

## CHAPTER 111

STANDARDS FOR LICENSURE OF RESIDENTIAL SUBSTANCE  
USE DISORDERS TREATMENT FACILITIESSUBCHAPTER 9. CLIENT ASSESSMENTS AND TREATMENT  
PLAN

## 8:111-9.1 Client assessment

(a) (No change.)

(b) In performing a bio-psychosocial assessment, the facility shall assess the following:

1. (No change.)

2. The results of the client's physical examination, which shall include a certification by the examining physician that the level of medical care needed by the client is available through the facility and the following laboratory tests and evaluations, subject to client's written consent:

i.-iii. (No change.)

iv. Human immunodeficiency virus antibody testing, as medically indicated, for which the facility shall obtain a separate written consent. All clients shall receive HIV pre-test counseling and post-test counseling if the client elects to be tested. If HIV testing is performed onsite, the facility is required to report positive results according to N.J.A.C. 8:65 and maintain client confidentiality according to N.J.S.A. 26:5C-7 et seq.;

v. All pregnant women shall be provided information on HIV and AIDS and offered testing for HIV infection. This information may be provided by the administrator or delegated to another healthcare professional, but such delegation of duties shall not relieve the administrator from the ultimate responsibility to see that this information is provided in accordance with N.J.A.C. 8:61-4;

vi.-vii. (No change.)

3.-10. (No change.)

## INSURANCE

(a)

## DIVISION OF INSURANCE

## Administration

## Adopted Amendment: N.J.A.C. 11:1-1.1

Proposed: October 6, 2025, at 57 N.J.R. 2296(a).

Adopted: December 17, 2025, by Justin Zimmerman,

Commissioner, Department of Banking and Insurance.

Filed: December 17, 2025, as R.2026 d.022, **without change**.

Authority: N.J.S.A. 17:1-8.1, 17:1-15.e, 17:17-1 et seq., 17B:17-1 et seq., 17B:27A-58, and 34:15-103 et seq.

Effective Date: January 20, 2026.

Expiration Date: April 22, 2026.

## Summary of the Public Comments and Agency Response:

**No comments were received.**

## Federal Standards Statement

A Federal standards analysis is not required because the adopted amendment is not subject to any Federal requirements or standards.

**Full text** of the adoption follows:

## SUBCHAPTER 1. ORGANIZATION

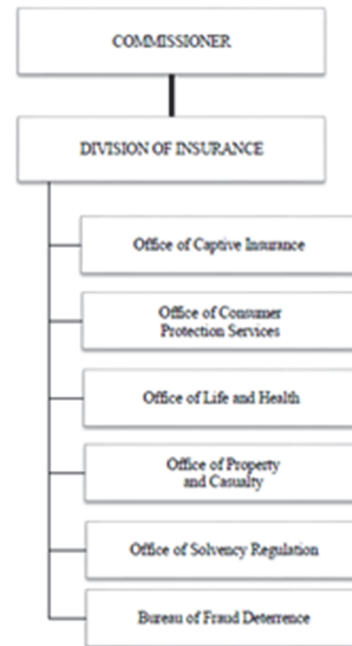
## 11:1-1.1 Organization

(a) (No change.)

(b) The mission of the Department of Banking and Insurance is to regulate the banking, insurance, and real estate industries in a professional and timely manner that protects and educates consumers and promotes the growth, financial stability, and efficiency of those industries. Additionally, the Department's mission is to increase the number of insured New Jerseyans by connecting them to quality, affordable health insurance through the innovative, professional, and effective operation of

Get Covered New Jersey, the State's Official Health Insurance Marketplace.

## DEPARTMENT OF BANKING AND INSURANCE



(b)

## DEPARTMENT OF BANKING AND INSURANCE

## REAL ESTATE COMMISSION

## Real Estate Commission Rules

**Adopted Repeals and New Rules: N.J.A.C. 11:5-1.1, 1.3, 3.1, 3.10, 3.11, 3.14, and 12.2****Adopted Amendments: N.J.A.C. 11:5-1.5, 2, 3.2 through 3.9, 3.12, 3.13, 3.15, 4.1, 4.5, 5.2, 5.3, 5.5, 6.1, 6.5, 6.6, 6.8, 6.10, 7.1, 7.2, 11.1, 11.10, 12.1, 12.3 through 12.8, 12.11, 12.12, and 12.14****Adopted New Rules: N.J.A.C. 11:5-3.1A and 12.5A****Adopted Repeal: N.J.A.C. 11:5-1.4**

Proposed: June 2, 2025, at 57 N.J.R. 1075(a).

Adopted: December 16, 2025, by the New Jersey Real Estate Commission, Aurelio Romero, Executive Director.

Filed: December 16, 2025, as R.2026 d.020, **with non-substantial changes** not requiring additional public notice and opportunity to comment (see N.J.A.C. 1:30-6.3) **and with proposed repeal and new rule N.J.A.C. 11:5-4.4 not adopted**.

Authority: N.J.S.A. 45:15-1 et seq.; and P.L. 2017, c. 200; P.L. 2018, c. 71; P.L. 2019, c. 177; and P.L. 2024, c. 32, § 16.

Effective Date: January 20, 2026.

Expiration Date: January 24, 2030.

## Summary of Public Comment and Agency Response:

One comment was received regarding the proposed changes to the Real Estate Commission's (Commission) rules. The comment was submitted by Douglas M. Tomson, Chief Executive Officer, New Jersey Realtors.

COMMENT: The commenter requests that the Commission reconsider the use of the term "employing broker" throughout the rules, stating that the term creates an unnecessary distinction between brokers operating as

sole proprietorships and those operating through business entities. The commenter further states that the term suggests that brokers operating as sole proprietorships may only contract with broker-salespersons and salespersons as employees and not as independent contractors. The commenter suggests amending the proposed definitions at N.J.A.C. 11:5-1.3 to remove “employing broker” and to amend the definition of “broker of record” to capture both natural persons licensed as a broker operating a sole proprietorship and persons licensed as the broker of record of a business entity licensed as a broker. The commenter also requests that the term “employing broker,” be removed from N.J.A.C. 11:5-1.1, 3.10(a) and (b), 3.11(c)2 and 3, 4.4(d), and 6.8(c).

The commenter further states that N.J.A.C. 11:5-3.9(c) draws an unnecessary distinction between brokers operating as a sole proprietor and brokers of record for a business entity licensed as a broker and suggests revisions to eliminate that distinction.

Relatedly, the commenter suggests replacing all instances of the words “employ,” “employed,” “employing,” or “employment” with the terms “affiliate,” “affiliated,” “affiliation,” and also replacing the term “employee” with the term “licensee,” to reflect the fact that licensees may be engaged in the brokerage business as either an employee or independent contractor for a licensed broker. The commenter requests the above changes be made at N.J.A.C. 11:5-3.8, 3.9, 3.10, and 3.11, 6.10(b), and the headings at N.J.A.C. 11:5-3.7 and 11:5-4. The commenter also highlights N.J.A.C. 11:5-3.10(b), which allows a broker to identify a “designated employee” to process license terminations, and requests that references to “employee” be changed to “person.”

RESPONSE: Upon review, the Commission has determined to retain the term “employing broker,” as proposed. The term illustrates a legitimate distinction for regulatory purposes between natural persons and business entities, both of which can become licensed as a real estate broker, pursuant to N.J.S.A. 45:15-1 et seq. Moreover, the Commission does not agree that use of the term, as defined, is suggestive that individual brokers operating as sole proprietorships are limited to employment relationships with their affiliated salespersons and broker-salespersons. Accordingly, the Commission declines to remove the term from N.J.A.C. 11:5-1.1, 3.10(a) and (b), 3.11(c)2 and 3, 4.4(d), and 6.8(c), as suggested by the commenter.

Unlike broker-salespersons and salespersons licenses, which may only be granted to individual persons, a real estate broker license may be granted to a person or a business entity. When a business entity (such as a corporation or limited liability company) is licensed as a broker, an individual must be authorized to exercise the authority granted to said entity to engage in the brokerage business. Thus, it is of paramount importance from a regulatory perspective that an individual person be deemed responsible for the actions taken by the entity in furtherance of brokerage business.

The need for an individual to bear the ultimate responsibility for brokerage conduct is recognized by the current regulatory scheme of the Commission’s rules. Existing N.J.A.C. 11:5-4.2(a)1 provides that the Commission will hold individual brokers responsible for any actions of the broker licensee (the person or entity holding a broker’s license) or any person employed by or licensed through the broker licensee taken in the pursuit of its real estate brokerage business. In the case of a natural person licensed as a broker and operating as a sole proprietor, the responsible individual and the broker licensee are one and the same. In the case of a business entity licensed as a broker, the individual person designated as the broker of record bears that responsibility. This distinction is outlined at N.J.A.C. 11:5-4.2(a), as follows: “[a]s used in this section, the term ‘individual broker’ shall refer to employing brokers and brokers of record and the term ‘broker licensee’ shall refer to sole proprietors and corporations or other entities licensed as brokers.”

The Commission further disagrees with the commenter that the distinction, set forth at N.J.A.C. 11:5-3.9(c), between brokers engaged in the brokerage business as a sole proprietor and brokers of record who are appointed on behalf of a business entity, is unnecessary. The distinction drawn at N.J.A.C. 11:5-3.9(c) contrasts that subsection from N.J.A.C. 11:5-3.9(e), which pertains to the “substitution” of a broker of record of a business entity, for clearly a natural person licensed as a broker operating as a sole proprietor cannot be “substituted” for another broker. In the event that an individual licensed as a broker operating as a sole proprietor ceases

to be licensed, affiliated licensees must become licensed through another licensed broker, as the underlying authority to engage in the brokerage business was derived from the individual who is no longer licensed. However, in the event that a broker of record of a licensed business entity ceases to be licensed, the underlying authority to engage in the brokerage business exists and continues with the licensed business entity and a new broker of record can be substituted pursuant to N.J.A.C. 11:5-3.9(e).

The proposed amendments seek to formalize the meaning set forth at N.J.A.C. 11:5-4.2 and eliminate confusion regarding use of the term “employing broker.” Further, the Commission does not agree that use of the term “employing broker,” suggests that only employment relationships are available to sole proprietor brokers, as the rules (as proposed for amendment) specify that is not the case. N.J.A.C. 11:5-4.1(j) states “[t]he terms ‘employment agreement,’ ‘employ,’ and ‘employing broker’ refer to an employment relationship or an independent contractor relationship between a broker and a broker-salesperson or salesperson.” Nonetheless, the Commission agrees that it would be beneficial to eliminate possible confusion and, therefore, additional clarifying revisions have been made at N.J.A.C. 11:5-3.9 and 3.10 to replace the word “employee” with “person.”

COMMENT: The commenter expressed concern regarding the proposed amendments at N.J.A.C. 11:5-4.4(a), stating they impose a significant change from the current rule, by requiring a broker supervising a main office to be “present at the main office continuously during usual business hours.” The commenter contends that the existing rule permits a supervising broker to oversee the main office remotely, noting that existing N.J.A.C. 11:5-4.4(a) states: “Maintaining full-time supervision shall not be construed as requiring the person performing the supervisory functions to be present at the office location continuously during usual business hours.”

The commenter expresses opposition to a full-time, “in-person” supervision requirement, stating that this is inconsistent with technological advances and current trends in the industry; and requests that the Commission amend N.J.A.C. 11:5-4.5(d) to add: “Maintaining full-time management shall not be construed as requiring the person performing the managerial functions to be present at the branch office location continuously during usual business hours.”

RESPONSE: The Commission appreciates the concerns noted by the commenter. The proposed changes at N.J.A.C. 11:5-4.4 were intended to streamline the text by eliminating redundant verbiage, without altering the substantive requirements of the rule. Upon review, the Commission has determined not to adopt the proposed repeal and replacement at N.J.A.C. 11:5-4.4 to avoid confusion regarding the rule’s requirements. Accordingly, the existing rule text at N.J.A.C. 11:5-4.4(a) will remain in effect.

COMMENT: The commenter requests that the Commission amend N.J.A.C. 11:5-6.2(g) to include fax, email, and recognized overnight courier as allowed methods to communicate notices of disapproval of real estate contracts by attorneys. The commenter states that these methods are used in current practice and have been approved by the New Jersey Supreme Court in *Conley v. Guerrero*, 228 N.J. 339 (2017).

RESPONSE: The Commission appreciates the commenter’s concern, however the suggested revisions go beyond the scope of this rulemaking. No additional changes will be made at N.J.A.C. 11:5-6.2 upon adoption. The Commission anticipates that it will propose amendments that address the issue raised by the commenter in a future rulemaking.

COMMENT: The commenter requests that the Commission amend the proposed definition for “real estate broker,” or “broker,” at N.J.A.C. 11:5-1.3 to add “who is licensed as a broker” to the proposed definition.

RESPONSE: Upon review, the Commission has determined that no change is required. The proposed definition reflects the statutory definition for “real estate broker,” set forth at N.J.S.A. 45:15-3, which does not include the clarification requested by the commenter.

COMMENT: The commenter states that N.J.A.C. 11:5-3.1, as amended, is unclear. Specifically, that the reference to “the odd year” is ambiguous and could cause confusion amongst licensees. The commenter further states that the existing language is clearer and requests that the Commission amend the rule to state: “Broker, broker-salesperson, salesperson, and branch office licenses shall run for a two-year period concluding on June 30 of the odd-numbered year. All licenses issued

during each biennial term shall run from the date of issuance to the end of the then-current licensing term.”

RESPONSE: Upon review, the Commission agrees that the rule, as proposed for amendment, is unclear. Accordingly, revisions to the rule text that are consistent with the commenter’s suggestions have been included.

COMMENT: The commenter notes a typo at N.J.A.C. 11:5-3.9(d), where the word “satisfies” should be changed to “satisfy” for semantical consistency.

RESPONSE: The Commission agrees with the commenter and has corrected the error in the adopted rule text.

COMMENT: The commenter requests additional amendments at N.J.A.C. 11:5-6.6 to remove the designations regarding payments between brokers. The commenter asserts that the rule text contains a typo in its description of commission splits between a “listing broker” and the “selling broker,” who the commenter states are one in the same.

RESPONSE: The Commission disagrees that the rule, as proposed, contains a “typographical” error. Contrary to the commenter’s assertion, the “listing broker” and “selling broker” are not typically understood to be the same party. The listing broker works with the seller (or lessor) and lists their real property for sale or rent. Conversely, the selling broker is typically understood to be the broker that ultimately “sells” (or rents) the listed property to a buyer (or lessee) that said broker represents. Common understanding of this vernacular in the industry is evidenced by the use of the term in standard form real estate contracts and other documents, which identify the broker working on behalf of a buyer as the “selling broker.”

COMMENT: The commenter notes that while the definition for the term “complaint” has been removed from N.J.A.C. 11:5-11.1, references to “complaint” persist in the proposed revisions throughout that section, and suggests the remaining references be removed to ensure consistency and clarity within the rules. Additionally, the commenter notes a typo at N.J.A.C. 11:5-11.1(a)1, where the word “Licensing,” was not removed from the name of the Real Estate Brokers and Salespersons Act.

RESPONSE: The Commission agrees with the commenter and has included additional changes to remove remaining references to the term “complaint,” and to address the error concerning the reference to the Real Estate Brokers and Salespersons Act, N.J.S.A. 45:15-1 et seq.

COMMENT: The commenter requests the Commission make additional amendments to conform the rules with P.L. 2024, c. 32. Specifically, the commenter suggests that the proposed amendments at N.J.A.C. 11:5-7.1 do not reflect that licensees are permitted to receive compensation in sale or rental transactions from either party, both parties, third parties, or from sharing compensation between brokerage firms. Additionally, the commenter requests amendments at N.J.A.C. 11:5-5.4 and 6.2(b) to replace the term “listing agreement,” with “brokerage services agreement,” and at N.J.A.C. 11:5-5.5(c) to add “brokerage service agreements” to the files that must be maintained by brokers and are subject to inspection by the Commission. The commenter also suggests changes at N.J.A.C. 11:5-6.4 to add licensees’ obligation to obtain a signed property condition disclosure statement. Finally, the commenter requests additional amendments at N.J.A.C. 11:5-6.9 to add information regarding the designated agency broker business relationship.

RESPONSE: The Commission appreciates the commenter’s concerns regarding implementing the changes to the law made at P.L. 2024, c. 32, however the suggested revisions go beyond the scope of this rulemaking, which is intended to implement P.L. 2017, c. 200, P.L. 2018, c. 71, and P.L. 2019, c. 177. Although the amendments to the continuing education curricula requirements do include the addition of one credit of coursework in the subject area of “agency,” pursuant to P.L. 2024, c. 32, § 16, the balance of the changes to the law made at P.L. 2024, c. 32 are not addressed in this rulemaking. The Commission anticipates a rulemaking to implement the changes noted in the above comment, among others, in the future.

#### Federal Standards Statement

A Federal standards analysis is not required because the adopted amendments, repeals, and new rules are not subject to any Federal requirements or standards.

**Full text** of the adopted amendments and new rules follows (additions to proposal indicated in boldface with asterisks **\*thus\***; deletions from proposal indicated in brackets with asterisks \*[thus]\*):

### SUBCHAPTER 1. ORGANIZATIONAL RULES

#### 11:5-1.1 Purpose and scope

The Real Estate Commission regulates the education, examination, and licensing of brokers, broker-salespersons, and salespersons; regulates the sale or lease of out-of-State properties to New Jersey residents through in-State promotional activities; investigates and adjudicates disciplinary actions against licensees; and administers the Real Estate Guaranty Fund.

#### 11:5-1.3 Definitions

The following words and terms, as used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise.

“Act” means the Real Estate Brokers and Salespersons Act, N.J.S.A. 45:15-1 through 45:15-42.

“Broker of record” means the person duly licensed as a real estate broker in New Jersey and designated as the broker in charge of and responsible for all real estate brokerage activity performed by or on behalf of a business entity duly licensed as a real estate broker in New Jersey.

“Commission” means the New Jersey Real Estate Commission as set forth at N.J.S.A. 45:15-5.

“Employing broker” means a natural person duly licensed as a real estate broker in New Jersey conducting brokerage activity as a sole proprietor.

“Real estate brokerage activity” or “brokerage activity” means the sale, exchange, purchase, or rental, the listing for sale or offering or attempting to negotiate a sale, exchange, purchase, or rental of real estate or an interest therein, or collecting or offering or attempting to collect rent for the use of real estate or soliciting for prospective purchasers or assisting or directing in the procuring of prospects or negotiating or closing of any transaction that does, or is contemplated to, result in the sale, exchange, leasing, renting, or auctioning of any real estate or negotiating, or offering or attempting or agreeing to negotiate a loan secured or to be secured by a mortgage, including a mortgage on commercial real estate, or other encumbrance upon or transfer of any real estate for others, or, for pecuniary gain or expectation of pecuniary gain, conducting a public or private competitive sale of lands or any interest in lands.

“Real estate broker” or “broker” means a person, firm, or corporation who, for a fee, commission, or other valuable consideration, or by reason of a promise or reasonable expectation thereof, engages in real estate brokerage activity. This term shall also include any person, partnership, association, or corporation employed or contracted by or on behalf of the owner or owners of lots or other parcels of real estate, at a stated salary, or upon a commission, or upon a salary and commission, or otherwise, to sell such real estate, or any parts thereof, in lots or other parcels, and who shall sell or exchange, or offer or attempt or agree to negotiate the sale or exchange, of any such lot or parcel of real estate. A real estate broker shall also include any person, firm, or corporation who supervises a real estate referral company.

“Real estate broker-salesperson” means any natural person who is qualified to be licensed as a real estate broker but who, for compensation, valuable consideration, commission, or other thing of value, or by reason of a promise or reasonable expectation thereof, is employed or contracted by and operates under the supervision of a licensed real estate broker to perform the functions of a real estate salesperson.

“Real estate referral company” means a business entity established and supervised by a licensed real estate broker, separate and apart from any business entity maintained by the licensed real estate broker to conduct real estate brokerage-related activities other than the referral of prospective consumers of real estate brokerage services to that broker, for the purpose of employing or contracting licensed salespersons who strictly engage in the referral of prospects for the sale, purchase, exchange, leasing, or rental of real estate or an interest therein solely on behalf of the supervising real estate broker.

“Real estate salesperson” means any natural person who, for compensation, valuable consideration, commission, or other thing of value, or by reason of a promise or reasonable expectation thereof, is employed or contracted by and operates under the supervision of a

licensed real estate broker to engage in real estate brokerage activity or who is employed or contracted by a licensed real estate broker to sell or offer to sell lots or other parcels of real estate, at a stated salary, or upon a commission, or upon a salary and commission, or otherwise to sell real estate, or any parts thereof, in lots or other parcels, or in the case of a salesperson licensed with a real estate referral company refers prospective consumers of real estate brokerage services to a particular broker. A real estate salesperson shall include a salesperson licensed with a real estate referral company unless otherwise indicated.

“Real estate salesperson licensed with a real estate referral company” or “salesperson (referral)” means any natural person employed or contracted by and operating under the supervision of a licensed real estate broker through a real estate referral company whose real estate brokerage-related activities are limited to referring prospects for the sale, purchase, exchange, leasing, or rental of real estate or an interest therein.

11:5-1.4 (Reserved)

11:5-1.5 Records open to public inspection; files not open for inspection

(a) With the exception of records designated confidential pursuant to (g) below, the public may request the records concerning any Commission functions or for copies of the records listed at (b) through (f) below by contacting [realestate@dobi.nj.gov](mailto:realestate@dobi.nj.gov) or by mail to Real Estate Commission, Department of Banking and Insurance, PO Box 328, Trenton, New Jersey 08625-0328.

(b) Computerized licensing records are available for inspection with sufficient notice to the Commission staff. Except as otherwise noted, records are maintained for a minimum of three years. Older records may be unavailable. Records can be purchased in accordance with the Open Public Records Act at N.J.S.A. 47:1A-5.

(c) Requests for certified copies of licensing records (or a certificate of the absence of a public record) must specify which records are requested and the time period covered by the request, and records will be provided within 10 working days of the request.

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

1. Certification of license history;
2. Real estate broker, broker-salesperson, salesperson, school and instructor license applications, and materials submitted to obtain, transfer, reinstate, or renew such licenses, and the final disposition of such applications;
3. Commission meeting minutes;
4. Orders to Show Cause alleging a licensee or an unlicensed person has violated provisions of the Act or the Commission's rules; documents included into the record in any such proceeding; and the final disposition of such proceedings, including settlements; and
5. Notices, proposals, and other records concerning rulemaking are available for public inspection 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. Complete records of unadopted proposals are available for one year after initial publication and adopted rules are available for three years after the effective date of the rulemaking.

(e) The following records are maintained pursuant to the Real Estate Full Disclosure Act, N.J.S.A. 45:15-16.27 et seq.:

1. Statements of record and additions or corrections filed pursuant to N.J.S.A. 45:15-16.33, 16.36, 16.39, and 16.41(a);
2. Annual reports submitted pursuant to N.J.S.A. 45:15-16.40;
3. (No change.)
4. Orders to Show Cause and other pleadings charging violations of N.J.S.A. 45:15-16.27 et seq., the final disposition of such orders and related documents; and
5. Applications for exemption of a subdivision filed pursuant to N.J.S.A. 45:15-16.32(c) and N.J.A.C. 11:5-9.18 and the final disposition of any such application.

(f) The following records are maintained pursuant to the Real Estate Guaranty Fund Act, N.J.S.A. 45:15-34 et seq.:

1. (No change.)
2. Pleadings served upon the Commissioner of the Department of Banking and Insurance or any duly authorized agent or employee pursuant to N.J.S.A. 45:15-39.

(g) The following records are not available for public inspection, in accordance with N.J.S.A. 47:1A-1 et seq.:

1. Criminal complaints, indictments, judgments of conviction, and other documents submitted with an application concerning whether an applicant is disqualified by reason of indictment for, or conviction of, a crime;
2. Records obtained as the result of a criminal history check;
3. Petitions or discharges in bankruptcy, complaints, orders, or other pleadings in actions for assignment to creditors and other documents submitted with an application concerning whether the applicant is disqualified by reason of unworthiness;
4. Orders of suspension or revocation issued by professional or occupational licensing authorities, and other documents submitted with an application concerning whether the applicant is disqualified from licensure;
5. Records concerning the medical disability of a licensee;
6. Records related to an ongoing investigation or completed investigations where no formal disciplinary action was taken;
7. Personal data including, home address, home telephone number, date of birth and Social Security number of an applicant or licensee; and
8. (No change in text.)

## SUBCHAPTER 2. EDUCATION

### 11:5-2.1 Educational requirements

(a) Salesperson and broker candidates shall provide proof that they have completed a course of education in real estate subjects taught in accordance with N.J.S.A. 45:15-10.1 as follows:

1. This education requirement shall apply to disabled veteran candidates pursuant to N.J.S.A. 45:15-11. Candidates may satisfy the requirement by completing a program of study in real estate offered by an accredited college or university as follows:

- i. Candidates seeking a salesperson license must complete a program consisting of at least 75 hours of instruction; and
- ii. Candidates seeking a broker license must complete a program consisting of at least 225 hours of instruction.

2. A salesperson shall not receive credit toward the fulfillment of the education requirement for attendance at a broker prelicensure course and a broker candidate shall not receive credit toward the fulfillment of the education requirement for attendance at a salesperson prelicensure course.

(b) To qualify for the State salesperson licensing examination, a candidate must successfully complete a course of study in real estate, consisting of a minimum of 75 hours of instruction, at a school licensed by the Commission pursuant to N.J.S.A. 45:15-10.4. To qualify for the State broker licensing examination, a candidate must successfully complete courses of study in real estate, consisting of a minimum of 150 hours of instruction, at a licensed school or other authorized provider.

(c) A candidate for a broker license seeking credit for satisfactory completion of the satisfactory completion of the education requirement must be licensed as a salesperson at the time of enrollment. This provision does not apply to disabled veteran candidates.

(d) The time allotted by a school for a final examination shall be applicable toward the total hours of instruction. No more than five minutes of each hour may be utilized for breaks. Instructors must provide information on the State license examination and the Commission's license issuance procedures and perform administrative functions, such as taking attendance and making announcements of general interest.

(e) The requirement that a broker license candidate complete a 90-hour general course and that a salesperson candidate complete a 75-hour course shall not apply to:

1. A candidate who held a broker license issued by another state and was actively engaged in the real estate brokerage business for the three years immediately preceding the date of application;

2. Applicants for licensure as a broker who are attorneys admitted to the practice in New Jersey and applicants for licensure as a salesperson who are attorneys admitted to practice in New Jersey or in any other state at the time of making application. A broker candidate who is an attorney admitted to the practice in New Jersey and a salesperson candidate who is an attorney admitted to practice in New Jersey or in any other state at the time of making application;

3. A salesperson candidate who has earned a college degree from an accredited college or university; provided that:

- i. The total hours devoted to real estate and related subjects was at least 75 hours, completed within three years of making their application;
- ii. The candidate earned a bachelor or associate degree in real estate, regardless of how long prior to their application for a waiver they received that degree; or
- iii. The candidate satisfactorily completed at least 75 hours of instruction in real estate or related subjects, of which, at least 45 hours dedicated to real estate in a post-graduate program, completed within three years of submitting their application;

4. A salesperson candidate who holds or has held a real estate license issued by another state; provided that:

- i. The candidate satisfactorily completed a precursory course at a licensed school, college, or university in that state;
- ii. The precursory course was approved by that state's licensing authority;
- iii. The precursory course totaled at least 75 hours of instruction;
- iv. The candidate qualified for licensure by state examination; and
- v. The candidate was actively licensed in that state within three years of their application.

5. A salesperson candidate who previously held a broker license in New Jersey that expired more than two but less than five years prior to making application.

(f) To satisfy the education requirement, a salesperson candidate shall complete the 75-hour course, consisting of substantive instruction on the following subjects for the number of hours indicated:

1.-8. (No change.)

9. Other state, Federal, and municipal laws, rules, and regulations, including N.J.S.A. 17:16C-1 et seq., 39:1-1 et seq., 46:8-43 et seq., and 46:8C-1 et seq., as they pertain to the resale of mobile and manufactured housing units which bear or are required to bear motor vehicle titles ( four hours);

10. (No change.)

11. Fair housing and housing discrimination, including Federal Fair Housing and New Jersey laws related to housing and housing discrimination (one hour); and

12. Quizzes and final examination (three hours).

(g) To satisfy the education requirement, a broker candidate shall complete 150 hours of total instruction comprised of a 90-hour general course and two 30-hour courses concentrating on ethics/agency and office management. All courses must be successfully completed within two years. Where the courses are not so completed, a candidate must again successfully complete any previously taken course and any courses not previously taken within a two-year time frame, and again fulfill the experience requirement established at N.J.S.A. 45:15-9 and N.J.A.C. 11:5-3.8, to be eligible for the broker license examination.

1. The 90-hour general course may be divided into a maximum of 24 modules of material, with the content corresponding to the subjects identified below. Courses offered in modules may cover more than one subject per module. A candidate must start a course on the starting date of the module. A candidate shall be given credit for the successful completion of the 90-hour general course when they have received instruction in all of the subjects identified below for the number of hours indicated and passed a comprehensive final examination. Instruction shall be provided on the following topics for the number of hours indicated:

i. Licensing laws and regulations, including the Real Estate Sales Full Disclosure Act and N.J.A.C. 11:5-9 (six hours);

ii.-xiv. (No change.)

xv. Laws: RESPA, Truth in Lending, rent control, New Jersey Land Use Law, New Jersey's Truth in Renting Law, and the provisions in that law, at N.J.S.A. 17:16C-1 et seq., 39:1-1 et seq., and 46:8C-1 et seq., which pertain to the resale of mobile and manufactured housing units that bear, or are required to bear, motor vehicle titles ( two hours);

xvi. Business and management practices (total of six hours ), including: (1)-(6) (No change.)

xvii.-xviii. (No change.)

xix. Property management, including repairs and maintenance, public relations, collection of rents, government regulations, business trends, personnel, recordkeeping, advertising, etc. (three hours);

xx.-xxi. (No change.)

xxii. Real estate investments, syndications, REIT's, limited partnerships, and S.E.C. licensing requirements (two hours);

xxiii. Income tax considerations and ramifications of various real estate transactions (three hours); and

xxiv. Fair housing and housing discrimination, including Federal Fair Housing and New Jersey laws related to housing and housing discrimination (one hour).

2. Within the 90-hour general course, instruction shall be provided on the following additional topics for the number of hours indicated. These topics shall be taught to provide students with a basic understanding of the subject and of their scope and effect. Instruction should include the resources where students may obtain additional information and/or specific data concerning the topics' applicability to or impact upon particular locations, and educate students on their obligations to ascertain and disclose such information. Topics include:

i. Radon contamination, including testing and remediation techniques and the New Jersey DEP confidentiality statute (one hour);

ii. Ground water contamination, including testing and remediation techniques (one hour);

iii. Problems posed by proximity to solid waste disposal and/or toxic waste sites (one hour);

iv. Ground water percolation and private sewage disposal systems, including testing methods (one hour);

v. Problems posed by lands officially designed as Wetlands, Pinelands, or special classifications (one hour); and

vi. (No change.)

3. Instructors shall provide information to students concerning the procedures to sit for the State licensing examination and how licenses are issued by the Commission, and shall give at least two spot quizzes and a comprehensive final exam on the material covered in the course (four hours).

4. Students shall be assigned reading outside of the primary textbook on topics, including, but not be limited to, informational publications of the New Jersey Department of Environmental Protection on the various environmental topics covered, sections of the New Jersey Law Against Discrimination that directly relate to the activities of real estate professionals, and other topics as directed by the Commission.

5. All candidates for licensure as a broker or broker-salesperson must successfully complete two 30-hour courses, one on ethics/agency law and relationships, and another on office management and related topics.

i. Courses shall be taught by licensed instructors at licensed schools.

ii. The agency/ethics course shall be taught using case studies of recent Commission decisions in disciplinary actions, demonstration models, and other non-lecture techniques.

iii. (No change.)

iv. No school shall allow students to commence either the agency/ethics or office management course at a time other than the starting date.

6. The course on ethics/agency shall include:

i.-viii. (No change.)

7. The course on office management shall include:

i. (No change.)

ii. Recordkeeping requirements, with an emphasis on escrow account records;

iii. (No change.)

iv. Proper qualification and pre-qualification techniques, including student demonstrations on the significance of training and oversight of other licensees;

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

vi.-vii. (No change.)

viii. 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 all precursory education courses shall be maintained at the offices of the Commission and be open to the public for inspection.

(i) Course hours may be modified at the discretion of the director of the approved school, subject to written notice, and written approval by, the Commission.

(j) Courses delivered online in an on-demand format, in addition to meeting the requirements at (f) and (g) above, must be approved by ARELLO.

#### 11:5-2.2 Licensed schools and instructors; requirements

(a) This section is applicable to those licensed as a school or instructor offering prelicensure education courses pursuant to N.J.S.A. 45:15-10.4 and 10.5, and when applicable, to a school or instructor licensed to offer continuing education courses pursuant to N.J.A.C. 11:5-12.1.

1. The renewal term for school and instructor licenses shall run for a two-year period, from March 1 to the last day of February of the odd year.

(b) A school or instructor applicant shall submit certain documents, which shall be used to determine whether to grant a license. Where the Commission initially denies an application for licensure, it shall provide notice, in writing, with reasons for such action. The applicant may appeal the decision to the Commission and N.J.A.C. 11:5-11.10 shall be applicable to all such appeals.

(c) Public adult education programs and accredited colleges or universities shall be presumed to be qualified, so long as their prelicensure education program is under the direction of a licensed instructor or other qualified individual who has affirmatively demonstrated to the Commission their good moral character and meets the other requirements at N.J.S.A. 45:15-10.9.

(d) Except as provided at (c) above, an applicant for a license to operate a 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 like offenses specified at N.J.S.A. 45:15-12.1 and 45:1-21.5. 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, has been approved by the appropriate State agency.

(f) A school licensed by the Commission shall have a main location that contains its administrative offices, its records and a telephone number for the school's exclusive use.

1. A school may designate a physical location where classes are taught. These locations shall have adequate space, seating, equipment, and instructional materials. The premises, equipment and facilities shall comply with all local, city, county, and State regulations, such as fire codes, building and sanitation codes. A certificate from a proper authority evidencing compliance with these requirements shall accompany an application for school licensure. The Commission may require proof of ownership or a copy of the lease. Public adult education programs and accredited colleges or universities, 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.

2. Additional teaching locations must be licensed by the Commission and comply with the requirements applicable to licensed schools. School directors shall have oversight responsibility for these locations. Any courses conducted at such locations must be taught by licensed instructors, guest lecturers, or individuals approved as continuing education instructors pursuant to N.J.A.C. 11:5-12.10, as applicable.

(g) A school must submit their policy pertaining to standards for satisfactory course completion, the issuance of the Course Completion Certificate, conditions for dismissal of a student and conditions for refunds, and the final examination policy with their application. A school offering courses by online instruction must provide their policy on

technical support availability for students and how students access these resources.

1. Any changes in school policy submitted, as set forth at (g) above, shall be disclosed to the Commission within 10 business days, in writing, or on a form that the Commission prescribes.

(h) A school license shall be limited to the specific ownership and teaching locations identified on the license document(s).

(i) An applicant for director of a school administered by a public adult education program or an accredited college or university who is not licensed as an instructor must be at least 18 years of age; demonstrates good moral character, including the absence of any conviction for the crimes or other offenses specified at N.J.S.A. 45:15-12.1 and 45:1-21.5; and satisfies the education requirements for licensure as an instructor within two years of their application.

(j) Every six months, the 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 information shall be provided on forms prescribed by the Commission and be retained for not less than three years after submission.

(k) No person, other than a guest lecturer, shall teach prelicensure courses that fulfill the education requirements set forth at 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. An applicant must be at least 18 years of age and demonstrate that they possess good moral character, including the absence of any conviction for those certain crimes or like offenses specified at N.J.S.A. 45:15-12.1 and 45:1-21.5. A non-attorney applicant must submit a Request for Criminal History Record Information Form to the New Jersey State Police as the processing fee for such forms.

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

i.-ii. (No change.)

3. An applicant must satisfy the education requirements at N.J.A.C. 11:5-2.1(g), not more than one year prior to passing the instructor license examination and submitting their application, except for the following:

i. New Jersey broker licensees who have been licensed as such for the two years immediately preceding the application, 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.

ii. The following applicants will not be required to complete the 90-hour general course at N.J.A.C. 11:5-2.1(g)1, but must successfully complete the two 30-hour courses set forth at N.J.A.C. 11:5-2.1(g)6 and 7 to fulfill instructor education requirements:

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

(2) (No change.)

4. Applicants shall successfully complete an instructor license examination, which shall test the applicant's general real estate knowledge and include questions on teaching methods. Applicants are advised to engage in independent study and/or 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 the Commission and licensing procedures. Such seminars shall not exceed one day in length.

(I) Regulations applicable to the renewal of school and instructor licenses are as follows:

1. The fee to renew an instructor license shall be \$100.00. The fee to renew a school license shall be \$400.00 for the main office location and one teaching location. The fee of \$200.00 shall be imposed for each additional licensed teaching location to be renewed.

2. To renew an instructor license, an instructor must attend a Commission-sponsored seminar on updated real estate brokerage business practices 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. Instructors initially licensed in

the last six months of the two-year license term are exempt from the seminar attendance requirement for the first renewal term.

3. If an instructor fails to renew their license for more than two years following the expiration of their license, the instructor will need to reapply for licensure and meet the requirements set forth at (k) above. If an instructor allowed their license to lapse beyond two years of expiration due to employment in a public agency in this State relating to real estate, the instructor must apply for renewal within one year of termination of that employment.

(m) Courses delivered in-person or through live-remote instruction shall have a maximum ratio of one instructor or guest lecturer to 60 students per class. All courses shall be under the supervision of an instructor licensed pursuant to N.J.S.A. 45:15-10.5 and (k) above. At least one licensed instructor shall be present in the classroom at all sessions. At the discretion of the instructor, guest lecturers may provide course instruction, which cannot exceed more than 25 percent of the required material. Courses offered to satisfy the broker education requirement may be taught by up to three instructors, provided that one licensed instructor is designated as a supervising instructor. Directors shall maintain the names of any guest lecturers or group of instructors, with an indication of the designated noting the supervising instructor, at their main office.

(n) The tuition charged by a school shall be specified separately from any fees charged for supplies, materials, or books needed to complete a course. These fees shall be itemized by the school prior to the payment, and such items shall become the property of the student upon payment.

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

(p) A student who has a permanent disability or physical handicap that precludes them from receiving instruction offered by a licensed school may request Commission approval to receive appropriate instruction through a licensed school provided that 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) A school shall not accept a student concurrently enrolled at another licensed school without the student submitting written approval from the Commission upon a showing of good cause.

(r) A school offering continuing education courses shall maintain records of student attendance as prescribed at N.J.A.C. 11:5-12.8. A school shall establish and maintain for each student enrolled in a prelicensure education course, complete, accurate, and detailed records for not less than three years after student matriculation. Such records shall be available for inspection within 48 hours of a request made by the Commission and shall contain the following information:

1. The total hours of instruction undertaken by the student;
- 2.-4. (No change.)

(s) To receive credit for a course, the student must receive a passing grade and attend at least 80 percent of the class instruction as set forth at N.J.A.C. 11:5-2.1.

(t) Upon the satisfactory completion of a prelicensure course, the school shall issue, to the student, a Course Completion Certificate.

(u) The director of a school shall be responsible for properly closing the school as follows:

1. Within 10 days of a school closure, the director shall return the school stamp, if applicable, and shall advise the Commission, in writing, the date on which the school closed.
2. Within 30 days of the school closure, 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 individual named custodian of the record. The Commission shall be notified immediately of any change in such information;
  - ii. The name of the owner or authorized representative of the school and the address and phone number where they may be contacted;
  - iii. If applicable, that the school stamp has been returned to the Commission;
  - iv. All students have been timely notified of the closure and that tuition received for courses that were not completed has been returned;
  - v. All signs have been removed and all advertisements and trade materials referring to the school have been recalled;

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

vii. There are no outstanding fees, fines, or penalties due by the school to the Commission.

(v) A school shall not use any name other than the name appearing on their license for advertising purposes; nor shall a school advertise or imply that it is "recommended," "endorsed," "accredited," or "approved" by the Commission. A school may indicate that it has been "licensed" to conduct courses to qualify candidates for the State licensing examination. A school shall not make any warranties or guarantees that a student will pass the license examination as a result of taking its course.

(w) (Reserved)

(x) There shall be total separation between instructional activity conducted by a school and solicitation of students to become salespersons for a particular broker, as defined at (x)2ii below. A violation of this provision will be considered conduct demonstrating unworthiness for licensure, subjecting the offending licensee to sanctions pursuant to N.J.S.A. 45:15-17.e and t. The involvement of a school in permitting the solicitation of students to become salespersons for particular real estate brokers is limited as follows:

1. At the beginning of the first class of a salesperson prelicensure course, all schools shall distribute to students the following notice. If a student does not receive the notice at the start of a prelicensure course, the notice shall be provided as soon as possible.

#### NOTICE

TO: ALL SALESPERSON/REFERRAL AGENT COURSE  
STUDENTS FROM: NEW JERSEY REAL ESTATE COMMISSION  
RE: SOLICITATION OF SALESPERSON CANDIDATES AT  
PRELICENSURE 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 their firm and/or to secure listings or offers on listed properties from you.

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 at [realestate@dobi.nj.gov](mailto:realestate@dobi.nj.gov) or by writing to:

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

You are free to negotiate the terms of your business relationship with any broker. It is in your own best interest to talk to several prospective brokers to determine which offers the best fit for you. You should consider the type of business relationship (including employment and independent contractor relationships) offered by various brokers as well as the compensation plan, including post-termination payment provisions, and support package. You should also consider a prospective employer's professionalism and reputation for honesty and integrity when deciding which broker to work for.

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

- i. "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
- ii. "Successful completion" means the receipt by the student of a Certificate of Completion, duly signed by the instructor and the director and stamped by the school, certifying that the student has completed and passed a prelicensure course.

3. A director, instructor, guest lecturer, or staff member shall not, prior to, or within seven days following a student's successful completion of a course, solicit a student to become a salesperson for a particular broker. Nor shall any such person, at any time, accept any fee or other compensation or valuable consideration for soliciting or recruiting

students attending their school to apply for employment with a particular broker.

4. A school is prohibited from soliciting students to apply for employment as salespersons with a particular broker at a licensed school location during course instruction, including breaks. Such soliciting may be made before, after, or separate from course instruction hours, for example at a "career night"; provided that students are notified, in writing, in advance that attendance at such recruitment functions is voluntary. Licensed instructors who are also licensed brokers may appear as guest lecturers in such courses, so long as their presentations do not include the solicitation of students.

5. A school that elects to permit the posting, distribution, or displaying of written material to solicit students to inquire about employment as a salesperson must permit the posting, distribution, or displaying of such material from any broker who requests to do so. No solicitation materials may be distributed to students during course instruction.

6. A school may not offer a reduced tuition rate to students contingent upon a student making a commitment to becoming licensed through a particular broker subsequent to their qualifying for licensure and a school may not make or imply any promise or guarantee of employment to any student.

7. No oral or written statements referring to a school may be included in any advertisement by a licensee, and no advertisement of a school may refer to the brokerage operation or include the telephone number of any licensee, unless that school which is owned by a licensee or franchisor whose name is part of the school name.

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

"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)."

8. A brokerage may share a building with a school only if the school can conduct course instruction in an area free of brokerage activity and where students do not have to walk through brokerage activity to access the classroom, which shall be accessible by a separate entrance or shared lobby.

9. A school shall not allow any person to solicit students enrolled in, or considering enrolling in, a prelicensure or continuing education course to list, purchase, or lease any property; or for referrals of prospective sellers, purchasers, or lessees any time students are on the premises.

(y) A school providing continuing education courses shall comply with all requirements imposed upon the providers of such courses set forth at N.J.A.C. 11:5-12.

#### 11:5-2.3 Applications processed by the Education Bureau

(a) The following licenses and approvals are processed by the Education Bureau:

1. Instructor license;
2. School license;
3. License for additional teaching location of a licensed school;
4. Approval of school director;
5. (No change.)
6. Approval of a continuing education provider;
7. Approval of a continuing education instructor; and
8. Approval of a continuing education course.

(b) The following waivers are processed by the Education Bureau:

1. Waiver of salesperson prelicensure education requirement;
2. (No change.)
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;
4. Waiver of continuing education requirement pursuant to N.J.A.C. 11:5-12.5; and
5. Application for a continuing education exemption based on licensure as a broker or broker-salesperson for 40 years or more pursuant to N.J.A.C. 11:5-12.5A.

#### 11:5-2.4 Examination eligibility

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

1. Broker candidates who have fulfilled the experience and/or education requirements or, to the extent permitted at N.J.A.C. 11:5-3.8 and 2.1(e), had the experience and/or education requirements waived;

2. Instructor candidates who have fulfilled the education requirement or, to the extent permitted at N.J.A.C. 11:5-2.2(k), had the education requirement waived; and

3. Salesperson candidates who, as provided at N.J.A.C. 11:5-2.1(e), had the salesperson education requirement waived.

#### 11:5-2.5 Education Bureau forms; processing times

(a) The following forms are utilized by the Education Bureau:

1. Application for a non-public school license;
2. Application for licensure of an additional teaching location for a non-public school;
3. Application for a school license for a public college, university, or adult education program;
4. Application for an instructor license;
5. Application for change of address of the main office location or primary teaching location of non-public school offering prelicensure courses;
6. Application for relicensure of public college, university, or adult education program with new director;
7. Application for relicensure of non-public school with a new director partner(s) (partnership), owner(s) of a controlling interest (corporation), or school name change;
8. Application for waiver of the salesperson prelicensure education requirement;
9. (No change.)
10. Experience report for broker applicant;
11. (No change.)
12. Application for approval of a continuing education provider;
13. Application for approval of a continuing education instructor;
14. Application for approval of a continuing education course; and
15. Application for continuing education exemption based on licensure as a broker or broker-salesperson for 40 years or more.

(b) Following the receipt of complete and accurate application forms with the required fee(s) are processed within the time frames indicated:

1. Applications for instructor, school, and additional teaching location licenses—three weeks;
2. (No change.)
3. Applications for relicensure of schools with new directors, partners, or owners of a controlling interest—three weeks;
4. Applications for renewal of instructor, school, and additional teaching location licenses—four weeks;
5. (No change.)
6. Applications for the approval of experience as a 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;
7. Applications for approval of a continuing education provider—three weeks after a recommendation is made to the Commission;
8. Applications for approval of a continuing education instructor—three weeks after a recommendation is made to the Commission;
9. Applications for approval of a continuing education course—three weeks after a recommendation is made to the Commission; and
10. Applications for the issuance of a waiver of the continuing education requirement—three weeks.

#### 11:5-2.6 Transaction fees

The fee applicable to schedule for certain transactions processed by the Education Bureau are listed in the table below. Fees for transactions related to continuing education are listed at N.J.A.C. 11:5-12.17.

#### EDUCATION BUREAU TRANSACTION FEES

<u>Description</u>	<u>Amount</u>
Criminal history check and fingerprint scan	State-contracted vendor fee (paid directly to vendor)
Application fee, school license	\$100.00
Application fee, instructor license	\$50.00



Description	Amount
Initial license fee, non-public school	\$400.00 for licenses issued in the first year of a license term; \$200.00 for licenses issued in the second year of a license 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 license term; \$100.00 for licenses issued in the second year of a license 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

## SUBCHAPTER 3. LICENSING

## 11:5-3.1 Terms of real estate licenses

Broker, broker-salesperson, salesperson, and branch office licenses shall run for a two-year period, \*[from the date of issuance to the last day of]\* **\*concluding on\* June 30 of the \*[odd]\* **\*odd-numbered\* year. **\*All licenses issued during each biennial term shall run from the date of issuance to the end of the term.\*******

## 11:5-3.1A Proof of licensure

Licenses must have a copy of their license in their possession at all times when engaged in the business of a real estate broker, broker-salesperson, or salesperson. Licensees must either carry a physical copy of their license to use as a pocket card or have a digital image of their license on a cell phone, tablet, laptop, or other electronic device in their possession. Licensees may print or download a copy of their license through the Commission website at <http://www.reconline.nj.gov>.

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

With the exception of fees paid to the State-contracted fingerprint scanning vendor or fees to the State-contracted licensing examination vendor, all fees prescribed by the Act may be paid in any form permitted by the State of New Jersey payment receipts system. No cash or currency shall be accepted.

## 11:5-3.3 Criminal history record check

(a) An individual licensee or an officer, director, partner, or owner of a controlling interest of a licensed corporation or partnership shall complete a fingerprint scan by a State-contracted vendor, pay the required processing fee, and submit proof of completion of the fingerprint process with their licensing application.

(b) Proof of completion shall include a copy of the vendor's completed fingerprint scanning form and receipt of payment.

(c) If the applicant is a natural person, they shall submit with their license application, the proof of completion set forth at (b) above.

(d) If the applicant is a corporation or partnership, they shall submit with their license application proof of completion as set forth at (b) above for each officer, director, partner, or owner of a controlling interest.

## 11:5-3.4 State licensing examination rules

(a) The following rules shall apply to the administration of examinations for licensure as a broker or salesperson:

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

2. Copying questions or taking notes for personal use are strictly prohibited.

3. (No change.)

4. The examinations required pursuant to N.J.S.A. 45:15-10 for broker or salesperson shall be prepared by a testing service designated by the Commission. Fees charged to take the examination and for fingerprinting scanning shall be considered service fees, paid directly to the vendors, separate and apart from any fee required pursuant to N.J.S.A. 45:15-9 to be paid to the Commission at the time of the license application.

(b) An examinee may request accommodations pursuant to the Americans With Disabilities Act or any other applicable law, first to the vendor administering the examination. However, the Commission shall retain final authority to determine whether such requests shall be granted.

## 11:5-3.5 Requests for disclosure of Social Security numbers and electronic mailing addresses

(a) The Commission may request that applicants and licensees, including registrants for State licensing examinations, provide their Social Security number. Requests shall be accompanied by a notice stating:

1. How the Commission intends to use the Social Security numbers;

2. Whether disclosures made pursuant to the request are voluntary or mandatory; and

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

(b) Business entity and sole proprietor broker licensees shall establish an official email address and provide such to the Commission when applying for renewal online. The Commission shall use the official email address to transmit general orders, bulletins, and public notices to brokers.

(c) Any subsequent change to the official email address shall be updated in the notification system within 10 days of the change.

## 11:5-3.6 Salespersons' and referral agents' licenses; age requirement

(a) An applicant for a salesperson license shall be at least 18 years of age.

(b) An applicant for a salesperson license shall submit with their application a Course Completion Certificate issued by 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 in accordance with N.J.S.A. 45:15-10.2.

(c) An applicant for a salesperson license must pass the State licensing examination and apply for the issuance of a license not later than one year after the date of successful completion of the issuance of a license within the one year shall be required to retake and complete the prelicensure education requirement and the State licensing examination.

(d) An applicant for a salesperson license shall certify that they possess a high school education or equivalency. The Commission may require proof of educational attainment, or equivalency, as a condition to issuing a license.

## 11:5-3.7 Employment of salesperson sponsored by broker

(a) A broker shall not knowingly sponsor a salesperson or salesperson (referral) licensure applicant who does not have a reputation for honesty and fair dealing.

(b) An application for licensure as a salesperson (referral) or renewal of licensure shall include a certification signed by the broker by whom the applicant is, or will be, employed confirming:

1. The broker and the applicant have reviewed the restrictions imposed by law upon the activities of a salesperson (referral); and

2. The applicant has acknowledged that they are aware that the activities of a salesperson (referral) are limited to as set forth at N.J.A.C. 11:5-6.10(a)2.

(c) Applications for licensure as a salesperson (referral) other than renewal applications shall also contain a certification signed by the applicant confirming the statements at (b)1 and 2 above.

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

(a) All references in this section to “brokers” shall include broker-salespersons. Applicants for licensure as a broker must satisfy the experience requirement imposed at N.J.S.A. 45:15-9, which requires a demonstration of the applicant’s commitment to real estate brokerage as their primary vocation, evidenced by their involvement in the real estate brokerage business on a full-time basis.

1. A person presently licensed as a broker in another state, who has been actively licensed and engaged in the brokerage business on a full-time basis as a broker, broker-salesperson, or salesperson for at least three years immediately preceding the date of application, shall qualify for a waiver of the experience requirement.

2. With the exception of those persons set forth at (a)1 above, applicants must have been continuously licensed and employed on a full-time basis as a salesperson for the three years immediately preceding their application. Full-time employment shall be demonstrated by a showing that:

- i. (No change.)
- ii. The work at (a)2i above was performed during any five days in each week of the three-year period; and
- iii. Any other employment held by the applicant during the three-year period was on a part-time basis and did not exceed 25 hours per calendar week. Any other employment held by the applicant during the three-year period was on a part-time basis and did not exceed 25 hours per calendar week.

3. 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 the three years immediately preceding such application; and
- ii. Has completed the education requirement set forth at 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 active involvement in the brokerage business as a 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 which certify the applicant’s activity as a salesperson 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 other evidence of full-time activity, such as extensive involvement in a specialized field of real estate brokerage.

3. An applicant whose brokerage activity was limited to solely making referrals to other licensees will not be deemed to have fulfilled the experience requirement.

(c) An applicant licensed as a broker-salesperson shall meet the same qualifications as set forth at (a) and (b) above. The applicant must be employed by, and under the supervision of, a duly licensed broker and shall not independently maintain an office or escrow account. The applicant may have served as an office supervisor for a branch office in accordance with N.J.S.A. 45:15-12.

(d) Applicants shall include with their application for licensure examination, a Course Completion Certificate from a licensed school 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 in accordance with N.J.S.A. 45:15-10.2 and N.J.A.C. 11:5-2.1.

(e) An applicant must pass the State licensing examination and apply for the issuance of a license as a broker or broker-salesperson not later than one year after successful completion of the education requirements. An applicant who fails to apply within that one-year period shall be required to retake and complete the education requirement, the State licensing examination, and must submit evidence of having again fulfilled the experience requirement during the three years immediately preceding the new application.

## 11:5-3.9 Office closing; change of broker of record

(a) A broker who ceases to be active shall within five business days of the cessation of business terminate the licenses of salespersons and broker-salespersons in their employ through the online licensing system on the Commission’s website.

(b) Each \*[employee]\* **\*salesperson and broker-salesperson\*** whose license has been terminated must be notified, in writing, in compliance with N.J.S.A. 45:15-14.

(c) A broker engaging in the brokerage business as a sole proprietor or as a broker of record of a partnership, a corporation, or other \*[form of]\* business entity shall within 30 days of ceasing to engage in the brokerage business submit an office closing affidavit that includes the statements at (c)1 through 9 below. A broker shall not be relicensed by the Commission unless the office closing affidavit is filed as provided for in this section.

1. All licenses affiliated with the office have been terminated;
2. The trust account has been closed and funds have been disbursed to proper parties;
3. Commissions and other compensation 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 for services previously rendered and payable in the future upon the occurrence of specified events, itemized on a list attached to the affidavit, which shall include the nature and amounts of outstanding commissions with sufficient information to identify each transaction;
5. The principals in ongoing transactions have been notified that the broker has ceased engaging in the brokerage business or that the broker will hereinafter engage in the brokerage business in another capacity. The notice shall describe the disposition of pending transactions, name of the custodian, and place of deposit of any funds received from principals;
6. The broker has removed all signage from the premises indicating that it contains the office of a licensed broker;
7. The broker has recalled all physical and electronic advertisements from trade publications and multiple listing services;
8. There are no outstanding fines or penalties due to the Commission; and
9. The broker acknowledges their responsibility to maintain records pursuant to N.J.A.C. 11:5-5.4. The broker shall provide the address where such records will be maintained and their responsibility to advise the Commission of any change in the name of the custodian or place of depository for six years.

(d) When a new broker of record of a corporation\*,\* \*[or]\* partnership\*,\* **\*or other business entity\*** is being substituted for an existing broker of record, the existing broker **\*of record\*** shall **\*[satisfies]\* \*satisfy\*** the certification requirements at (c) above and the substitution procedures at (e) below.

(e) A new broker of record of a corporation\*,\* \*[or]\* partnership\*,\* **\*or other business entity\*** shall not be substituted until the new **\*[broker]\*** and former broker **\*s of record\*** prepare and submit a joint affidavit certifying that:

1. Custody of funds held in trust have been assumed by the new broker **\*of record\***;
2. The new broker **\*of record\*** has reviewed pending transactions and is satisfied that all funds held in trust have been accounted for;
3. All salespersons’ and broker-salespersons’ commissions and other compensation are paid to date;
4. The new broker **\*of record\*** acknowledges responsibility to pay salespersons’ and broker-salespersons’ commissions in accordance with the policy for payment existing on the date of substitution;
5. No fines are presently owed to the 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 **\*of record\*** are jointly and severally responsible for payment;
6. All signs and advertisements have been changed to reflect the broker **\*of record\*** 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 **\*of record\***, and the new broker **\*of record\*** acknowledges responsibility to maintain such records for six years; and
8. The new broker **\*of record\*** acknowledges that they will be responsible to transact business in the name and on behalf of the firm.

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

(a) An employing broker or broker of record may delegate authority to sign or process license applications to one \*[employee]\* **\*person\*** in the

broker's place. In the case of a corporation, LLC, partnership, or other entity licensed as a broker, the designated person shall be the holder of a broker's license and an officer or member of the corporation, LLC, partnership, or other business entity. In the case of broker organized as a sole proprietor, the designated person shall be licensed as a broker-salesperson in the employ of the broker. The broker of record or employing broker, as applicable, shall file with the Commission, a power of attorney granting this authority to the designated person, at least 10 days prior to delegating performance of the function to that person.

(b) An employing broker or broker of record may authorize one \*[employee]\* **\*person\*** to process license terminations of salesperson or broker-salesperson licensees, in accordance with N.J.S.A. 45:15-14. The designated person does not need to hold a broker license. The employing broker or broker of record shall, on a form to be provided by the Commission, notify the Commission, in writing, of the authorized \*[employee]\* **\*person\*** at least 10 days prior to delegating the performance of the function to that person. The employing broker or broker of record shall immediately notify the Commission, in writing, if the authority of that designated \*[employee]\* **\*person\*** is revoked and whether a new \*[designee]\* **\*person\*** is to be \*[named]\* **\*designated\***. Only the employing broker or broker of record, as applicable, and one other person duly designated and identified to the Commission may perform license transfer functions at any one time.

#### 11:5-3.11 Transfer and termination procedures

(a) If a broker terminates the employment of an individual licensee or an individual licensee resigns, the broker or licensee, as applicable, shall provide written notice to the other party specifying the effective date of the termination or resignation.

(b) Within five business days of the broker's issuance of the notice of termination or receipt of a resignation, the broker shall process the separation of the licensee's affiliation with the firm through the Commission's website.

(c) The following pertain to transfers and terminations:

1. Only salesperson or broker-salesperson licenses can be transferred or terminated online;
2. Terminations and transfers shall be completed by an active broker of record, employing broker, or individual designated to perform these functions pursuant to N.J.A.C. 11:5-3.10(b);
3. A broker of record or employing broker shall not process an online termination or transfer of their own license; and
4. Online transfers are not permitted unless the salesperson or broker-salesperson licensee was under the supervision of the terminating broker or broker of record and licensed to engage in brokerage activity with that broker prior to the termination.
- (d) Brokers who terminate a licensee or transfer a licensee to their firm shall maintain records of such terminations and transfers for six years.

#### 11:5-3.12 License applications processed by the Licensing Bureau

(a) The following applications are processed by the Licensing Bureau:

1. Salesperson;
2. Salesperson (referral);
3. Broker—Salesperson;
4. Broker—Sole proprietor;
5. Broker—Business entity;
6. Broker—Broker of record of a licensed business entity; and
7. (No change.)

#### 11:5-3.13 Licensing Bureau forms, instructions, processing times, deadlines

(a) The following forms are utilized by the Licensing Bureau:

1. Original salesperson and salesperson (referral) license application;
- 2.-4. (No change.)
5. Salesperson, salesperson (referral), or broker-salesperson transfer of license;
- 6.-9. (No change.)
10. Application for reactivation within current license term or for reinstatement of salesperson or salesperson (referral) license;
11. (No change.)
12. Brokerage firm office closing affidavit;
- 13.-14. (No change.)

Recodify existing 18.-31. as 15.-28. (No change in text.)

29. The form to request fingerprint scanning used by the State-contracted vendor;

Recodify existing 33.-34. as 30.-31. (No change in text.)

(b) In addition to the instructions on the forms themselves, separate instructions for the forms related to broker licenses and branch offices are available on the Commission's website.

(c) License applications are processed within 15 business days from the date a complete application and associated fees are received. Processing times during the biennial renewal of licenses may vary. License certifications are normally processed within 15 business days from receipt of the request and associated fee.

(d) Deadlines for the submission of license applications and other required forms are as follows:

1. Original salesperson, salesperson (referral), broker-salesperson, or broker applications shall be submitted one year from the date on which prelicensure education requirements were completed (see N.J.A.C. 11:5-3.6(c) and 3.8(e);

2. Applications for the reinstatement of a salesperson, salesperson (referral), broker-salesperson, or broker license shall be submitted two years from the expiration date of the last license held, unless exempted pursuant to N.J.S.A. 45:15-9;

3. Brokerage firm office closing affidavit shall be submitted within 30 business days from date of closing (see N.J.A.C. 11:5-3.9(c));

4. Brokerage firm change of address shall be submitted prior to, or immediately upon, a move to new address (see N.J.S.A. 45:15-12 and 45:15-13);

5. Temporary broker license shall be submitted within 30 business days from date of death or of incapacity of sole proprietor broker or broker of record (see N.J.S.A. 45:15-11.3); and

6. License renewals:

i. Initial renewal application shall be submitted by June 30 of the year the license is due to expire (see N.J.A.C. 11:5-3.1);

ii. First supplemental renewal application shall be submitted 45 days from date application issued; and

iii. Second supplemental renewal application shall be submitted 30 days from date application issued.

(e) Late fees are assessed for renewals received after the deadlines referenced at (d)6 above and as set forth at N.J.A.C. 11:5-3.14.

#### 11:5-3.14 Transaction fees

(a) The fee schedule for transactions processed by the Licensing Bureau are listed below. Renewal fees are assessed pursuant to N.J.S.A. 45:15-15. All other fees are payable in full, regardless of when during a license term the application to which the fee pertains is submitted.

(b) The initial license fee includes a \$50.00 application fee and, where applicable, a Real Estate Guaranty Fund fee of \$10.00 for salespersons and \$20.00 for brokers and broker-salespersons, pursuant to N.J.S.A. 45:15-35. This fee does not include the fee for fingerprint scanning payable directly to the State-contracted vendor.

#### LICENSING BUREAU TRANSACTION FEES

<u>License</u>	<u>Fee</u>
Corporations, partnerships, and other business entities	\$270.00
Broker of record	\$270.00
Sole proprietor broker	\$270.00
Broker-salesperson	\$270.00
Salesperson and salesperson (referral)	\$160.00
Branch office	\$150.00
Temporary broker license	\$300.00
<u>Renewal Fees:</u>	
<u>License</u>	<u>Fee</u>
Corporations, partnerships, and other business entities	\$200.00
Broker of record	\$200.00
Sole proprietor broker	\$200.00
Broker-salesperson	\$200.00
Salesperson and salesperson (referral)	\$100.00
Branch office	\$100.00

## ADOPTIONS

## INSURANCE

### Late Renewal Fees

<u>License</u>	<u>Fee</u>
Corporations, partnerships, and other business entities	\$40.00
Broker	\$40.00
Broker-salesperson	\$20.00
Salesperson and salesperson (referral)	\$20.00

### Transfers

<u>License</u>	<u>Fee</u>
Broker-salesperson	\$25.00
Salesperson and salesperson (referral)	\$25.00

### Reinstatements of Unrenewed Licenses (Include \$50.00 Application Fee)

<u>License</u>	<u>Fee</u>
Corporations, partnerships, and other business entities	\$250.00
Broker of record	\$250.00
Sole proprietor broker	\$250.00
Broker-salesperson	\$250.00
Salesperson and salesperson (referral)	\$150.00
Branch office	\$150.00

### Changes

<u>Type</u>	<u>Fee</u>
Name change	\$50.00
Change of business address: sole proprietor brokers and corporations, partnerships, or other business entities	\$50.00
Change of status--sole proprietor, broker, broker of record, broker-salesperson, salesperson or salesperson (referral)	\$50.00
Change of branch office supervisor	\$50.00

### Registration

Registration of entity to receive commission income	\$50.00
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#### 11:5-3.15 Change of from salesperson (referral) to salesperson or broker-salesperson

(a) A salesperson (referral) who was not previously licensed as a broker, broker-salesperson, or salesperson and who has been licensed as a referral agent for less than one year shall be eligible for licensure as a salesperson without being required to complete any continuing education.

(b) A salesperson (referral) who was not previously licensed as a broker, broker-salesperson, or salesperson and who has been licensed as a salesperson (referral) for between one and six years immediately preceding making application for a change of status to that of a licensed salesperson shall complete 24 hours of continuing education in core topics as set forth at N.J.A.C. 11:5-12.4, which shall be completed within the two years immediately preceding their application.

(c) A salesperson (referral) who was not previously licensed as a broker, broker-salesperson, or salesperson and who has been licensed as a salesperson (referral) for more than the six years immediately preceding their application for a change of status to that of a licensed salesperson shall be required to complete the education requirement set forth at N.J.A.C. 11:5-2.1 and to pass the State licensing examination.

(d) A salesperson (referral) who was previously licensed as a broker, broker-salesperson, or salesperson, who has been licensed as a salesperson (referral) between one and six years immediately preceding their application for reissuance of a broker, broker-salesperson, or salesperson license, shall complete the hours of continuing education as set forth below:

1. To qualify for relicensure as a salesperson, a person who has been licensed as a salesperson (referral) for less than three years shall complete 12 hours of continuing education in core topics as set forth at N.J.A.C. 11:5-12.4 within the two years immediately preceding application.

2. To qualify for relicensure as a salesperson, a person who has been licensed as a salesperson (referral) for at least three years, but less than six years, shall complete 18 hours of continuing education in core topics as set forth at N.J.A.C. 11:5-12.4 within the two years immediately preceding application.

3. To qualify for relicensure as a broker or broker-salesperson, a person who has been licensed as a salesperson (referral) for less than three years shall complete 18 hours of continuing education within two years immediately preceding application.

4. To qualify for relicensure as a broker or broker-salesperson, a person who has been licensed as a salesperson (referral) for three years, but less than six years, shall complete 24 hours of continuing education within the two years immediately preceding application, all of which shall be in core topics as set forth at N.J.A.C. 11:5-12.4.

(e) A salesperson (referral) who was previously licensed as a broker, broker-salesperson, or salesperson who has been licensed as a salesperson (referral) for more than the six years immediately preceding their application for reissuance of a broker, broker-salesperson, or salesperson license shall complete 30 hours of continuing education in core topics as set forth at N.J.A.C. 11:5-12.4, and shall pass the broker's license examination or the salesperson's examination, as applicable.

### SUBCHAPTER 4. EMPLOYMENT PRACTICES/OFFICE AND LICENSEE SUPERVISION

#### 11:5-4.1 Business relationship agreements; commissions; accounting to salespersons; actions for collection of compensation

(a) Prior to engaging in any brokerage activity, the broker and salesperson must enter into a written agreement that contains the terms of their business relationship. Such agreement shall contain terms including, but not limited to, the following:

1. The rate of compensation to be paid to the salesperson during their affiliation with the broker;

2. A provision that the broker will pay the salesperson their portion of commissions earned within 10 business days of their receipt, as soon as such funds have cleared the broker's bank account, or in accordance with a payment schedule explicitly set forth in the written agreement;

3. The rate of compensation payable to the salesperson on transactions that close or renewals that occur subsequent to the termination of the salesperson's affiliation with the broker; and

4. A provision that any future changes to the agreement will not be binding unless memorialized and signed by both parties.

(b) A copy of the fully executed agreement shall be provided to the salesperson upon the commencement of their affiliation with the broker, and the original thereof shall be maintained by the broker in accordance with N.J.A.C. 11:5-5.5.

(c) All compensation paid to brokers shall, unless debited from funds held in escrow in accordance with N.J.A.C. 11:5-5.1(d), be deposited into the general business account of the broker within five business days of their receipt.

(d) If any monies due a salesperson are not paid in accordance with (a)2 above, the broker shall provide to the salesperson a written explanation of the failure to pay such monies.

(e) Within 30 days of the termination of the affiliation of a salesperson, the broker shall provide a written accounting of all monies due the salesperson as of the date of termination and/or monies that may become due in the future. If the accounting is not consistent with the post-termination compensation clause in the written agreement, the broker shall provide to the salesperson a written explanation of the difference and an accounting.

(f) A broker must maintain copies of the following documents and proof of delivery of the document to the salesperson for six years:

1. Agreements as described at (a) above;

2. Explanations of the failure to pay compensation due a salesperson described at (d) above; and

3. Accountings and explanations regarding compensation due a salesperson subsequent to the termination of their affiliation with a broker as described at (e) above.

(g) The Commission will not further investigate a complaint alleging non-payment by a broker to a salesperson if the Commission confirms that the broker has complied with the requirements of this section, unless such complaint is accompanied by an arbitration decision, or equivalent, or a judgment of a court of competent jurisdiction secured by the salesperson against the broker. Unless appealed, the failure of a broker to pay monies awarded to a salesperson pursuant to the terms of any such decision or

judgment within 30 days of its effective date shall subject the broker to sanctions pursuant to N.J.S.A. 45:15-17.

(h) Broker and salesperson licensees may only bring actions in the courts of New Jersey for the payment of compensation due them for brokerage services performed as provided at N.J.S.A. 45:15-3.

1. The phrase "at the time the alleged cause of action arose" as used at N.J.S.A. 45:15-3 means at the time that the brokerage services which form the basis for the alleged claim to compensation were rendered. For example, at the time when a property was listed for sale or rental by a licensee.

2. The phrase "at the time the alleged cause or action arose" as used at N.J.S.A. 45:15-3 does not require that the licensee be actively licensed at the time that the compensation allegedly due was to have been paid. For example, licensure is not required at the time of the renewal of a lease to enable a claimant to sue for compensation based upon a promise, made or in effect when the lease was originally executed, to pay additional consideration to the claimant in the event that the lease was renewed.

(i) References to "salesperson" in this section include individuals licensed as broker-salespersons. References to "non-payment of a commission" in this section shall be construed to include the non-payment of other forms of compensation.

(j) The terms "employment agreement," "employ," and "employing broker" refer to an employment relationship or an independent contractor relationship between a broker and a broker-salesperson or salesperson.

#### 11:5-4.5 Branch office(s)

(a) When a broker maintains a branch office or offices, every main office shall comply with N.J.A.C. 11:5-4.4.

(b) A license shall not be issued for a branch office situated in the dwelling premises of a salesperson or a broker-salesperson.

(c) A branch office shall be within the direct supervision of a licensed broker employed as a broker salesperson by the broker maintaining the branch office.

(d) The licensed broker-salesperson must manage the office full- time during usual business hours.

(e) The name of the licensed broker-salesperson responsible for the supervision of the branch office shall be recorded at all times with the Commission.

(f) The broker who maintains a licensed branch office must conspicuously display the name of that broker, address of the branch office, the name of the broker-salesperson licensee as "office supervisor," and the names of all other licensees doing business at that branch office, at all times.

(g) A change of the broker-salesperson supervising a branch office must be reported to the Commission within 48 hours.

### SUBCHAPTER 5. TRUST ACCOUNTS/RECORDS OF BROKERAGE ACTIVITY

#### 11:5-5.2 Funds of others; safeguards

(a) A licensee shall not accept funds or deposits from a prospective purchaser without ascertaining that there have been established by escrow, or otherwise, adequate precautions to safeguard such funds or deposits where the licensee knows, or conditions are such as to give them reason to know, any facts that would tend to create a reasonable doubt as to the ability of the seller to:

1. Perform their contractual obligations; or
2. Return funds in the event of the failure of a contingency contained in a contract.

(b) The provisions at (a) above shall not apply to a licensee who, before accepting such funds or deposits, has informed the prospective purchaser of any known risks and has secured from them a separate signed writing in which the purchaser has acknowledged:

1. The purchaser's awareness of any risk or contingency;
2. The disposition of the purchaser's funds or deposits; and
3. The absence of any representations by the licensee as to the solvency of the seller and their ability to return such funds.

(c) Funds or deposits placed in escrow pursuant to this subchapter may be held by any person or entity legally authorized to hold funds in that capacity, such as, but not limited to, the broker themselves, lawyers, or banks.

#### 11:5-5.3 Advance fees; accounting

(a) A broker who charges or collects an advance fee in excess of \$25.00 for services to be rendered, such as, but not limited to, advertising costs, under an advance fee agreement, shall, within 90 days, furnish their principal with an accounting of such moneys.

(b) The accounting shall provide the actual amount of each individual expenditure, including date of insertion and name of newspaper or periodical, and similarly detail any other type of promotional expenditure if funds spent other than newspaper or periodical advertising.

#### 11:5-5.5 Inspection of licensee records

(a) A licensee shall make available for inspection by the Commission, or its designated representatives, records of transactions, books of accounts, instruments, documents, and forms used or maintained in the conduct of business, which may be pertinent to an investigation.

(b) The Commission may issue subpoenas, administer an oath or affirmation, and conduct hearings in aid of any investigation or inquiry.

(c) All files related to pending and closed sales, exchange, or lease transactions, listings for sales or rentals, and property management files shall be maintained at the offices of the employing brokers or corporate or partnership brokers. Upon terminating their employment with such a broker, and/or transferring to the employ of another such broker, a salesperson or broker-salesperson shall not remove, or cause to be removed, the contents of such files from the offices of the broker. The term "files" shall mean all transaction records required to be kept pursuant to N.J.A.C. 11:5-5.4.

### SUBCHAPTER 6. CONDUCT OF BUSINESS

#### 11:5-6.1 Advertising rules

(a) Unless otherwise set forth in this section, (b) through (o) below shall apply to all of advertising, including printed publications, radio or television broadcasts, electronic media, including email and the Internet, business stationery, business cards, business and legal forms and documents, signs, and billboards.

##### 1.-2. (No change.)

(b) The advertisement of an individual, partnership, firm, or corporate broker shall include their regular business name, which for the purposes of these rules, shall mean the name in which that licensee has on record with the Commission. The advertisement of a salesperson or a broker-salesperson shall include the name in which they are licensed and the regular business name of their affiliated broker. A salesperson may not indicate in an advertisement or otherwise that they are licensed as a broker-salesperson. The advertisements of a salesperson (referral) shall include the descriptive terms provided at (e) below.

1. Where an advertisement contains the name of a salesperson or a broker-salesperson, the regular business name of the affiliated broker shall be displayed in a more prominent manner than the name of the salesperson or broker-salesperson.

2. Where the webpage of a salesperson, a broker-salesperson, or a team of such licensees is not linked electronically to their broker's website, the webpage shall display the telephone number of the licensed brokerage office from which the advertising licensee(s) operate, which shall appear in a size consistent with the rest of the page.

3. Where the webpage of an individual or team is linked electronically to their broker's website, the broker's link should be clearly and prominently displayed on the advertising licensee(s) webpage and appear in a size consistent with the rest of the page.

(c) An advertisement shall clearly indicate after the licensee's regular business name that the licensee is engaged in the brokerage business. Permissible language shall include, but not be limited to, "Realtor," "Realist," "real estate broker," "broker," or "real estate agency." Prohibited language when used alone shall include "realty," "real estate," "land sales," and "land investments." This provision shall not apply when the word "agency" appears in the advertisement as part of the licensee's regular business name or when the licensee has legal or equitable ownership of the property. This provision does not apply to lawn signs placed on residential properties containing four or fewer units.

(d) An advertisement containing a telephone number, email address, or website of an individual salesperson or broker-salesperson or a team of

such licensees, shall also include the telephone number of the licensed brokerage office from which the advertising licensee(s) operate.

1. An advertisement shall only represent that the business of a licensee is conducted at a licensed main office or branch office of the broker through whom the advertising licensee is affiliated and shall not reference a home office.

(e) The business card of a licensee shall clearly indicate the type of license they hold. The business card of any licensed salesperson (referral) shall indicate that this licensee is licensed with a real estate referral company by the use of the words "salesperson (referral)," "real estate salesperson licensed with a real estate referral company," or "referral associate."

(f) An advertisement that refers to amounts of down payment, monthly payment, or carrying charges, or which indicates that a mortgage is obtainable (where the mortgage referred to is not already a lien against the premises advertised), shall contain the words "to a qualified buyer."

(g) An advertisement that specifies the amount of down payment, monthly payment, carrying charges, taxes, or mortgage money obtainable shall contain qualifying words such as "approximate" or "estimated," which shall be clearly associated with the amounts provided. A broker shall maintain written proof of the validity of these statements in their files for 12 months from the date the advertisement containing such references last appeared in any publication.

(h) With the exception of magazine or newspaper advertisements published under municipality headings, an advertisement for the sale, exchange, or rental of real property, or any interest therein, shall specify the municipality the property is located.

(i) A licensee shall not advertise, use any form of application, or make any inquiry that expresses, directly or indirectly, any limitation, specification, or discrimination as to race, religion, creed, color, sex, affectional or sexual orientation, marital status, national origin, ancestry, or as to whether a person has a disability as that term is defined at N.J.A.C. 11:5-6.4(k).

(j) Use of an insignia, emblem, logo, or trade name in any advertisement by a licensee or any group of licensees implying common ownership or management among licensees shall be prohibited, except in the case of duly licensed branch offices controlled by a single broker or licensee. Nothing in this section is intended to preclude the use, advertising, or display of any insignia, emblem, logo, or trade name of any bona fide trade association by any licensee.

1. A franchised licensee using the trade name of a franchisor in an advertisement shall include the licensee's regular business name in a manner reasonably calculated to attract the attention of the public.

2. A licensee, including the franchisor using the trade name of a franchisor in an advertisement, shall include the following statement or a substantially similar statement: "each office is independently owned and operated," in a manner reasonably calculated to attract the attention of the public. The statement does not need to appear in the following types of advertising:

i. (No change.)

ii. Small "spot" classified advertising appearing in a newspaper, magazine, or other publication. A "spot" advertisement is no more than one column wide and 20 lines long and describes up to two properties. A "line" is defined as a standard newspaper classified advertising line of the newspaper, magazine, or other publication in which the advertisement is published;

iii. (No change.)

iv. An advertisement placed or distributed by an office, which are wholly owned by the franchisor and contains the office address and contains language that identifies the office as being wholly owned or the franchisor.

3. All individuals, firms, or corporations must be clearly identifiable to the public as the licensed brokers who are financially and otherwise responsible to the public for their brokerage activities. This section does not limit or inhibit the operation of branch offices as set forth at N.J.S.A. 45:15-12, nor does this section prevent the franchising of any group of licensees; provided such franchising or other association is consistent with the purpose of the Act, as expressed in this subchapter.

(k) An advertisement by a licensee referring generally to membership in any multiple listing service operation shall specify the complete name of the listing service, except in the following types of advertising:

1.-3. (No change.)

(l) An advertisement that contains a home warranty offer shall comply with all Federal and State warranty legislation, including the New Home Warranty and Builder's Registration Act, N.J.S.A. 46:3B-1 et seq., and the Magnuson-Moss Warranty Act, 15 U.S.C. §§ 2301 et seq. The advertisement shall clearly specify whether the warranty is by inspection or non-inspection of the premises, if the warranty is mandatory, and who is responsible for payment for the warranty. An advertisement shall not contain an offer for a warranty unless a warranty may be secured for the property being advertised.

(m) (No change.)

(n) A licensee shall not publish an advertisement or place a sign that makes reference to the availability of a specific property exclusively listed for sale by another broker unless the licensee obtains the prior written consent of the broker. Such consent shall not be given or withheld by the listing broker without the knowledge of the owner.

1. For online listings disseminated by licensees other than the listing broker, the listing broker shall be deemed to have given consent where:

i. The listing agreement sets forth the seller's authorization for the listing to be posted on the broker's website, on the website of a multiple listing service to which the broker belongs, or on the website of a third party to which the broker or multiple listing service submits listings; and

ii. The website where the listing initially appears allows consumers unimpeded access to the listing information when viewed on a third-party website.

(o) An advertisement shall not indicate that a property has been sold, or that a licensee participated in the sale of a property, until the closing has occurred where title to the property was transferred from the seller to the buyer.

1. (No change.)

2. After a contract prepared by a licensee emerges from Attorney Review or if a contract not subject to Attorney Review, but is fully executed and delivered to all parties, but before a closing occurs at which time title is transferred, any advertisement of the property that is the subject of the contract shall include the term "under contract."

i. This paragraph shall not apply where a contract is cancelled and the seller authorizes the listing broker to renew efforts to market the property.

(p) An advertisement by licensees may include a statement indicating that the advertiser is licensed by the Commission. An advertisement by a licensee that includes a reference to licensure by the Commission shall immediately thereafter include the following statement: "Licensure does not imply endorsement," which shall appear in a clear and conspicuous manner.

1. This subsection shall not apply to the display required to conspicuously appear on the exterior of every place of business maintained by the broker and include the name of the broker and, in the case of business entities licensed as brokers, the name of the individual authorized broker, and the words "Licensed Real Estate Broker," pursuant to N.J.S.A. 45:15-12.

(q) An advertisement that includes a reference to a commission rate or compensation amount charged by the advertising licensee's brokerage firm or by one or more other brokerage firms shall include, in a clear and conspicuous manner, the following statement: "In New Jersey, broker compensation is fully negotiable and not set by law."

(r) An advertisement shall not contain false, misleading, or deceptive claims or misrepresentations. Where an advertisement makes an express or implied claim that is likely to be misleading in the absence of certain qualifying information, such qualifying information shall appear in a clear and conspicuous manner.

(s) A salesperson (referral) shall not include any content in any advertising that states or implies that they are authorized to engage in brokerage activity beyond that which they are permitted, pursuant to N.J.S.A. 45:15-3 or N.J.A.C. 11:5-6.10.

(t) A salesperson (referral) shall include on all advertisements, except business cards, the following statement in a clear and conspicuous manner: "Services limited to referring prospects to broker."

## 11:5-6.5 Residential rental referral agencies

(a) Every person engaged in the business of referring, for a fee, prospective residential tenants to possible rental units shall be licensed in accordance with the Real Estate Brokers and Salespersons Act and shall comply with the provisions of this section in addition to the obligations imposed pursuant to the Act, and this chapter.

(b)-(j) (No change.)

## 11:5-6.6 Participation in trade associations or listing services

(a) A licensed individual, partnership, firm, or corporation shall not become a member of or otherwise participate in the activities or operation of any trade association or organization or of any multiple listing service operation which engages in the following policies and practices:

1. Places obligations on licensed members or participants that conflict with the Real Estate Brokers and Salespersons Act, N.J.S.A. 45:15-1 et seq., the Real Estate Sales Full Disclosure Act, 45:15-16.27 et seq., the New Jersey Antitrust Act, 56:9-1 et seq., or the Law Against Discrimination, 10:5-1 et seq., or which relate to the comprehensive scheme of regulation preempted by the State of New Jersey.

2. Interferes with the licensee's obligation of fidelity to their client's interests, their obligation to deal fairly with all other parties in a transaction, or their obligation to fully cooperate with any other New Jersey licensee, as described at N.J.A.C. 11:5-6.4.

3. (No change.)

## 11:5-6.8 Disclosure of licensee's affiliation with a mortgage lender or mortgage broker to whom the licensee refers buyers

(a) Whenever a licensee refers a buyer/borrower to a mortgage lender or mortgage broker with whom the licensee is affiliated, the licensee must provide written disclosure of the affiliation to the buyer/borrower. This disclosure must be made even though the licensee will not receive fees or compensation for the referral, see N.J.A.C. 11:5-7.2, and even though the licensee also refers the buyer/borrower to other, unaffiliated sources of mortgage financing. The disclosure must include the following statement:

YOU ARE UNDER NO OBLIGATION TO USE THE MORTGAGE SERVICES OF \_\_\_\_\_ WHO/WHICH IS AFFILIATED WITH THIS REAL ESTATE LICENSEE. YOU MAY OBTAIN YOUR MORTGAGE LOAN FROM ANOTHER SOURCE.

(b) For the purposes of this section, a licensee is considered to be affiliated with a mortgage lender or mortgage broker when:

1.-3. (No change.)

4. The licensee shares office space, facilities, or staff, with the lender or mortgage broker.

(c) Where a real estate broker, employing broker, or broker of record has an individual or corporate affiliation with a lender or mortgage broker, all licensees licensed with that real estate broker must provide the required disclosures to buyers referred to the affiliate.

1. (No change.)

2. Where a salesperson (referral), a salesperson, or a broker-salesperson has such an individual affiliation, they must provide the disclosure to all buyers they refer to the affiliate.

(d) (No change.)

## 11:5-6.10 Real estate salespersons licensed with a real estate referral company or salesperson (referral)

(a) The brokerage activities of a salesperson licensed with a real estate referral company or a salesperson (referral) shall be limited to:

1. Directing prospects to websites and other sources of information on real estate matters generally available to the public; and

2. Referring prospects for the sale, purchase, exchange, leasing, or rental of real estate to the broker through whom they are licensed, should that broker authorize the salesperson (referral) to do so, to another licensee. In cases where referrals are made pursuant to such an authorization, the salesperson (referral) shall provide written or electronic notice to their broker or to that broker's designee, who shall be a broker-salesperson or salesperson licensee, at the time the referral is made. In accordance with N.J.S.A. 45:15-16, all compensation payable to a salesperson (referral) shall be paid by the broker through whom the salesperson (referral) is licensed.

(b) A salesperson (referral) shall not be employed by, or licensed with, more than one broker at any given time.

(c) No person shall be simultaneously licensed as a salesperson (referral) and a real estate broker, broker-salesperson, or a salesperson in this State.

(d) Salesperson (referral) licensees shall not engage in prohibited brokerage activity for their broker or for others, and shall not receive compensation from their broker or any other person for engaging in prohibited brokerage activity. For the purposes of this section, prohibited brokerage activity includes, but is not limited to, the following:

1.-11. (No change.)

12. Providing information on listings, either in-person, or through electronic communication including telephone and the internet, beyond the information which the salespersons (referral) are permitted to provide with respect to websites and other sources of information as set forth at (a) above; and

13. (No change.)

## SUBCHAPTER 7. PROHIBITED ACTIVITIES

## 11:5-7.1 Prohibition against licensees receiving dual compensation for dual representation in the sale or rental transaction

(a)-(e) (No change.)

(f) Except as provided at (g) below, when providing mortgage financing services related to the purchase or sale of a one- to six-family residential dwelling, a portion of which may be used for non-residential purposes, located in New Jersey:

1. (No change.)

2. A salesperson or broker-salesperson shall not solicit, receive any compensation, or reimbursement pursuant to (e) above from any person other than their employing broker unless licensed as a residential mortgage broker, mortgage banker, or a mortgage loan originator pursuant to the New Jersey Residential Mortgage Lending Act, N.J.S.A. 17:11C-51 et seq.

(g) A licensee who is individually employed as a mortgage solicitor by a licensed mortgage banker or mortgage broker and registered in compliance with the applicable laws and the rules of the Department of Banking and Insurance may solicit and accept compensation from their licensed mortgage employer for providing mortgage services in residential mortgage transactions.

## 11:5-7.2 Prohibition against kickbacks for related business referrals

(a) A licensee who solicits or accepts any fee, kickback, compensation, or thing of value for referring a customer or client to a lender, mortgage broker, or other provider of related services, shall be subject to sanction for engaging in conduct demonstrating unworthiness, bad faith, and dishonesty. Any compensation received by a licensee, pursuant to N.J.A.C. 11:5-7.1(e), for services in related transactions must be for services actually performed by the licensee beyond mere referral. Compliance with the anti-kickback provisions of the Federal Real Estate Settlement Procedures Act (RESPA), 12 U.S.C. § 2607, the regulations thereunder, or any opinion regarding RESPA issued by the Federal Department of Housing and Urban Development will be considered to be in compliance with this subsection.

(b) Compensation paid by a broker to a salesperson (referral) shall be limited to compensation for referring prospective consumers of brokerage services to the broker. Brokers are prohibited from offering incentives to the salesperson (referral), salespersons, or broker-salespersons licensed under them for merely referring clients to a particular lender, mortgage broker, or other provider of related services. Compensation paid by a broker to a salesperson or broker-salesperson for services related to a sale or rental transaction must be for services actually performed by the salesperson beyond mere referral to a mortgage lender, mortgage broker, or other provider of related services. For example, a broker who provides in-house mortgage services may compensate a salesperson licensed with that broker who performs actual mortgage services. However, the broker is prohibited from offering bonuses or extra consideration of any kind to licensees of their firm for merely referring buyers to the in-house mortgage service or any particular lender or mortgage broker. For example, a broker shall not offer or pay a salesperson a higher commission rate on a real estate transaction because the mortgage is placed through the in-house mortgage service or affiliated lender. A broker shall not award prizes or bonuses to salespersons based upon the number of

customer referrals made to the in-house mortgage service or to a particular lender.

#### SUBCHAPTER 11. PROCEDURES ON DISCIPLINARY ACTIONS, CONTESTED APPLICATIONS, DECLARATORY RULING REQUESTS

##### 11:5-11.1 Pleadings enumerated and defined

(a) Pleadings before the Commission shall be orders to show cause, \*[complaints,]\* answers, petitions, and motions, which for purposes of this subchapter are defined as follows:

1. "Orders to show cause" means orders issued by the Executive Director on behalf of the Commission compelling the persons and/or entities to whom the order is directed to appear and show cause before the Commission why certain actions, including, but not limited to, the imposition of sanctions, should not be taken by the Commission pursuant to the Real Estate \*[Licensing]\* Brokers and Salespersons Act, N.J.S.A. 45:15-1 et seq., and the rules promulgated thereunder.

2. "Answer" means the pleading filed by a licensee or other party against whom an order to show cause \*[or complaint]\* is directed which sets forth the respondent's position with the respect to each factual and legal allegation in the order to show cause and specifies all affirmative defenses raised by the respondent.

Recodify existing 4.-5. as 3.-4. (No change in text.)

(b) (No change.)

##### 11:5-11.10 Procedures applicable to appeals of initial denials of licensing applications

(a) Initial denials of the following applications may be appealed to the Commission:

1. (No change.)

2. Applications for the waiver of the prelicensure education requirement and/or broker experience requirement submitted by disabled veterans;

3. Applications for the waiver of the prelicensure education requirement by persons other than disabled veterans;

4. Applications for the waiver of the broker experience requirement by licensees of other states;

5. Applications for approval of experience as a salesperson to challenge the broker license examination; and

6. Applications for exemption from the continuing education requirement pursuant to N.J.A.C. 11:5-12.5A by brokers or broker-salespersons.

(b) An appeal to the Commission shall be filed within 45 days of the date of the notice of denial and shall include three copies of the following:

1. A letter stating the factual and legal basis of the appeal, which shall also state whether the applicant seeks to present oral argument and/or testimony when the appeal is considered by the Commission;

2. If the denial was based upon an applicant's prior criminal history, the appeal shall include any judgment(s) of conviction that form the basis of the denial. If an applicant was under the supervision of a probation or parole officer within one year of making their application, a letter from their probation or parole officer stating the extent of the applicant's compliance with the terms and conditions of their probationary sentence or parole supervision shall be submitted. If the denial is based on the applicant's loss of a professional license, a copy of the order or memorandum of settlement evidencing the loss of the professional license shall be submitted;

3. All applications described at (b)2 above shall include a letter from the broker with whom the applicant intends to be licensed, evidencing that person's full knowledge of the information that formed the basis of the initial denial;

4. (No change.)

5. Any documentation that the Commission deems necessary to make a fully informed decision on the appeal.

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

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

2. That, based upon the documents provided, a determination has been made to approve the application; or

3. That the appeal package is deficient in certain respects specified to the applicant, and 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 Commission and to call witnesses to testify on their behalf at the time of its consideration of their appeal.

(e) (No change.)

#### SUBCHAPTER 12. CONTINUING EDUCATION

##### 11:5-12.1 Purpose and scope

(a) The purpose of this subchapter is to implement N.J.S.A. 45:15-16.2a et seq., by establishing continuing education requirements for brokers, broker-salespersons, and salespersons as a condition of licensure renewal, and to establish standards for the approval of continuing education courses, providers, and instructors.

(b) This subchapter shall apply to brokers, broker-salespersons, and salespersons licensed in this State, and to all applicants for the approval of continuing education courses, providers, or instructors.

##### 11:5-12.2 Definitions

The following words and terms, as used in this subchapter, shall have the following meanings, unless the context clearly indicates otherwise:

"ARELLO" refers to the Association of Real Estate License Law Officials.

"Continuing education coordinator" refers to the individual designated by an approved provider responsible for ensuring compliance with the provisions at N.J.S.A. 45:15-16.2a et seq., and this chapter applicable to continuing education providers.

"Online course" refers to a continuing education course administered through the Internet (for example, webinars or video conferencing). Online courses do not include offerings by way of CD-ROM, disk, or correspondence.

"Volunteer Advisory Committee" refers to the committee established pursuant to N.J.S.A. 45:15-16.2a.b(1)(b), which is responsible for recommending continuing education course providers, instructors, and courses for approval by the Commission.

##### 11:5-12.3 Continuing education requirements

(a) Unless granted a waiver pursuant to N.J.A.C. 11:5-12.5, to qualify for license renewal a broker, broker-salesperson, or salesperson shall, during the 24-month period prior to that renewal, complete 12 credits of approved instruction as set forth in this subchapter, two of which shall have been on the topic of ethics, except that:

1. (No change.)

2. A licensee who successfully completes one or more broker prelicensure courses as set forth at N.J.A.C. 11:5-2.1 shall be deemed to have fulfilled their continuing education requirement upon the conclusion of the license term during which the course was completed; and

3. A salesperson who is first licensed in the second year of the license term shall not be required to fulfill continuing education requirements to renew their license upon the conclusion of that license term. A salesperson first licensed during the first year of the license term shall complete the continuing education requirements to renew their license upon the conclusion of that license term.

(b) A licensee who completes the continuing education requirements after May 1 of the second year in a license term, shall pay a processing fee of \$200.00 to renew their license. Renewing licensees who complete the continuing education requirements on or before April 30 shall not be required to pay this fee.

(c) The successful completion of an approved continuing education course shall not be considered for credit more than once in a license term.

(d) When applying for renewal, licensees shall certify to the Commission, either directly or through their broker, that they have either met the continuing education requirement, were not required to do so for one of the reasons set forth at (a) above, or have received a waiver pursuant to N.J.A.C. 11:5-12.5.



(e) This section shall not apply to any licensee approved for exemption from the continuing education requirement pursuant to N.J.A.C. 11:5-12.5A.

#### 11:5-12.4 Curricula

(a) In order to fulfill the continuing education requirement, licensees must acquire a total of 12 credits that satisfy the curricula requirements set forth in this section. One credit is equivalent to one hour of instruction.

(b) The 12 credits that licensees must complete as a condition of license renewal shall be comprised of the following:

1. A minimum of six credits in core topics, which shall include:
  - i. A minimum of two credits in ethics;
  - ii. A minimum of one credit in fair housing and housing discrimination;
  - iii. A minimum of one credit in agency; and
  - iv. The remaining two credits of required instruction in core topics shall be earned by completing any combination of courses in core topics.
2. Six additional credits shall be earned by completing any combination of courses in core topics and elective courses.

(c) The core topics applicable to the continuing education requirements are as follows:

1. Agency;
2. Disclosure;
3. Legal issues, including listing agreements, contracts of sale, leases, attorney review, forms of ownership, and deed restrictions;
4. Ethics;
5. Fair housing and housing discrimination, including Federal Fair Housing and New Jersey laws related to housing and housing discrimination;
6. New Jersey Real Estate Brokers and Salespersons Act and rules;
7. New Jersey and Federal environmental laws and rules as they relate to real estate;
8. Financial literacy and planning; and
9. Licensee safety.

(d) Courses on core topics other than ethics shall include instruction on how ethics relate to the subject matter.

#### 11:5-12.5 Waiver of continuing education requirements

(a) A licensee who is unable to fulfill the continuing education requirements imposed pursuant to N.J.S.A. 45:15-16.2a and this subchapter may request a waiver of the requirement by the Commission, in whole or part.

(b) A licensee requesting a waiver of the continuing education requirement shall certify that they were unable to fulfill the continuing education due to:

1. (No change.)
2. Active duty service in the armed forces of the United States for one year or more of the license term;
3. (No change.)
4. Other substantial and unavoidable hardship, which shall not include financial hardship, unreasonable delay, and conflicts with business or personal obligations.

(c) A licensee requesting a waiver shall make their request, in writing, on a form prescribed by the Commission, which may be available online at [www.state.nj.us/dobi/division\\_rec/index.htm](http://www.state.nj.us/dobi/division_rec/index.htm) and provide documentation that corroborates their certification.

(d) With the exception of requests based on an emergency, requests for a waiver shall be filed with the Commission on or before March 15 of the second year of a license term. Requests for a waiver based on an emergency shall be filed within a reasonable time given the circumstances.

(e) The Commission may seek additional information regarding the basis of a waiver request pursuant to this section, including, but not limited to, sworn statements or testimony of the licensee.

(f) With the exception of a waiver granted to active duty military personnel, licensees who receive a waiver of any portion of the core topics requirement shall make up the waived core course(s), in addition to fulfilling the continuing education requirement for the current license term, as a condition of renewal in the term immediately following the term for which the waiver was issued. (For example, if a licensee receives a waiver of six core credits in the first licensing term, then the licensee must complete those six previously waived core credits in addition to 12 credits

in approved courses, for a total of 18 credits, to be eligible for renewal upon the conclusion of the next license term.)

(g) Licensees who receive a waiver of the elective course requirement shall not be required to make up the waived course(s).

#### 11:5-12.5A Exemption from continuing education requirements

(a) A licensee who has 40 years or more of experience as a broker or broker-salesperson, including any equivalent experience as set forth in this section, may seek an exemption from the continuing education requirements set forth in the Act and at N.J.A.C. 11:5-12.3. The years of experience may be non-continuous.

(b) A licensee seeking an exemption shall certify that they have 40 years of experience as follows:

1. Licensed as a broker or broker-salesperson in New Jersey; or
2. Licensed as a broker or broker-salesperson, or a license type substantially similar in nature and responsibility, in a jurisdiction that is a member of ARELLO.

(c) A licensee seeking an exemption shall make their request, in writing, on a form prescribed by the Commission, which may be available at [www.state.nj.us/dobi/division\\_rec/index.htm](http://www.state.nj.us/dobi/division_rec/index.htm). The licensee shall provide documentation that corroborates their certification as to their 40 years of experience.

(d) The exemption application shall be filed with the Commission on or before March 15 of the second year of the license term.

(e) The Commission may seek additional information regarding the basis of a request for an exemption including, but not limited to, documentation related to licensure history, the jurisdiction issuing such license, and, with respect to jurisdictions that are not a member of ARELLO, information that demonstrates that the jurisdiction's licensing requirements are substantially similar to those of this State.

(f) If the exemption is approved, the licensee shall be exempt from continuing education requirements for subsequent license terms and will not be required to submit any further exemption applications.

#### 11:5-12.6 Continuing education providers; standards and application process

(a) An applicant seeking approval as a continuing education provider shall submit a completed application on a form provided by the Commission, which shall include the following:

1. A non-refundable fee of \$300.00;
2. The official business name of the provider and any trade name or alternate name under which the provider will operate;
3. A description of the type(s) of courses to be provided (in-person or by online instruction, including the specific methods of delivery);
4. The name, phone number, and email address of the provider's continuing education coordinator who shall be individually designated to serve as the provider's primary contact person for matters relating to continuing education; and

5. If the provider will offer in-person instruction, the address(es) and a description of the known location(s) where the course(s) will be offered.

(b) Upon the assignment of a continuing education provider identification number, the following shall be deemed approved providers of continuing education courses without making an application and without payment of the fee specified at N.J.A.C. 11:5-12.17:

1. A prelicensure school licensed by the Commission pursuant to N.J.S.A. 45:15-10.4 and N.J.A.C. 11:5-2.2; and
2. (No change.)

(c) Public adult education programs and accredited colleges and universities shall be deemed approved providers upon application, but are not required to pay the application fee.

(d) If an applicant is disapproved, the reasons shall be set forth in a written notice provided to the applicant by the Commission as set forth at N.J.A.C. 11:5-12.15.

(e) Applications for reapproval may be submitted on January 1 of the year in which approval is scheduled to expire and shall expire in four-year intervals thereafter.

#### 11:5-12.7 Continuing education providers; responsibilities

(a) Providers' responsibilities shall include:

1. The general supervision of the courses offered;
2. The course and instructor have been approved by the Commission;

3. The instructor is knowledgeable in the subject matter of the course;
4. Course and instructor evaluations are compliant with N.J.A.C. 11:5-12.8(h) and (i);
5. (No change.)

6. Course instruction complies with the requirements imposed by this subchapter.

(b) Providers shall notify the Commission, in writing, prior to any change in the following: business name(s), continuing education coordinator and/or contact information, business telephone number, or material changes to its qualifications (for example, a change in the location where an in-person course is offered).

(c) A course shall be conducted in a manner appropriate to properly present instruction. A provider shall ensure that a course is conducted at times and in locations that are conducive to learning, free of excessive distractions, and segregated from non-course-related activity, including any solicitation activity directed to attendees. The facilities at which in-person instruction is offered shall comply with all local, State, and Federal laws and regulations.

(d) A provider shall be responsible for verifying attendance at each course delivered in-person and for verifying completion of each course delivered online by the licensee who, based upon information reported by the provider, will receive credit for having completed the course.

1. Providers shall verify the identity of all individuals attending courses. Providers may do so by requiring that attendees present a driver's license or other form of photographic identification and their license to a representative of the provider or through other means to ensure that the individual attending the course is the licensee who registered for the course.

(e) Prior to registration in a continuing education course, the provider shall provide prospective students with a notice that specifies the number of credits the course is approved for and whether the course is on a core or elective topic. The notice shall also include information about fees, refund policies, subject matter, and learning objectives, procedures, and requirements for satisfactory course completion.

(f) Providers shall enable representatives of the Commission to attend a course or review a course at no cost.

#### 11:5-12.8 Continuing education providers; reporting and recordkeeping requirements

(a) Providers shall provide a Course Completion Certificate to a licensee who successfully completed a continuing education course. The certificate shall include the licensee's name, the course name, date of completion, course number, number of credits earned for the course, and the provider's New Jersey continuing education provider identification number.

(b) Providers shall maintain and be able to produce for inspection, the records specified at (d), (h), and (i) below for six years. In addition, providers shall maintain and be able to produce copies of course-specific written material provided to students. Presuming there is no change in such written material, only one set of copies need be maintained, regardless of the number of times the provider offers the course.

(c) Providers shall use a recordkeeping system capable of producing reports on attendance at a course, which shall include the information set forth at (a) above.

(d) Providers shall provide data to the Commission, or its designee, on a weekly basis, identifying licensees who have completed continuing education courses during the preceding reporting period, which shall include, at a minimum, the following information in each record of completion of course by a licensee:

1. (No change.)
2. The license term for which the licensee is seeking credit for the completed course;
3. (No change.)
4. The course name, number, category (core or elective), completion date, and number of credit hours.

(e) The data referenced at (d) above shall be submitted on forms or in a format provided by the Commission, or its designee.

(f) Providers offering online courses shall have systems in place to ensure that students have actually performed tasks designated to ensure

participation and otherwise comply with all applicable provisions at N.J.A.C. 11:5-12.12 and 12.14.

(g) A provider shall notify the Commission in the event it intends to cease offering continuing education courses, in writing, no later than 30 days prior to the provider's cessation of operations and shall specify that the records required by this section will be maintained by the provider for six years and the location where those records will be maintained.

(h) Providers shall request a student who completes a continuing education course submit anonymous evaluation of the course(s), where applicable, of the instructor of the course. The evaluation shall provide for the students to indicate their favorable, neutral, or negative assessments of the performance factors referenced at (h)4 and 5 below.

1. Providers of an in-person course shall request that students either manually complete such evaluations in the concluding minutes of the course or electronically upon the completion of the course.

2. Providers of online courses shall request that a student complete an evaluation electronically upon completing the course.

3. Evaluations shall specify the name and identification number of the provider and the name and identification number of the instructor and course being evaluated.

4.-5. (No change.)

(i) Within 30 days of concluding a course, providers shall report to the Commission, instances where more than 50 percent of the evaluations received on a course or instructor indicate negative assessments on one or more of the performance factors at (h)4 and 5 above for instructors and courses, respectively.

#### 11:5-12.11 Continuing education courses; application process

(a) Except as set forth at (b) below, continuing education courses shall require approval by the Commission. An applicant seeking approval of a course shall submit a complete application on a form provided by the Commission with the required fee which shall include:

1.-6. (No change.)

7. With respect to online courses, such other information as is referenced at N.J.A.C. 11:5-12.14.

(b) Online courses certified by ARELLO that are at least one hour and provide instruction on one of the elective topic areas listed at N.J.A.C. 11:5-12.13 shall, upon payment of the required fee, submission of an application, as set forth at (a) above, and approval by the Voluntary Advisory Committee, be approved by the Commission. All online courses certified by ARELLO shall be deemed to have fulfilled the applicable criteria set forth at N.J.A.C. 11:5-12.14(b)1, 3, 4, and 7.

(c) If an application is denied, written notice of such a denial shall be provided to the applicant, which shall include the reasons for the denial, in accordance with N.J.A.C. 11:5-12.15.

(d) Approvals of continuing education courses shall expire on December 31 of the fifth year following the year in which the course was approved. Applications for reapproval shall comply with the requirements set forth at (a) above.

#### 11:5-12.12 Continuing education courses; standards and requirements

(a) All continuing education courses shall be instructional and contribute to the professional competence of individuals engaged in the practice of real estate brokerage.

(b) To qualify for approval, courses may compel a licensee to pass a final examination testing their knowledge of the course content, as a condition of receiving credit for completion.

(c) Approved courses may be offered in-person or online.

(d) The following shall not qualify for approval as a continuing education course:

1. Salesperson precursory courses offered pursuant to N.J.S.A. 45:15-10.1 and N.J.A.C. 11:5-2.1;

2. General education or review courses offered to prepare a student to take the broker or salesperson State licensing examination;

3.-4. (No change.)

5. Offerings in mechanical office and business skills, including typing, computer training, the internet, generic computer software, speed reading, memory improvement, report writing, salesmanship, and sales psychology.

(e) To qualify for approval, a course shall have a duration of at least one hour and be designed to confer credits in whole credit increments.

Each hour of the course duration shall consist of no less than 50 minutes of actual instruction, with no more than 10 minutes of each hour for administrative tasks.

(f) Material revisions of course content cannot be made without prior approval by the Commission, except where changes are made for the purpose of updating a course to reflect recent developments, such as the enactment of a new or amended law or rule, do not require prior approval. Any other changes shall be disclosed in application for reapproval of the course and submitted immediately.

#### 11:5-12.14 Online continuing education courses; additional requirements

(a) Continuing education courses offered online shall include periodic progress assessments and a satisfactory level of performance by the licensee as a condition to continuing to a succeeding segment of the course.

(b) Except as limited at (b)1 below, online courses shall meet the following criteria:

1. The course is designed to promote active student engagement between the student and instructor, other students, or a computer program. Upon the recommendation of the Voluntary Advisory Committee, the Commission may approve a course that does not provide for such substantial interaction, but fulfills all other requirements set forth in this section and at N.J.A.C. 11:5-12.12 and 12.13;

2. The course, when taken without interruption, consists of no less than one hour of instruction, in accordance with N.J.A.C. 11:5-12.12(e);

3. The time required for course completion shall be at least equal to the number of credit hours assigned in accordance with N.J.A.C. 11:5-12.12(e), as verified by studies, field testing, or other means;

4. In addition to providing a notice to students setting forth the information referenced at N.J.A.C. 11:5-12.7(e), providers shall include information on how interaction is accomplished and any special requirements related to hardware, software, or any other equipment needed to complete the course;

5. Providers shall provide appropriate instructor and/or technical support for students to complete the course in the event of a hardware or software failure or interruption;

6. Providers shall use procedures that reasonably ensure the identity of the student and verification that the student receiving course credit is the individual who performed the course work;

7. Courses shall be equipped with a time-default mechanism for inactivity, so a student is not credited when not actively participating in the program; and

8. The provider shall obtain, electronically or through other means, a signed and dated statement from each student certifying that they personally completed the course.

(a)

### DEPARTMENT OF BANKING AND INSURANCE INDIVIDUAL HEALTH COVERAGE PROGRAM BOARD

#### Individual Health Coverage Program Individual Health Benefits Plans

#### Adopted Amendments: N.J.A.C. 11:20 Appendix Exhibits A and B

Proposed: October 23, 2025 (see 57 N.J.R. 2655(a)).

Adopted: December 2, 2025, by New Jersey Individual Health Coverage Program Board, Sandi Kelly, Chairperson.

Filed: December 18, 2025, as R.2026 d.023, **without change**.

Authority: N.J.S.A. 17B:27A-2 et seq.

Effective Date: January 1, 2026.

Operative Date: April 1, 2026.

Expiration Date: December 12, 2031.

#### Summary of Hearing Officer's Recommendation and Agency's Response:

The New Jersey Individual Health Coverage Program Board (IHC Board) held a hearing on Wednesday, November 5, 2025, by Zoom to receive testimony with respect to the health benefits plans set forth at N.J.A.C. 11:20 Appendix Exhibits A and B. John Rossakis, Regulatory Officer, served as the hearing officer. There was no testimony at the hearing.

The hearing officer made no recommendations regarding the proposed amendments. The hearing record may be reviewed by contacting the New Jersey Individual Health Coverage Program Board, PO Box 325, Trenton, NJ 08625-0325.

#### Summary of Public Comment and Agency Response:

One comment was received regarding the proposed amendments. The comment was submitted by Jeanne McLaws, on behalf of Myriad Genetics, Inc.

COMMENT: The commenter requested that the IHC Board clarify that the carrier must cover Biomarker Precision Medical Testing if the testing is to be used “‘for purposes of diagnosis, treatment, appropriate management, or ongoing monitoring of an individual’s disease or condition’ to guide treatment decisions and it satisfies any one of the five categories of medical and scientific evidence listed in [P.L. 2025, c.49].”

RESPONSE: Upon review, the Board declines to amend the proposed language. The proposed language reflects the statutory structure at P.L. 2025, c. 49 (Chapter 49) by providing coverage for Biomarker Precision Medical Testing when medically necessary for diagnosis, treatment, management, or monitoring, and when supported by **any** of the forms of evidence listed in the law (FDA approval/clearance, FDA-supported drug labeling, CMS national or local coverage determinations, or nationally recognized clinical guidelines). The proposed language is materially consistent with the statutory text and sufficiently conveys that satisfaction of any one of the categories is adequate for coverage. Accordingly, the IHC Board has determined that no further changes are necessary.

COMMENT: The commenter requested that the IHC Board clarify that carriers may not apply additional or different coverage criteria to restrict or limit coverage for Precision Biomarker Medical Testing when the testing meets requirements for coverage under a separate criterion listed at Chapter 49. The commenter provided the following example: “where a biomarker test is covered under Local Coverage Determinations of Medicare Administrative Contractors (LCD), an Insurer may not apply coverage criteria additional to or different from those included in the LCD to determine clinical utility.”

The commenter further requested that the IHC Board include clarifying language requiring that insurers ensure that coverage be provided in a manner that limits disruption in care, including the need for multiple biopsies or biospecimens samples.

RESPONSE: The IHC Board declines to change the proposed language. Chapter 49 itself establishes the coverage criteria for Biomarker Precision Medical Testing and prohibits carriers from imposing inconsistent or more restrictive requirements. The proposed amendments mirror the statutory requirements by setting forth the categories of acceptable evidence, without authorizing the use of additional criteria imposed by the carrier. The IHC Board believes the text in the policy forms is sufficiently clear that carriers must provide coverage when the evidence standard is met; and that nothing in the proposed language is suggestive that carriers may layer additional clinical-utility criteria onto those established by statute. Therefore, the IHC Board has determined that no additional clarifying language is required.

COMMENT: The commenter requested clarification that carriers may not require multiple categories of evidence for coverage; must use the least-restrictive applicable criteria when multiple categories are met; and may not rely on more restrictive criteria (for example, under an LCD) when another category of evidence is satisfied.

RESPONSE: The IHC Board declines to change the proposed language. As stated above, the proposed language aligns with Chapter 49, which provides that any one of the listed categories of medical and scientific evidence is sufficient to establish clinical utility for coverage. The proposed language neither requires the application of more than one category, nor authorizes carriers to impose more restrictive coverage