

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

Applications Processed By The Education Bureau Of The Real Estate Commission; Examination Eligibility Certificates; Education Bureau Forms And Processing Times; Education Bureau Transaction Fees; License Applications Processed By The Licensing Section Of The Real Estate Commission; Licensing Section Forms, Instructions, Processing Times, Deadlines; Licensing Fees; Imposition Of Regulatory Sanctions Under N.J.S.A. 45:15-16.27, et seq., Cease And Desist Orders; Hearings; Rulemaking-Scope; Notice Of Proposed Adoption Of New Rule, Or Proposed Amendment Or Repeal Of Existing Rule; Comments Concerning Proposed Adoption Of New Rule Or Proposed Amendment Or Repeal Of Existing Rule; Extensions Of Time For Comments; Forms Of Documents Submitted To, And Form Documents Used By The Bureau Of Subdivided Land Sales Control In Administering N.J.S.A. 45:15-16.27, et seq.; Fees With Respect To The Registration Of Non-New Jersey Properties Under N.J.S.A. 45:15-16.27 et seq. - N.J.A.C. 11:5-9.7; Issuance By The Commission Pursuant to N.J.S.A. 45:15-16.27 et. Seq. Of A Notice Of Filing, Order Of Registration, Notice Of Correction, Or Order Of Rejection; Petition For Reconsideration, Automatic Registration; Annual Reporting Upon And The Termination Of Registrations; Public Hearings Concerning Proposed Adoption Of New Rule, Or Proposed Amendment Or Repeal Of Existing Rule; Petitions For Rulemaking-Scope – N.J.A.C. 11:5-10.5 (Recodification of former 10.1); Procedure For The Submission Of Petitions For Rulemaking – N.J.A.C. 11:5-10.6 (Recodification of former 10.2); Procedure For The Consideration And Disposition Of Rulemaking Petitions – N.J.A.C. 11:5-10.7 (Recodification of former 10.3); and Decisions In Enforcement Actions, Motions For Reconsideration

Adopted New Rules: N.J.A.C. 11:5-2.3, 2.4, 2.5, 2.6, 3.12, 3.13, 3.14, 9.19, 10.1, 10.2 and 10.3

Adopted Amendments: N.J.A.C. 11:5-9.3, 9.7, 9.8, 9.11 and 11.8

Adopted Recodifications with Amendments: N.J.A.C. 11:5-10.1, 10.2 and 10.3 as 10.5, 10.6 and 10.7, respectively

Proposed: December 2, 2002 at 34 NJR 4043(a)

Adopted: October 8, 2003 by the New Jersey Real Estate Commission, Dawn M. Rafferty, Executive Director

Filed: October 10, 2003 as R. 2003 d. 440, with substantive and technical changes not requiring additional public notice and comment (see N.J.A.C. 1:30-6.3)

Authority: N.J.S.A. 45:15-6 and 52:14B-1 et seq., and P.L. 2003, c. 117

Effective Date: November 3, 2003

Expiration Date: March 12, 2004

Summary of Public Comments and Agency Responses:

No comments were received.

Summary of Agency-Initiated Changes:

As proposed, new rules N.J.A.C. 11:5-2.6 and 11:5-3.14 reiterated the fee amounts specified in various sections of N.J.S.A. 45:15-1 et seq. for licenses and related transactions involving real estate preclicensure schools and instructors and real estate brokers, broker-salespersons, salespersons and branch offices. P.L. 2003 c. 117, enacted and effective on July 1, 2003, revised almost all of the fee amounts recited in N.J.A.C. 11:5-2.6 and 3.14 as proposed. In order to render these rules consistent with the revised statutory law, it is necessary to amend those fee amounts that were referenced in the rules as proposed which were revised through the enactment of P.L. 2003, c. 117.

Specifically, N.J.S.A. 45:15-9, 10.6, 10.7, 12, 13 and 15 were amended, with all of the various fees referenced in those provisions doubled. Most of the fee amounts being amended upon the adoption of N.J.A.C. 11:5-2.6 and 3.14 are explicitly specified in the amended laws referenced above. Other amendments being made upon adoption require further explanation.

Regarding the amendment upon adoption of N.J.A.C. 11:5-2.6 increasing in the fee for a change of name (school), the second sentence of N.J.S.A. 45:15-13 provides:

“Each license shall show the name and address of the licensee...” N.J.S.A. 45:15-10.6a, as amended by P.L. 2003, c. 117, provides: “Every application for licensure as a real estate school shall be accompanied by an application fee of \$100...”. As amended, N.J.S.A. 45:10-6b, provides:”...The license fee for each real estate school license issued in the first 12 months of any two-year real estate school license term established by the Commission shall be \$400 for the first location and \$200 for each additional location licensed. The license fee for each real estate school license issued in the second 12 months of any two-year real estate school license term established by the Commission shall be \$200 for the first location and \$100 for each additional location licensed.”

To fulfill the mandate of N.J.S.A. 45:15-13 that each license show the name of the licensee, a currently licensed school which changes its name is required to notify the Commission of such a change and submit an application for the issuance of a license bearing the new name. Because the school which has changed its name had previously paid the initial license fee or renewal fee for that license term, it is not charged a second license fee to have the license in the new name generated. It is, however, charged the application fee specified at N.J.S.A. 45:15-10.6 because, to remain in compliance with N.J.S.A. 45:15-13, it has applied to have a revised license, bearing its new name, issued by the Commission. When such applications are processed only a limited review, to confirm that the proper documents have been filed to enable the school to legally operate in the new name, is performed. On that basis, and because the school has previously paid the appropriate license fee prescribed by N.J.S.A. 45:15-10.6b for the license term in which the name change will be effective, an application fee is the only fee required to process such requests.

In the proposal, the application fee for a change of name (school) was erroneously indicated as \$25.00. Pursuant to the explicit text of N.J.S.A. 45:15-16a as it read at the time of the proposal, that amount should have been indicated as \$50.00 in the proposal.

Based upon the foregoing, amending the fee for change of name (school) to \$100.00 upon adoption of N.J.A.C. 11:5-2.6 is necessary to conform that rule to N.J.S.A. 45:15-10.6a as recently amended.

N.J.S.A. 45:15-10.7a now provides that: "Every application for licensure as a real estate instructor shall be accompanied by an application fee of \$50.00..." Prior to its being amended by P.L. 2003, c.117, that amount had been \$25.00, which was the amount indicated in N.J.A.C. 11:5-2.6 as proposed as the fee for a "Change of name for individual."

Based upon the reasoning set forth above with respect to the increase in the fee for change of name (school), to maintain consistency with N.J.S.A. 45:15-10.7 as amended by P.L. 2003, c.117, the fee amount for change of name for individual in N.J.A.C. 11:5-2.6 as proposed must also be amended upon adoption to \$50.00.

The amendments being made upon adoption to the fee amounts for "Name change" and "Change of branch office supervisor" under the "Changes" subheading in N.J.A.C. 11:5-3.14 as proposed are also directly related to the amendments enacted by P.L. 2003, c.117. Concerning name changes for brokers, broker-salespersons and salespersons, again N.J.S.A. 45:15-13 requires all licenses to "show the name and address of the licensee...". N.J.S.A. 45:15-9, as amended by P.L. 2003, c.117, now provides, in part: "...Application for a license, whether as a real estate broker, broker-salesperson, or salesperson shall be ... accompanied by an application fee of \$50." As is the case with

respect to changes in the names of licensed schools and instructors, the Commission conducts only a limited review of name change requests from brokers, broker-salespersons and salespersons to confirm the legal authority of the licensee to operate in the new name, and such licensees have previously paid the full license fee required by N.J.S.A. 45:15-15 for the license term in which the name change request is processed. On that basis, only the application fee imposed by N.J.S.A. 45:15-9 is charged when a broker, broker-salesperson or salesperson applies to have a revised license issued in a new name, so as to remain in compliance with N.J.S.A. 45:15-13. Consequently, as a result of the recent amendment to N.J.S.A. 45:15-9 increasing the application fee from \$25.00 to \$50.00, it is necessary to amend N.J.A.C. 11:5-3.14 upon adoption to indicate that the fee for a "Name change" is the \$50.00 amount now specified in N.J.S.A. 45:15-9.

The relationship between the amendments effectuated by P.L. 2003, c.117 and the amendment on adoption of the proposed fee for "Change of branch office supervisor" is revealed by an examination of N.J.S.A. 45:14-12 and 45:15-15. N.J.S.A. 45:15-12 currently reads, in pertinent part, "In case a real estate broker maintains more than one place of business, a branch office license shall be issued to such broker for each branch office so maintained in this State provided, however, that the said branch office or offices are under the direct supervision of a broker-salesperson. The branch office license or licenses shall be issued upon the payment of a fee of \$50 for each license so issued."

The second sentence of N.J.S.A. 45:15-15, as amended by P.L. 2003, c.117, now provides: "The biennial fee for a branch office license shall be \$100."

In addition, N.J.A.C. 11:5-4.5 sets forth requirements applicable to branch offices. Subsection (g) provides "The said branch office license shall be returned for cancellation

or correction upon the change of an office supervisor.” Since this rule requires the return of the previously issued branch office license when there is a change of a branch office supervisor, in circumstances where the broker who maintains it wishes to have the branch office continue to operate, a new branch office license must be issued in order for the broker to remain in compliance with N.J.S.A. 45:15-12. As was the case with the other changes previously discussed, the biennial fee required by N.J.S.A. 45:15-15 for the branch office license at the location where a change in supervisor has occurred has previously been paid, and the review of the change in branch office supervisor application is limited to verifying that the new supervisor is qualified to assume that role. Accordingly, the fee charged to process such a request is the fee specified in N.J.S.A. 45:15-12 which, through the enactment of P.L. 2003, c.117, was increased from \$25.00 to \$50.00. Hence the need to amend upon adoption the \$25.00 “Change in branch office supervisor” fee referenced in N.J.A.C. 11:3-14 as proposed.

The Commission has been licensing real estate schools and instructors only since 1994, as the result of the enactment of P.L. 1993, c.51. It has, however, been processing name changes of brokers, broker-salespersons and salespersons, and changes of branch office supervisors based upon the interpretations of N.J.S.A 45:15-9, 12 and 15 described above for at least 25 years. Thus, the amendments being made upon adoption to conform N.J.A.C. 11:5-3.14 to those statutory provisions as amended by P.L. 2003, c.117 are necessary to continue this long-standing practice.

Finally, colons have also been added to N.J.A.C. 11:5-3.14 as proposed to more clearly indicate the various categories of fees listed therein.

Federal Standards Statement

A Federal standards analysis is not required because the new and amended rules are not subject to any Federal standards or requirements.

Full text of the adoption follows (additions to proposal indicated in boldface with asterisks ***thus***, deletions from proposal indicated in brackets with asterisks ****[thus]****)

11:5-2.6 Education Bureau Transaction Fees

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

EDUCATION BUREAU TRANSACTION FEES

<u>Description</u>	<u>Amount</u>
Criminal history check	\$ 15.00
Application fee, school license	*[\$50.00]* *\$100.00*
Application fee, instructor license	*[\$25.00]* *\$50.00*
Initial License fee, non-public school	*[\$200.00]* *\$400.00* for licenses issued in the first year of a two year license term;

	[\$100.00] <u>*\$200.00*</u> for licenses issued in the second year of a two-year term.
Renewal fee, non-public school	*[\$200.00]* <u>*\$400.00*</u> plus *[\$100.00]* <u>*\$200.00*</u> for each additional licensed location.
License fee, additional teaching location	*[\$100.00]* <u>*\$200.00*</u> for licenses issued in the first year of a two year license term; *[\$50.00]* <u>*\$100.00*</u> for licenses issued in the second year of a two year term.
Change of address (school)	\$50.00
License fee, instructor	*[\$100.00]* <u>*\$200.00*</u> for licenses issued in the first year of a two year license term; *[\$50.00]* <u>*\$100.00*</u> for licenses issued in the second year of a two-year term.

Renewal fee, instructor	*[\$50.00]*	<u>*\$100.00*</u>
Change of name (school)	*[\$25.00]*	<u>*\$100.00*</u>
Change of name for individual	*[\$25.00]*	<u>*\$50.00*</u>
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	

11:5-3.14 **Licensing fees**

The fees applicable to transactions processed by the Licensing Section of the Real Estate Commission 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 ***\$25.00*** ***\$50.00*** application fee, \$15.00 criminal history record check fee for each individual required by N.J.A.C. 11:5-3.3 to undergo such a check 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)*:*

<u>License</u>	<u>Fee</u>
Corporations, partnerships and other business entities	*[\$145.00]* <u>*\$270.00*</u>
Broker of Record	*[\$160.00]* <u>*\$285.00*</u>
Sole Proprietor Broker	*[\$160.00]* <u>*\$285.00*</u>
Broker-salesperson	*[\$160.00]* <u>*\$285.00*</u>
Salesperson	*[\$100.00]* <u>*\$175.00*</u>
Branch office	*[\$75.00]* <u>*\$150.00*</u>
Temporary broker license	*[\$150.00]* <u>*\$250.00*</u>

Multiple broker license *[\$145.00]* ***\$270.00***

Renewal Fees**

<u>License</u>	<u>Fee</u>	
Corporations, partnerships and other business entities	*[\$100.00]*	*\$200.00*
Broker of Record	*[\$100.00]*	*\$200.00*
Sole Proprietor Broker	*[\$100.00]*	*\$200.00*
Broker-salesperson	*[\$100.00]*	*\$200.00*
Salesperson	*[\$ 50.00]*	*\$100.00*
Branch office	*[\$ 50.00]*	*\$100.00*

Late Renewal Fees**

<u>License</u>	<u>Fee</u>	
Corporations, partnerships and other business entities	*[\$20.00]*	*\$40.00*
Broker	*[\$20.00]*	*\$40.00*
Broker-salesperson	*[\$10.00]*	*\$20.00*
Salesperson	*[\$10.00]*	*\$20.00*
Branch office	\$10.00	

Transfers**

<u>License</u>	<u>Fee</u>
Broker-salesperson	\$ 25.00
Salesperson	\$ 25.00

Reinstatements of unexpired licenses (amounts include *\$25.00* ***\$50.00***

application fee):

<u>License</u>	<u>Fee</u>
Corporations, partnerships and other business entities	*[\$125.00]* *\$250.00*
Broker of Record	*[\$125.00]* *\$250.00*
Sole Proprietor Broker	*[\$125.00]* *\$250.00*
Broker-salesperson	*[\$125.00]* *\$250.00*
Salesperson	*[\$75.00]* *\$150.00*
Branch office	*[\$75.00]* *\$150.00*

Changes*:*

<u>Type</u>	<u>Fee</u>
Name change	*[\$25.00]* *\$50.00*
Change of business address:	
Sole proprietor brokers and corporations, partnerships or other business entities	*[\$25.00]* *\$50.00*
(plus [\$5.00] *\$10.00* for each individual licensee.)	

Change of Status -- sole proprietor, broker, broker of record or broker-salesperson	*[\$25.00]*	<u>*\$50.00*</u>
Change of branch office supervisor	*[\$25.00]*	<u>*\$50.00*</u>

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