

**INSURANCE
DEPARTMENT OF BANKING AND INSURANCE
DIVISION OF THE NEW JERSEY REAL ESTATE COMMISSION
REAL ESTATE COMMISSION**

Real Estate Commission Rules

Readoption with Amendments: N.J.A.C. 11:5

Adopted Repeal and New Rule: N.J.A.C. 11:5-3.3

Proposed: April 6, 2009 at 41 N.J.R. 1381(a)

Adopted: August 27, 2009 by New Jersey Real Estate Commission, Robert L. Kinniebrew, Executive Director

Filed: August 27, 2009 as R. 2009 d. 287, with a technical change not requiring additional public notice and opportunity for comment (see N.J.A.C. 1:30-6.3)

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

Effective Date: August 27, 2009, Readoption;
September 21, 2009, Amendments, Repeal and New Rules.

Expiration Date: August 27, 2014

Summary of Public Comments and Agency Responses:

The Commission received comments from the New Jersey Association of Realtors (NJAR)

COMMENT: NJAR expressed concern that the proposed amendment to N.J.A.C. 11:5-2.6 will lead to an increased cost for an individual wishing to obtain a real estate license as part of the background check to obtain a finger-print scan through a State-contracted vendor.

RESPONSE: The proposed rule conforms the regulations to current State law and procedure. Pursuant to P.L. 2003, c. 199, which became effective December 24, 2003, the manner of collection and payment for criminal history record background checks was changed. That Act, which revised N.J.S.A. 45:15-9 as well as numerous other State statutes concerning criminal history background checks made pursuant to New Jersey law, amended N.J.S.A. 45:15-9 to provide, in pertinent part:

Any applicant for licensure pursuant to this section and any officer, director, partner or owner of a controlling interest of a corporation or partnership filing for licensure pursuant to this section shall submit to the commission the applicant's name, address, fingerprints and written consent for a criminal history record background check to be performed. The commission is hereby authorized to exchange fingerprint data with and receive criminal history record information from the State Bureau of Identification in the Division of State Police and the Federal Bureau of Investigation consistent with applicable State and federal laws, rules and regulations, for the purposes of facilitating determinations concerning licensure eligibility. The applicant shall bear the cost for the criminal history record background check, including all costs of administering and processing the check. [N.J.S.A. 45:15-9]

Pursuant to P.L. 2003, c. 199, the State approved a Statewide vendor to be used by all departments and agencies to procure the digital fingerprints of applicants for numerous types of professional licenses. The vendor was chosen through the public bid process. Accordingly, any increase or decrease in the cost to applicants for real estate licenses of procuring the fingerprint scan and performing the background check will be as a result of the enactment of P.L. 2003, c. 199 and the State's bidding process and is not affected by the amendment to N.J.A.C. 11:5-2.6.

COMMENT: NJAR opposes the fee increase proposed in N.J.A.C. 11:5-3.14 for the category “multiple broker license,” especially in light of the fact that applicants may be required to pay higher fees associated with the fingerprint scanning.

RESPONSE: The increase in the multiple broker license fee reflected in the notice of proposal was an inadvertent typing error. However, while considering the comment, the Commission noted that the inclusion of the “multiple broker license” as a separate category in the list of fees is duplicative and confusing and therefore should be deleted upon adoption.

When a qualified broker applies to become a broker of record for more than one business entity, the Commission issues multiple broker licenses as long all other applicable requirements are met. The current fee indicated in N.J.A.C. 11:5-3.14 for “multiple broker license” is \$270.00, consisting of \$200.00 for the license fee, \$50.00 for the application fee and \$20.00 for the Real Estate Guaranty Fund assessment on applicants for new broker licensees imposed pursuant to N.J.S.A. 45:15-35. As this amount is the same as the fee for a “broker license” and it is the current practice of the Commission to charge the prescribed \$270.00 fee for each application for a broker license regardless of whether the broker of record will be licensed as such for more than one business entity, a separate listing for “multiple broker license” is unnecessary and is being deleted upon adoption.

COMMENT: NJAR opposes the fee increase proposed in N.J.A.C. 11:5-3.14 for a “temporary broker license” for the same reasons iterated in the previous comment.

RESPONSE: The \$300.00 fee set forth in the proposal reflects the inclusion of all the fees due for a temporary broker license and does not represent an increase in the fees currently being charged. N.J.S.A. 45:15-11.3 allows a salesperson to apply for a temporary broker's license upon the death or incapacity of the broker of record of a licensed business entity. The \$300.00 fee for a temporary broker license consists of the \$200.00 broker license fee, the \$50.00 application fee and the \$50.00 change in status fee to elevate the applying individual's license from salesperson to temporary broker. The Real Estate Guaranty Fund assessment on new broker licensees of \$20.00 is not applicable to applications for licensure as a temporary broker. Accordingly, the proposed fee of \$300.00 does not represent any increase in the fee amount, but merely reflects the correct sum of all of the applicable fees.

Federal Standards Statement

A Federal standards analysis is not required because N.J.A.C. 11:5 is not subject to any Federal requirements or standards.

Full text of the readopted rules can be found in the New Jersey Administrative Code at N.J.A.C. 11:5.

Full text of the adopted amendments and new rule follows (deletions from proposal indicated in brackets with asterisks *[thus]*):

11:5-3.14 Licensing fees

The fees applicable to transactions processed by the Department of Banking and Insurance Licensing Services Bureau, Real Estate Section are listed in the table below. Renewal fees are assessed biennially for the renewal of licenses for a two-year term 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.

LICENSE FEES

Initial License Fees (amounts include \$50.00 application fee and, where applicable, Real Estate Guaranty Fund fees of \$10.00 for salespersons and \$20.00 for brokers and broker-salespersons. See N.J.S.A. 45:15-35. Amounts do not include the processing fee for fingerprint scanning payable directly to the State-contracted vendor):

<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	\$ 160.00
Branch office	\$ 150.00
Temporary broker license	\$ 300.00
[Multiple broker license]	*[\$300.00]*

Renewal Fees:
(No change from proposal.)

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