, and additional teaching location licenses—three weeks;
2. Applications for a change of address of a licensed school—three weeks;
3. Applications for relicensure of schools with new directors or new owners of a controlling interest—three weeks;
4. Applications for renewal of instructor licenses, school licenses, and additional teaching location licenses—four weeks;
5. Applications for waivers of the prelicensure education requirements and/or the broker experience requirement which do not require the review of additional information—four weeks; and

6. Applications for the approval of experience as a real estate salesperson to fulfill the experience requirement for licensure as a broker (see N.J.S.A. 45:15-9 and N.J.A.C. 11:5-3.8)—four weeks.

New Rule, R.2003 d.440, effective November 3, 2003.
See: 34 N.J.R. 4043(a), 35 N.J.R. 5109(a).

11:5-2.6 Education Bureau transaction fees

The fees applicable to transactions processed by the Education Bureau of the Real Estate Commission are listed in the table below.

EDUCATION BUREAU TRANSACTION FEES

<u>Description</u>	<u>Amount</u>
Criminal history check and electronic fingerprint scan	State-contracted vendor fee (paid directly to vendor)
Application fee, school license	\$100.00
Application fee, instructor license	\$50.00
Initial license fee, non-public school	\$400.00 for licenses issued in the first year of a two-year license term; \$200.00 for licenses issued in the second year of a two-year term.
Renewal fee, non-public school	\$400.00 plus \$200.00 for each additional licensed location
License fee, additional teaching location	\$200.00 for licenses issued in the first year of a two-year license term; \$100.00 for licenses issued in the second year of a two-year term.
Change of address (school)	\$50.00
License fee, instructor	\$200.00 for licenses issued in the first year of a two-year license term; \$100.00 for licenses issued in the second year of a two-year term.
Renewal fee, instructor	\$100.00
Change of name (school)	\$100.00
Change of name for individual	\$50.00
Change of school director	\$50.00
Application fee, waiver of salesperson education	\$25.00
Application fee, waiver of broker education or experience	\$25.00
Application fee, approval of experience report for broker license applicant	\$25.00

New Rule, R.2003 d.440, effective November 3, 2003.
See: 34 N.J.R. 4043(a), 35 N.J.R. 5109(a).
Administrative correction.
See: 36 N.J.R. 656(b).

Amended by R.2009 d.287, effective September 21, 2009.
See: 41 N.J.R. 1381(a), 41 N.J.R. 3440(a).

In the EDUCATION BUREAU TRANSACTION FEES table, substituted the entry "Criminal history check and electronic fingerprint scan" for the entry "Criminal history check" and updated the Amount.

SUBCHAPTER 3. LICENSING

11:5-3.1 Terms of real estate licenses

Commencing July 1, 1997, broker, broker-salesperson, salesperson and branch office licenses shall be issued on the basis of two year license terms. All licenses issued during each biennial term shall run from the date of issuance to the end of the biennial term. All licenses shall expire on June 30 of the second year following the year in which the license term commenced.

New Rule, R.1997 d.159, effective April 7, 1997.
See: 29 N.J.R. 299(a), 29 N.J.R. 1324(b).

11:5-3.2 Payment of fees as prescribed by statute

With the exception of fees paid to the State-contracted fingerprint scanning vendor, fees paid to the license examination administration vendor and fees paid to accomplish an online transfer or termination as set forth in N.J.A.C. 11:5-3.11, any and all fees prescribed by the Real Estate License Act shall be paid by broker's business account check, certified or bank check or money order payable to the State Treasurer of New Jersey. No cash or currency shall be accepted.

Amended by R.1986 d.92, effective April 7, 1986.
See: 17 N.J.R. 2353(a), 18 N.J.R. 702(a).
Added text, "brokers business account check, certified or bank".
Amended by R.2009 d.287, effective September 21, 2009.
See: 41 N.J.R. 1381(a), 41 N.J.R. 3440(a).
Rewrote the section.

11:5-3.3 Criminal history record check

(a) The Commission shall require an individual licensee or any officer, director, partner or owner of a controlling interest of a licensed corporation or partnership to complete an electronic fingerprint scan through the State-contracted vendor, pay the fees required for its processing and submit proof of completion of the fingerprint process with their licensing application.

(b) Evidence of completion of the fingerprint scanning process shall include the applicant's copy of the completed fingerprint scanning vendor's form and a copy of the payment receipt issued by the fingerprint scanning vendor at the time of the completion of the fingerprint scanning process.

(c) The applicant, if a natural person, shall submit with his or her application for a salesperson's, broker-salesperson's or broker's license the evidence of completion of the fingerprint scanning process set forth in (b) above.

(d) The applicant, if a corporation or partnership, shall submit with its application for license evidence of completion of the fingerprint scanning process as set forth in (b) above for each officer, director, partner, or owner of a controlling interest.

R.1971 d.83, effective May 27, 1971.
See: 2 N.J.R. 42(e), 3 N.J.R. 110(d).
Amended by R.1976 d.19, effective January 13, 1976.
See: 7 N.J.R. 567(e), 8 N.J.R. 70(e).
Amended by R.1983 d.471, effective November 7, 1983.
See: 15 N.J.R. 1343(a), 15 N.J.R. 1865(c).
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).
Repeal and New Rule, R.2009 d.287, effective September 21, 2009.
See: 41 N.J.R. 1381(a), 41 N.J.R. 3440(a).
Section was "Criminal history record check".

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 and for fingerprinting scanning shall be considered service fees to be paid directly to the testing service and fingerprint scanning vendor 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).

2. Where the denial was based upon an applicant's prior criminal history and/or their loss of a professional license, all judgments of conviction on the convictions which form the basis of the denial and a letter from their probation or parole officer, if within one year of making the application they were under such supervision, which letter shall state the extent of the applicant's compliance with the terms and conditions of his or her probationary sentence or parole supervision, and/or a copy of the order or memorandum of settlement evidencing the loss of the professional license;

3. On all applications as described in (b)2 above, a letter from the broker with whom the applicant intends to be licensed, evidencing that person's full knowledge of the factors which formed the basis of the initial denial;

4. Any other relevant documentation which the applicant desires the Commission to consider when hearing the appeal; and

5. Any other documentation which the Commission determines is required in order to allow it to make a fully informed decision on the appeal.

(c) Upon the proper filing of an appeal as described in (b) above, the appeal package shall be reviewed and the applicant advised of the following:

1. The date, time and place at which the appeal will be considered by the Real Estate Commission; or

2. That based upon the content of the appeal documents a determination has been made to approve the application; or

3. The appeal package is deficient in certain respects, which shall be specified to the applicant, with an indication that upon receipt of the missing documentation the appeal will be given further consideration.

(d) All applicants have the opportunity to be represented by counsel when submitting an appeal and/or appearing before the Real Estate Commission and to call witnesses to testify on their behalf at the time of its consideration of their appeal.

(e) Upon the conclusion of a hearing on an appeal, the Commission shall either render a decision or take the matter under advisement and render a decision at a future date. The ruling of the Commission shall be communicated to the applicant in written form promptly upon the decision being rendered.

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).

Amended by R.2011 d.030, effective January 18, 2011.

See: 42 N.J.R. 1991(a), 43 N.J.R. 189(a).

In the introductory paragraph of (a) and of (b), and in (c)1, deleted "full" preceding "Real Estate Commission"; in (a)1, deleted ", with the exception of reinstatement applications submitted beyond the statutory established time limitations upon such reinstatements" following "applications"; and in the introductory paragraph of (b), substituted "two" for "15".