

6. For the Pinelands Development Credit and Highlands Development Credit programs, the deed restrictions have been recorded, and the SADC approves the recorded deed restrictions for consistency with N.J.A.C. 2:76-6.15;

7. For conservation restrictions acquired by a charitable conservancy, all requirements for the creation of a farmland preservation program or a municipally approved farmland preservation program pursuant to N.J.A.C. 2:76-3.1 or 4.1 have been met, including approval of the petition by the board, certification of the petition by the SADC, and the recording of an agreement; and

8. For the term farmland preservation programs, all requirements for the creation of a farmland preservation program or a municipally approved farmland preservation program pursuant to N.J.A.C. 2:76-3.1 or 4.1 have been met, including approval of the petition by the board, certification of the petition by the SADC, and the recording of an agreement.

(c) Within the Priority 1, Priority 2, and Priority 3 categories, individual project applications may be further prioritized should program demand be greater than available funding. In such cases, the SADC shall further prioritize projects according to the following operative dates:

1. The date of State Soil Conservation Committee approval;
2. The date the application was received by the State Soil Conservation Committee;
3. The date of local soil conservation district approval; and
4. The date of USDA-NRCS approval.

INSURANCE

(a)

DEPARTMENT OF BANKING AND INSURANCE REAL ESTATE COMMISSION

Proposed Repeals and New Rules: N.J.A.C. 11:5-1.1, 1.3, 3.1, 3.10, 3.11, 3.14, 4.4, and 12.2

Proposed 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

Proposed New Rules: N.J.A.C. 11:5-3.1A and 12.5A

Proposed Repeals: N.J.A.C. 11:5-1.4

Authorized By: New Jersey Real Estate Commission, Aurelio Romero, Executive Director.

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.

Calendar Reference: See Summary below for explanation of exception to calendar requirement.

Proposal Number: PRN 2025-057.

Submit comments by August 1, 2025, to:

Denise Illes, Chief
Office of Regulatory Affairs
Department of Banking and Insurance
20 West State Street
PO Box 325
Trenton, NJ 08625-0325
fax: (609) 292-0896
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The agency proposal follows:

Summary

The New Jersey Real Estate Commission (Commission) in the Department of Banking and Insurance (Department) is proposing to amend N.J.A.C. 11:5 to implement statutory amendments at N.J.S.A. 45:15-1 et seq. (Act), made at P.L. 2017, c. 200; P.L. 2018, c. 71; P.L. 2019, c. 177; and P.L. 2024, c. 32, § 16. The proposed regulatory changes

allow precicensure courses to be completed online, update rules to conform to current practices, and for clarity. A more detailed summary of the proposed changes follows the broad overview below.

The Commission is proposing amendments, repeals, and new rules to implement P.L. 2017, c. 200, which amended N.J.S.A. 45:15-16.2a to add an exemption from the continuing education requirements for licensure renewal for brokers or broker-salespersons who have at least 40 years of experience, including any equivalent experience in any other jurisdiction as determined by the Commission. The Commission proposes a new rule at N.J.A.C. 11:5-12.5A to set forth the process for requesting the exemption pursuant to N.J.S.A. 45:15-16.2a, which is summarized in greater detail below.

The Commission is proposing amendments to implement P.L. 2018, c. 71, which eliminated the referral agent license category from the Act and replaced it by codifying the business practice of real estate brokers housing salespersons engaged in the referral business in real estate referral companies. Accordingly, the Commission proposes amendments throughout the chapter to remove references to persons licensed as “referral agents” and to replace that “referral agents” with “real estate salespersons licensed with a real estate referral company” or “real estate salesperson (referral).” P.L. 2018, c. 71, also made several changes to the Act regarding continuing education requirements, including: (1) eliminating the terms “distance learning” and “correspondence learning” courses, while providing that courses may continue to be delivered by Internet and video modalities; (2) requiring salespersons, broker-salespersons, and brokers to take at least two hours of continuing education in ethics for license renewal; and (3) adding licensee safety and financial literacy and planning as core topics. The Commission is proposing amendments at N.J.A.C. 11:5-12.2 and 12.4 to implement these changes.

The Commission is proposing amendments at N.J.A.C. 11:5-2.1 and 12.4 to implement P.L. 2019, c. 177, which mandates that the precicensure education curricula for salesperson, broker-salesperson, and broker candidates, and the continuing education curriculum, include one hour of study on fair housing and housing discrimination.

The Commission is proposing amendments at N.J.A.C. 11:5-12.4 to implement P.L. 2024, c. 32, § 16, which requires that a continuing education course in the core topic area of agency be completed by brokers, broker-salespersons, and salespersons as a condition for license renewal during each biennial license term.

The Commission is proposing amendments to replace references to “salesmen” with “salespersons” and “he” or “he or she” or “their” to remain gender neutral as a matter of form. The Commission is also proposing amendments to replace the various generic references to the Act, such as the Real Estate License Act, New Jersey Real Estate License Act, the Real Estate Brokers and Salesmen Act, and the Real Estate Licensing Act, with a uniform reference to the Real Estate Brokers and Salespersons Act throughout the chapter.

Lastly, the Commission is proposing amendments throughout the chapter for clarity; these amendments are not noted in the more detailed summary below.

The Commission proposes to amend the heading at N.J.A.C. 11:5-1.1 to “Purpose and scope” to conform with similar rules of the other divisions within the Department of Banking and Insurance.

The Commission proposes to repeal N.J.A.C. 11:5-1.3, as currently written, to omit functions of the Commission and replace it with definitions. The proposed new rule provides definitions for “real estate broker,” “real estate salesperson,” “real estate broker-salesperson,” “real estate salesperson licensed with a real estate referral company,” and “real estate referral company” that are consistent with the definitions of those terms set forth at N.J.S.A. 45:15-3. The proposed new rule also provides definitions for the following terms: “broker of record,” “employing broker,” and “real estate brokerage activity.”

The Commission proposes to merge N.J.A.C. 11:5-1.4 with 1.5, such that the combined rule text is codified at N.J.A.C. 11:5-1.5 and 11:5-1.4 will remain reserved. Accordingly, the Commission proposes to amend N.J.A.C. 11:5-1.5 to add the content of N.J.A.C. 11:5-1.4, and to amend the section heading to “Records open to public inspection; files not open for inspection.” As proposed, this section would provide contact information for the public to request records maintained by the

Commission, specify which records are maintained pursuant to which authority, and specify those records that are confidential pursuant to N.J.S.A. 47:1A-1 et seq.

The Commission proposes to amend the heading at N.J.A.C. 11:5-2.1 to "Education requirement" and proposes amendments for clarity. References to licensure as "referral agent" have been removed throughout. In addition, the Commission is proposing amendments at N.J.A.C. 11:5-2.1(f) to add one hour of instruction on fair housing and housing discrimination to the required curriculum of the prelicensure education course for a real estate salesperson license, pursuant to P.L. 2019, c. 177. The proposed amendments reduce the time currently dedicated to "other State, Federal, and municipal laws and regulations" from five hours to four hours to maintain a total of 75 hours of instruction.

Similarly, the Commission is proposing amendments at N.J.A.C. 11:5-2.1(g), to add one hour of instruction on fair housing and housing discrimination to the required curriculum of the prelicensure education course for a real estate broker license, pursuant to P.L. 2019, c. 177. The proposed amendments remove "Federal Fair Housing, New Jersey Law Against Discrimination, New Jersey 'Mount Laurel' requirements" from N.J.A.C. 11:5-2.1(g)1xv, as these topics overlap with the newly required fair housing and housing discrimination curriculum and reduce the required hours of instruction for the remaining topics from three hours to two. The proposed amendments, thus, increase the number of subject matter areas within the curriculum of the general broker prelicensure course, while maintaining 90 hours of total instruction.

The Commission proposes to amend N.J.A.C. 11:5-2.1(g)5 to eliminate the requirement that prospective brokers and broker-salespersons must first complete the 90-hour general broker prelicensure course before completing the additional two 30-hour prelicensure courses required at N.J.A.C. 11:5-2.1(g)6 and 7. Consistent with the current practice, the Commission proposes to amend N.J.A.C. 11:5-2.1(g)5 to allow prospective brokers and broker-salespersons to complete the 150-hours of prelicensure courses in whichever order they choose; provided they complete and satisfy all other requirements set forth at N.J.A.C. 11:5-2.1(g). Lastly, the Commission proposes new N.J.A.C. 11:5-2.1(j), which permits prelicensure course instruction delivered online in an on-demand format, which is approved by ARELLO and meets the requirements at N.J.A.C. 11:5-2.1(f) and (g).

The Commission proposes several amendments at N.J.A.C. 11:5-2.2 to facilitate schools wishing to offer prelicensure courses in an online format. The Commission proposes removing the bona fide office requirement at N.J.A.C. 11:5-2.2(f) in favor of the requirement that a school maintain a main office containing its administrative offices, records, and that has a telephone number for the students' exclusive use. The existing requirements provided at N.J.A.C. 11:5-2.2(f) are now applicable to physical classroom locations. New language is proposed at N.J.A.C. 11:5-2.2(g) requiring schools that offer online instruction to include their policy on student technical support resources within applications for licensure. The Commission proposes to amend N.J.A.C. 11:5-2.2(l)1 to provide that the renewal fee will include a main office and up to one teaching location, with each additional location being subject to an additional fee.

New language proposed at N.J.A.C. 11:5-2.2(m) provides a 1:60 student-teacher ratio for live remote instruction. The Commission proposes amendments at N.J.A.C. 11:5-2.2(r) to require that records be available for inspection within 48 hours of a request by the Commission, rather than during regular school hours. These changes are being proposed to meet the needs of licensed schools offering either in-person or online instruction. The Commission proposes to amend N.J.A.C. 11:5-2.2(x)1, which provides a notice that must be circulated by all licensed schools to prospective real estate salespersons regarding the selection of a broker, to add a reference to "business relationships" between salespersons and prospective brokers, which will encompass both traditional employment agreements and independent contractor agreements. This change is proposed to reflect statutory amendments at N.J.S.A. 45:15-3.2(b) that mandate that the business affiliation between a broker and a broker-salesperson or salesperson may be an employment relationship or for services rendered as an independent contractor. While existing N.J.A.C. 11:5-4.1(j) provides that the Commission interprets "employment agreement," "employ," and "employing broker" to include both an employment relationship and independent contractor relationship, it is

important for the notice provided to prelicensure students to reflect the statutory amendments to the Act. In addition, minor revisions have been made to the notice for clarity and the inclusion of an email address for students. Finally, the Commission proposes to amend N.J.A.C. 11:5-2.2(x)8 to remove reiterative language regarding the ingress and egress of students from a school that shares space with an office conducting brokerage activity.

The Commission proposes to amend the heading at N.J.A.C. 11:5-2.3 to "Applications processed by the Education Bureau." In addition, the Commission proposes to add new N.J.A.C. 11:5-2.3(a)5 to provide that the application for a continuing education exemption based on licensure as a broker or broker-salesperson for 40 years or more will be processed by the Education Bureau.

The Commission proposes to amend the heading at N.J.A.C. 11:5-2.4 to "Examination eligibility."

The Commission proposes to amend the heading at N.J.A.C. 11:5-2.5 to "Education Bureau forms; processing times." In addition, the Commission proposes amendments to update the language at N.J.A.C. 11:5-2.5(a)5 to accurately describe the form listed in that paragraph. The Commission proposes to add N.J.A.C. 11:5-2.5(a)15, to provide that the Education Bureau will utilize a form for continuing education exemptions based on licensure as a broker or broker-salesperson for 40 years or more.

The Commission proposes to amend the heading at N.J.A.C. 11:5-2.6 to "Transaction fees." In addition, the Commission proposes the deletion of the application fee for the waiver of the education requirement as it appears twice on the table as printed.

The Commission proposes to amend N.J.A.C. 11:5-3.1 to delete the effective date of July 1, 1997, as the date has long passed.

The Commission proposes new N.J.A.C. 11:5-3.1A, requiring licensees to carry either a physical copy or a digital copy of their license when engaged in licensed activity, which will codify existing practice, recognizing that licenses are now digital and are not printed.

The Commission proposes to amend N.J.A.C. 11:5-3.2, to provide that all fees prescribed by the Act may also be paid by electronic payment, reflecting the Commission's current practice.

The Commission proposes to amend N.J.A.C. 11:5-3.3 for clarity.

The Commission proposes to amend the heading at N.J.A.C. 11:5-3.4 to "State licensing examination rules" to distinguish this examination from the examination required to receive credit for the successful completion of a prelicensure education program. The Commission proposes amendments throughout for clarity.

The Commission proposes to amend N.J.A.C. 11:5-3.5 for clarity and to delete existing language regarding the development and implementation of an online licensing system, as the same has been in place for several years.

The Commission proposes to amend the heading at N.J.A.C. 11:5-3.6 to "Salesperson license application requirement" and proposes amendments throughout for clarity.

The Commission proposes to amend the heading at N.J.A.C. 11:5-3.7 to "Employment of a salesperson sponsored by broker" and proposes amendments throughout for clarity. In addition, the proposed amendments remove references to licensure as "referral agent" and replace them with "salesperson (referral)."

The Commission proposes to amend N.J.A.C. 11:5-3.8 for clarity.

The Commission proposes to amend the heading at N.J.A.C. 11:5-3.9 to "Office closing; change of broker of record" and proposes to amend the section to require that, in the case of an office closing, the broker, or their duly authorized designee, is required to terminate all licenses through the online licensing system and is required to notify all licensees of the same. The proposed amendments will clarify that an office closing affidavit is required to be filed prior to any license being reissued to the broker of record, which reflects the Commission's current practice. In addition, the proposed amendments update the section regarding the recall of advertisements to include electronic advertisements and multiple listing services. In addition, the proposed amendments remove the requirement that a broker must attest to notifying the appropriate telephone services they are no longer in business, as this practice is outdated.

The Commission proposes to amend N.J.A.C. 11:5-3.10 to clarify the procedures for processing new applications and terminating employment online by the broker, or their authorized designee.

The Commission proposes to amend the heading at N.J.A.C. 11:5-3.11 to “Transfer and termination procedures.” The Commission proposes new language at N.J.A.C. 11:5-3.11 to require that when a broker terminates the employment of an individual licensee or where an individual licensee resigns from such employment, the broker is required to terminate the license through the online licensing system and that the terminating broker or the resigning licensee shall provide written notice to the other party.

The Commission proposes to amend N.J.A.C. 11:5-3.12 for clarity.

The Commission proposes to amend the heading at N.J.A.C. 11:5-3.13 to “Licensing Bureau forms, instructions, processing times, deadlines” and proposes amendments throughout for clarity.

The Commission proposes to amend the heading at N.J.A.C. 11:5-3.14 to “Transaction fees” and proposes amendments throughout for clarity.

The Commission proposes to amend the heading at N.J.A.C. 11:5-3.15 to “Change of license from salesperson (referral) to salesperson or broker-salesperson” and proposes amendments throughout for clarity.

The Commission proposes to amend the heading at N.J.A.C. 11:5-4.1 to “Business relationship agreements; commissions; accounting to salespersons; actions for collection of compensation” and proposes amendments throughout for clarity.

The Commission proposes to amend the heading at N.J.A.C. 11:5-4.4 to “Main office” and proposes amendments throughout for clarity.

The Commission proposes to amend the heading at N.J.A.C. 11:5-4.5 to “Branch office(s)” and proposes an amendment at N.J.A.C. 11:5-4.5(g) to require that any change of the broker-salesperson designated as supervisor of a branch office must be reported to the Commission within 48 hours.

The Commission proposes to amend N.J.A.C. 11:5-5.2 and 5.3 for clarity.

The Commission proposes to amend the heading at N.J.A.C. 11:5-5.5 to “Inspection of licensee records” and proposes amendments throughout for clarity.

The Commission proposes to amend N.J.A.C. 11:5-6.1(e) to provide that all real estate salespersons licensed with a real estate referral company must indicate their licensure status by using the phrases “referral associate” or “salesperson (referral)” on their business card. Additional amendments are proposed for clarity.

The Commission proposes amendments at N.J.A.C. 11:5-6.5, 6.6, and 6.8 for clarity.

The Commission proposes to amend the heading at N.J.A.C. 11:5-6.10 to “Real estate salespersons licensed with a real estate referral company or salesperson (referral),” and for clarity, including replacement of the term “referral agents” with “real estate salesperson licensed with a real estate referral company” or “salesperson (referral),” in accordance with P.L. 2018, c. 71.

The Commission proposes amendments at N.J.A.C. 11:5-7.1(f)2 and 7.2 for clarity.

The Commission proposes to amend N.J.A.C. 11:5-11.1 to state that business entities, in addition to individual licensees, are subject to the requirements to appear and show cause before the Commission. Further, the Commission proposes to delete N.J.A.C. 11:5-11.1(a)2, which sets forth the definition of “complaint,” as that pleading is not used in disciplinary actions. The term “complaint” will be omitted and substituted with “Order to Show Cause.”

The Commission proposes amendments at N.J.A.C. 11:5-11.10(a)6 to provide that eligible licensees may file an appeal of a denial of an application for a continuing education exemption sought pursuant to N.J.A.C. 11:5-12.5.

The Commission proposes amendments at N.J.A.C. 11:5-12.1 for clarity.

The Commission proposes amendments at N.J.A.C. 11:5-12.2 to remove definitions for the terms “Commission,” “real estate broker,” and “real estate salesperson” as those terms are now defined at proposed new N.J.A.C. 11:5-1.3. The proposed amendments also remove the term “distance learning,” as distance learning and correspondence courses are prohibited pursuant to N.J.S.A. 45:16.2(b), as amended at P.L. 2018, c. 71. Lastly, the Commission proposes the addition of a new definition for the term “online course” to mean a continuing education course administered through the internet.

The Commission is proposing amendments at N.J.A.C. 11:5-12.3 for clarity and to delete the reference to July 1, 2013, as the date has long passed. In addition, the Commission proposes amendments at N.J.A.C. 11:5-12.3(e) to provide that the rule shall not apply to any licensee approved for exemption pursuant to N.J.A.C. 11:5-12.5A.

The Commission is proposing amendments at N.J.A.C. 11:5-12.4, which provides the curricula for continuing education requirements for clarity. First, the proposed amendments will relocate the list of core topics from N.J.A.C. 11:5-12.4(a) to subsection (c). As amended, N.J.A.C. 11:5-12.4(a) will state the requirement that licensees must complete 12 credits to satisfy the continuing education requirement. Additionally, the proposed amendments add the statement that one credit is equal to one hour of instruction, reflecting N.J.S.A. 45:15-16.2e.b. Next, the proposed amendments consolidate the curriculum requirements regarding specific course topic areas that must be included in continuing education credits, in order to satisfy the Commission’s requirements for license renewal at subsection (b). The requirements set forth at proposed N.J.A.C. 11:5-12.4(b) incorporate the requirements that licensees complete at least two credits of ethics, one credit of fair housing and housing discrimination, and one credit in agency, as mandated at P.L. 2018, c. 71, P.L. 2019, c. 177, and P.L. 2024, c. 32, § 16, respectively. Further, the proposed amendments set forth the list of core topics at N.J.A.C. 11:5-12.4(c) and add real estate licensee safety and financial literacy and planning to the list of core topics pursuant to P.L. 2018, c. 71.

The Commission proposes amendments at N.J.A.C. 11:5-12.5 for clarity, and to update N.J.A.C. 11:5-12.5(c) to provide the website where a licensee may access the continuing education waiver request form.

The Commission proposes new N.J.A.C. 11:5-12.5A, to set forth the process to request an exemption from the continuing education requirement pursuant to N.J.S.A. 45:15-16.2(a). Specifically, the proposed new rule provides that licensed real estate brokers or real estate broker-salespersons with experience of 40 years or more, including any equivalent experience in a jurisdiction that is a member of the Association of Real Estate License Law Officials (ARELLO) or such other jurisdiction determined by the Commission to have substantially similar licensing requirements, may apply for an exemption from the continuing education requirements set forth at N.J.A.C. 11:5-12.3. The 40 years of experience may be non-continuous. Equivalent experience in a jurisdiction that is a member of ARELLO shall include licensure in the licensee’s resident jurisdiction as a real estate broker or real estate broker-salesperson or a position substantially similar in nature and responsibility as determined by the Commission.

Further, proposed new N.J.A.C. 11:5-12.5A provides that an applicant for an exemption from continuing education requirements shall request the exemption on a form prescribed by the Commission, available at www.state.nj.us/dobi/division_rec/index.htm. The applicant shall provide documentation that corroborates the applicant’s certification as to their 40 years of experience as a real estate broker or real estate broker-salesperson. The request for an exemption shall be filed with the Commission on or before March 15 of the second year of the two-year licensing term. If the exemption is approved, the licensee shall not be required to resubmit an application for exemption during any subsequent licensing renewal term.

Finally, proposed new N.J.A.C. 11:5-12.5A also provides that the Commission may seek additional information regarding the basis of an applicant’s request for an exemption from the continuing education requirement, including, but not limited to, documentation related to the applicant’s licensure, 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.

The Commission proposes amendments at N.J.A.C. 11:5-12.6, 12.7, 12.8, 12.11, and 12.12 for clarity. In addition, the proposed amendments will ensure compliance with P.L. 2018, c. 71, which prohibits “distance learning” or “correspondence learning,” but permits continuing education courses to be delivered through the internet. The term “non-distance” learning will be replaced with “in-person” and “distance learning” will be replaced with “online,” where appropriate.

The Commission proposes to amend the heading at N.J.A.C. 11:5-12.14 to “Online continuing education courses” and proposes

amendments throughout to remove reiterative language. In addition, proposed amendments will ensure compliance with P.L. 2018, c. 71, by removing references to “distance learning” and substituting the term “online” to refer to continuing education courses delivered through the internet.

A 60-day comment period is provided on this notice of proposal and, therefore, pursuant to N.J.A.C. 1:30-3.3(a)5, the notice is excepted from the provisions at N.J.A.C. 1:30-3.1 and 3.2 governing rulemaking calendars.

Social Impact

As set forth in the Summary above, the proposed amendments, repeals, and new rules implement various amendments to the Act. First, the rulemaking sets forth procedures by which brokers and broker-salespersons who have been so licensed for 40 years or more may be exempted from the continuing education requirements. The proposed rulemaking does not alter the substantive requirements regarding continuing education for those who are not exempt. The Commission anticipates that the implementation of the exemption provision of the Act will have a positive social impact.

The proposed amendments also implement several additional changes to the Act concerning licensee education requirements, including: the expansion of precursory curricula for salespersons, broker-salespersons, and brokers to include one hour of course study on fair housing and housing discrimination; the addition of financial literacy and planning, as well as licensee safety to the list of core topic areas for continuing education; and the implementation of mandatory curriculum requirements in continuing education, which include two credits of ethics, one credit of fair housing and housing discrimination, and one credit of agency. These provisions will have a positive social impact by broadening the educational training licensees receive.

Additionally, the proposed amendments permit schools to offer precursory courses delivered through online instruction. Precursory courses may be offered online in two distinct ways, through live-remote instruction, where courses are delivered at a scheduled time with a live instructor that is separated from the student geographically or through on-demand instruction, where course instruction is available to students at any time. Live-remote instruction was permitted for the duration of the COVID-19 Public Health Emergency and the response from prospective/current students, as well as licensed schools and instructors has been extremely positive. The Commission seeks to permit precursory courses through both modes of online instruction on a permanent basis, which provides different avenues for prospective students to satisfy their precursory education requirement, offers schools an opportunity to expand their clientele, and provide greater flexibility for instructors. For these reasons, these proposed changes will have a positive social impact.

The proposed rulemaking also provides definitions for the different licensure types, removes references to “referral agents,” and replaces such with “real estate salesperson licensed with a real estate referral company” or “real estate salesperson (referral),” and reflects the requirements of the Act as amended. A more comprehensive definitions section will provide clarity and uniformity of interpretation.

In addition to those proposed changes summarized above that conform the chapter with statutory amendments made to the Act, there are also several technical changes, including those proposed to remove reiterative language, reflect the Commission’s current practices, provide consistency in references to the Act, grammatical and punctuation changes and changes made to language to reflect gender neutrality as a matter of form, are being made to avoid confusion within the regulated community and maintain conformity throughout the chapter.

For the foregoing reasons, the Commission anticipates that the proposed rulemaking will have a positive social impact.

Economic Impact

As noted above, the proposed rulemaking implements the intent of the Legislature as set forth at N.J.S.A. 45:15-16.2(a) by making several changes to existing continuing education requirements and by reclassifying “referral agents” with the new designation of “real estate salesperson licensed with a real estate referral company.” The Commission does not expect that the proposed rulemaking will have any

significant economic impact as there are no additional fees incurred or professional services required to comply with the proposed rulemaking.

The proposed rulemaking relating to the exemption for real estate brokers and real estate broker-salespersons who have been so licensed for 40 years or more from the continuing education requirements may have a favorable economic impact as the rules eliminate the costs associated with continuing education for any exempted licensee. In addition, the proposed changes to existing continuing education requirements, including the prohibition of “distance learning” and “correspondence courses;” the inclusion of real estate licensee safety and financial literacy as core topics for biennial licensure renewal; the mandate that licensees seeking renewal must take at least two hours of continuing education in ethics, at least one hour in fair housing and housing discrimination and at least one hour in agency; and the mandate that the precursory curricula require one hour of course study dedicated to fair housing and housing discrimination. These proposed changes should not have a substantial economic impact.

The new continuing education requirements will not result in any additional costs to either the licensee or institutions offering continuing education, as courses in these subject matters are already offered by these institutions and are taken by licensees. In addition, the number of continuing education hours has not increased, therefore, licensees should not incur any additional costs as a result of these changes. Similarly, the new requirement that precursory candidates complete one hour of course study in fair housing and housing discrimination will not result in any additional costs to either the licensee or institutions offering precursory education, as courses in these subject matters are already offered by these institutions and are taken by licensees.

Lastly, the proposed changes permit schools to offer precursory classes through online instruction, if they choose. To facilitate this change, the rules have been amended in several ways, including the removal of the bona-fide office requirement in favor of an administrative office to maintain records with a dedicated phone line. As providing online instruction is optional, the related costs are not mandatory. By providing schools with this option, it may alleviate the financial costs associated with maintaining a physical school and classrooms.

Accordingly, the benefits to be achieved far outweigh any minimal costs that may be imposed.

Federal Standards Statement

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

Jobs Impact

The Commission does not anticipate any jobs will be generated or lost as a result of the proposed amendments, repeals, and new rules. The Commission invites commenters to submit any data or studies on the potential jobs impact of the proposed amendments, repeals, and new rules, together with their comments on other aspects of the rulemaking.

Agricultural Industry Impact

The proposed amendments, repeals, and new rules will not have any impact on the agriculture industry of New Jersey.

Regulatory Flexibility Analysis

The proposed amendments, repeals, and new rules will apply to “small businesses.” To the extent the proposed amendments, repeals, and new rules will apply to small businesses, they will apply to persons seeking to be licensed as real estate salespersons, broker-salespersons, and brokers and those seeking license renewal, and licensed education providers of continuing education. The Regulatory Flexibility Act, N.J.S.A. 52:14B-1 et seq., defines a “small business” as any business resident in this State that employs fewer than 100 full-time employees, is independently owned and operated, and is not dominant in its field. The cost of compliance and professional services required to comply are addressed in the Economic Impact above. Further, as noted in the Economic Impact above, in some cases, the proposed amendments, repeals, and new rules eliminate costs associated with obtaining continuing education credits for those who qualify pursuant to the new exemption. Costs associated with the other proposed amendments, repeals, and new rules are minimal, if any.

The proposed amendments, repeals, and new rules do not provide any differentiation in compliance requirements based on business size. As

noted above, the proposed amendments, repeals, and new rules implement N.J.S.A. 45:15-16.2a, which provides an exemption from the continuing education requirements for individual licensees that have 40 years or more of experience, reflect current licensee status pursuant to the Act, and make other technical changes as a matter of form. The policies underlying the need for the Commission's adequate oversight of the industry for consistency and for sufficient protection of the interests of New Jersey consumers are paramount and do not vary with the size of the business. Therefore, no exemptions or different compliance requirements are provided based upon business size.

Housing Affordability Impact Analysis

The proposed amendments, repeals, and new rules will not have any impact on housing affordability in this State because they relate only to continuing education requirements for licensees and the reclassification of "referral agents" as "real estate salespersons licensed with a real estate referral company" pursuant to the Act, as amended, and are unlikely to evoke a change in the average costs associated with housing.

Smart Growth Development Impact Analysis

The proposed amendments, repeals, and new rules will not have any impact on smart growth development in this State and there is an extreme unlikelihood that the rules would evoke a change in housing production in Planning Areas 1 or 2, or within designated centers, pursuant to the State Development and Redevelopment Plan in New Jersey because they relate only to the exemption of continuing education requirements for certain licensees, make additional changes to the existing continuing education requirements, and the reclassification of "referral agents" as "real estate salespersons licensed with a real estate referral company."

Racial and Ethnic Community Criminal Justice and Public Safety Impact

The Commission has evaluated this rulemaking and determined that it will not have an impact on pretrial detention, sentencing, probation, or parole policies concerning adults and juveniles in the State. Accordingly, no further analysis is required.

Full text of the rules proposed for repeal may be found in the New Jersey Administrative Code at N.J.A.C. 11:5-1.1, 1.3, 1.4, 3.1, 3.10, 3.11, 3.14, 4.4, and 12.2

Full text of the proposed new rules and amendments follows (additions indicated in boldface **thus**; deletions indicated in brackets [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 [Commission records] **Records** open to public inspection; [investigative] files not open [to the public] **for inspection**

[(a) The New Jersey Real Estate Commission makes, maintains and keeps records as listed in (b) through (g) below.

(b) Current and computerized public licensing records are available at the Commission's office for inspection and copying during normal business hours upon sufficient notice to the Commission staff. The Commission staff may require several weeks notice to locate records other

than computerized records. Except as otherwise noted in this section, records are maintained for a minimum of three years. Older records may be unavailable. Copies of records can be purchased from the Commission at the fees established in the Open Public Records Act at N.J.S.A. 47:1A-5.

(c) Requests for certified copies of the Commission's public licensing records (or for a certificate of the absence of a public record) shall be submitted in writing and must specify which records are requested and the time period covered by the request. The Commission staff requires at least 10 working days to provide certified copies of public records.]

(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@dob.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[s] of license history [and status based upon computerized licensing records];

2. Real estate broker, broker-salesperson, salesperson, [referral agent,] school and instructor license applications, and materials submitted [therewith] to obtain, transfer, reinstate, or renew such licenses, and the final disposition of such applications[. However, criminal history information obtained by the Commission pursuant to N.J.A.C. 11:5-3.3 and personal data on a licensee such as home address, home telephone number and date of birth are considered confidential];

3. [Real Estate] Commission meeting minutes;

4. Orders to Show Cause [and complaints issued by the Attorney General's office charging that] **alleging** a licensee or an unlicensed person has violated provisions of the [Real Estate License] Act or the Commission's [administrative] rules; documents [accepted] **included** into the [agency] record in any such proceeding; and the final disposition of such proceedings, including settlements; and

5. Notices, proposals, and other records concerning rulemaking [required to be kept or distributed to the public by the Commission] **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 [et seq]. Complete records of unadopted proposals are available for one year after **initial** publication [of the proposal. Complete records of] **and adopted** rules are available for three years after [each rule's] **the effective date of the rulemaking.**

(e) The following records are maintained [by the Bureau of Subdivided Land Sales Control,] 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 [thereto filed with the Bureau] **filed** pursuant to N.J.S.A. 45:15-16.33, 16.36, 16.39, and 16.41(a);

2. Annual reports submitted [by a subdivider] 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., [and] the final disposition of such orders[, including Orders to Cease and Desist and/or imposing penalties or sanctions; documents accepted into the agency record in any such proceedings] **and related documents;** and

5. Applications for exemption of a subdivision filed [with the Bureau] 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 [exemption] 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 [of the Department of Insurance] pursuant to N.J.S.A. 45:15-39.

(g) The following [licensee] records are [nonpublic] **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 [separate] documents submitted [in connection] with [a licensee] **an** application concerning whether an applicant is disqualified by reason of indictment for, or conviction of, a crime;

2. [Criminal history records] **Records** obtained as the result of [any] a criminal history check;

3. Petitions or discharges in bankruptcy, complaints, orders, or other pleadings in actions for assignment to creditors and other [separate] documents submitted [in connection] with [a licensee] **an** application concerning whether the applicant is disqualified by reason of unworthiness;

4. [Copies of orders] **Orders** of suspension or revocation issued by professional or occupational licensing authorities, and other [separate] documents submitted [in connection] with [a licensee] **an** application concerning whether the applicant is disqualified from licensure;

5. Records concerning the medical disability of [any] a licensee;

6. [Investigative files in any matter pending investigation, or in any] **Records related to an ongoing investigation** or completed investigations [in which] **where** no formal disciplinary action was taken;

7. Personal data [on a licensee such as] **including**, home address, home telephone number, [and] date of birth[;]

8. The] **and** Social Security number[s] of [any] **an** applicant[s] or licensee[s] which were submitted to the Commission on a license application or otherwise obtained by the Commission]; and

[9.] **8.** (No change in text.)

SUBCHAPTER 2. EDUCATION

11:5-2.1 Educational requirements [for salespersons, referral agents and brokers in making application for licensure examination]

(a) [All applicants for a salesperson's, referral agent's or broker's license] **Salesperson and broker candidates** shall [present with their license application evidence of their satisfactory completion of] **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 [and] as [required by this section.] **follows:**

1. This **education** requirement shall [also] apply to disabled veteran[s] making application for licensure] **candidates** pursuant to N.J.S.A. 45:15-11. [However, the Commission shall approve a program of studies in real estate completed by such a veteran offered by a provider other than a licensed school if the] **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 [consisted] consisting of at least 75 hours [in the case of an applicant for a salesperson's or referral agent's license, or] of instruction; and

ii. Candidates seeking a broker license must complete a program consisting of at least 225 hours [in the case of an applicant for a broker's license and the program was offered by an accredited college or university for credit] of instruction.

2. [No person] **A salesperson** shall **not** receive credit toward the fulfillment of the [salesperson or referral agent prelicensure] education requirement for attendance at a [broker's] **broker** prelicensure course and [no person] **a broker candidate** shall **not** receive credit toward the fulfillment of the [broker's prelicensure] education requirement[s] for attendance at a [salesperson's or referral agent's] **salesperson** prelicensure course.

(b) To qualify [to challenge the examination for licensure as a real estate salesperson or referral agent] **for the State salesperson licensing examination**, a candidate must [first] successfully complete a course of study in real estate, [at a school licensed by the Commission pursuant to N.J.S.A. 45:15-10.4] consisting of a minimum of 75 hours [as specified

in (f) below] **of instruction, at a school licensed by the Commission pursuant to N.J.S.A. 45:15-10.4.** To qualify [to challenge the real estate broker's license exam] **for the State broker licensing examination,** a candidate must [first] successfully complete courses of study in real estate, consisting of a minimum of 150 hours [as specified in (g) below, offered by] **of instruction, at a licensed school or,** with respect to those certain courses specified in (g)5 below, offered by some] other [Commission-approved] **authorized provider.**

(c) [No person with the exception of qualified disabled veterans shall receive] **A candidate for a broker license seeking credit for satisfactory completion of the [prescribed 150 hours of broker's courses unless that person was the holder of a salesperson's license at the time of enrollment in said course.] 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 [any] a school for a final examination [covering real estate subjects] shall be applicable toward the [minimum] **total hours of [course study] instruction.** No more than five minutes of each [course] hour may be utilized for breaks [in the actual classroom instruction being conducted at any given session of a pre-licensure course]. [During the time in which actual classroom instruction is conducted, in addition to covering the substantive material mandated by (f) and (g) below, instructors are to] **Instructors must provide [thorough instruction] information on the State license examination and the Commission's license issuance procedures [for salesperson, referral agent and broker license candidates, as applicable,] and [to] perform [all reasonably required] administrative functions, such as taking attendance and making announcements of general interest.**

(e) The requirement[s] that a broker license candidate[s] complete [the general 90 hour broker precursure education] **a 90-hour general course** and that a salesperson [or referral agent license] candidate[s] complete [the 75 hour salesperson precursure education] **a 75-hour course** shall not apply to:

1. [Applicants for licensure as] **A candidate who held a broker[, salesperson or referral agent who have held a real estate broker's] license issued by another state and [who were] was actively engaged in the real estate brokerage business for the three years [or more] immediately preceding the date of application;**

2. Applicants for licensure as a broker who are attorneys [at law] admitted to the practice in [the State of] New Jersey and applicants for licensure as a salesperson [or referral agent] who are attorneys [at law] 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. [Applicants for licensure as a salesperson or referral agent who have] **A salesperson candidate who has earned a college degree from [any] an accredited [institution of higher education,] college or university; provided that:**

i. The total [number of college level classroom] hours devoted to real estate and related subjects was **at least 75 [or more] hours,** [and such courses were] completed within three years of making **their application;**

ii. The [applicant received] **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 [applicant] **candidate** satisfactorily completed **at least 75 [or more classroom] hours of [course work] instruction** in real estate or related subjects, **of which,** at least 45 hours [of which consisted of instruction on] **dedicated to** real estate [conducted as part of a] **in a post-graduate program [and that such post-graduate studies were], completed within three years of [making] submitting their application[.];**

4. [Applicants for licensure as a salesperson or referral agent] **A salesperson candidate** who holds or has held a real estate license issued by another state[.]; provided that:

i. The [applicant has] **candidate** satisfactorily completed a precursure course [of real estate education at a proprietary] **at a licensed school, college, or university in that [other] state;**

ii. The precursure course was [sanctioned by the real estate] **approved by that state's licensing authority [of that state];**

[iii. The total number of classroom hours included in the course was 75 or more;]

iii. The precursure course totaled at least 75 hours of instruction;

iv. The [applicant] **candidate** qualified for licensure [in that] **by state [by] examination; and**

v. The [applicant] **candidate** was actively licensed in that state within three years of [applying for the waiver] **their application.**

5. [Applicants for licensure as a salesperson or referral agent] **A salesperson candidate** who previously held a [license as a New Jersey real estate] broker [and whose last] license in **New Jersey** that expired more than two but less than five years prior to making application.

(f) [The salesperson's precursure course shall consist of 75 hours of education. Subject to (e) above, applicants for licensure as a salesperson or referral agent] **To satisfy the education requirement, a salesperson candidate shall complete the [75 hour salesperson precursure] 75-hour course [that shall include], 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 ([5] **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

[11.] **12. Quizzes and final examination ([3] three hours).**

(g) [The] **To satisfy the education requirement, a broker candidate shall complete** 150 hours of [precursure education required of candidates for licensure as a broker or broker-salesperson by N.J.S.A. 45:15-10 shall be acquired as provided in this subsection. A 90 hour] **total instruction comprised of a 90-hour general [broker's precursure] course [shall first be completed in accordance with the following syllabus and directives. Thereafter,] and two [30 hour broker] 30-hour courses [as described in (g)5, 6 and 7 below shall be completed. All three courses, totaling 150 hours of instruction, must be] concentrating on ethics/agency and office management. All courses must be successfully completed within [a period of] two years. Where the [three] courses are not so completed, a candidate must again successfully complete any previously taken course and [all] any courses not previously taken within [the two year] 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 [in order to qualify to challenge], to be eligible for the broker license examination.**

[1. The 90 hour general broker's precursure course may be taught in blocks or modules of material. The maximum number of modules into which the course may be divided is 23, with their content corresponding to the 23 subject matter areas identified in the syllabus below. Schools offering courses in modules may include more than one subject matter in a given module. No student may commence a course which is offered in modules on a date other than the starting date of any module. No student shall be given credit for the successful completion of a 90 hour general broker's precursure course unless and until they have received instruction in all of the subject matter areas identified below for approximately the number of hours indicated, and passed a comprehensive final examination. The 90 hour general broker's precursure course shall be conducted in accordance with the following syllabus and directives. Substantive instruction shall be provided on the following topics for approximately the number of hours indicated:]

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. [Review license] **Licensing** laws and regulations, including [provisions of] the Real Estate Sales Full Disclosure Act and N.J.A.C. 11:5-9 (six hours);

ii.-xiv. (No change.)

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

xvi. Business and management practices (total of six hours [for (g)1xvi(1) through (6) below]), including:

(1)-(6) (No change.)

xvii.-xviii. (No change.)

xix. Property management, including [responsibilities and information regarding] 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); [and]

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] **90-hour** general [broker precursure] course, instruction [will also] **shall** be provided on the following **additional** topics for the **number of** hours indicated. These topics shall be taught [in such a manner as to familiarize] **to provide** students with [the] a basic [elements of the listed topics and to impart to students an awareness of their scope and effect. The coverage on these topics will also inform students of the sources which can be contacted in order to obtain additional general information and/or specific data concerning the topics' applicability to or impact upon particular locations, and to educate students on their obligations and responsibilities as licensees to ascertain and disclose such information. The topics to be taught are:] **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, [which instruction shall also include] **including** testing and remediation techniques[, remediation techniques] and the New Jersey DEP confidentiality statute (one hour);

ii. Ground water contamination, [which instruction shall also include] **including** testing and remediation techniques (one hour);

iii. Problems posed by [a property's] proximity to solid waste disposal and/or toxic waste sites (one hour);

iv. Ground water percolation and private sewage disposal systems, [which instruction shall also include] **including** testing methods (one hour);

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

vi. (No change.)

3. Instructors [conducting 90 hour general broker precursure courses] shall provide [general] information to [their] students concerning the procedures [through which students can arrange] to sit for the State [license] **licensing** examination and [through which] **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. [In addition to classroom instruction and] **Students shall be** assigned reading [from a general textbook, in the 90 hour broker course students shall also be assigned additional] outside [reading on various] **of the primary textbook on** topics, [which shall include] **including**, but not be limited to, informational publications of the New Jersey Department of

Environmental Protection on the various environmental topics covered, [those] sections of the New Jersey Law Against Discrimination [which] **that** directly relate to the activities of real estate professionals, and other topics as directed by the [New Jersey Real Estate] Commission.

5. [After having successfully completed the 90 hour broker course, all] **All** candidates for licensure as a broker or broker-salesperson must successfully complete [a 30 hour precursure] **two 30-hour** courses, **one** on [brokers' ethics and agency] **ethics/agency** law and relationships, and [a second 30 hour precursure course] **another** on office management and related topics.

i. [All such agency/ethics and office management courses] **Courses** shall be taught by licensed instructors at licensed schools.

ii. [All such agency/ethics] **The agency/ethics** course[s] shall be taught [utilizing methods which maximize the use of] **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 [any 30 hour] **either** the agency/ethics [course] or office management course at a time other than the starting date [of such courses].

6. The [30 hours of instruction in the] **course on** ethics/agency [course] shall [be devoted to] **include:**

i.-viii. (No change.)

7. The [30 hours of instruction in the] **course on** office management [and related topics course] shall [be devoted to] **include:**

i. (No change.)

ii. Recordkeeping requirements, with [particular] **an** emphasis [upon and extensive coverage of] **on** escrow account records;

iii. (No change.)

iv. [Instruction on proper] **Proper** qualification and pre-qualification techniques, including [requiring demonstrations by the students, and with emphasis upon] **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 [to] broker advertising;

vi.-vii. (No change.)

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

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

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

(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) [The following regulations are] **This section is applicable to those licensed as a school[s] and] or instructor[s]** licensed to conduct] **offering** precursure **education** courses [of education in real estate subjects] pursuant to N.J.S.A. 45:15-10.4 and 10.5, **and when applicable**, to [applicants for such licenses and, as applicable, to the conducting of continuing education courses by such] a school[s and] **or** instructor[s] **licensed to offer continuing education courses** pursuant to N.J.A.C. 11:5-12.1.

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

(b) [The Commission] **A school or instructor applicant** shall [require any school or instructor in making application for licensure to] submit certain documents, [statements and forms] which shall [form the basis for the Commission's judgment whether to grant a license] **be used to determine whether to grant a license**. Where the Commission initially denies an application for [a school or instructor license] **licensure**, it shall provide [to the applicant notification] **notice**, in writing, with reasons for

such action. The applicant may appeal [such a] **the** decision to the [full] Commission[.] **and** N.J.A.C. 11:5-11.10 shall be applicable to all such appeals.

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

(d) Except as provided [in] **at** (c) above, [all other] **an** applicant[s] for a license to operate a [real estate] prelicensure school, and in the case of a corporation, or limited or general partnership, the members, officers, directors, and owners of a controlling interest thereof, shall demonstrate their good moral character, including the absence of any conviction for the crimes or [other] **like** offenses specified [under the provisions of] **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, [meets the standards and qualifications of the State agency having jurisdiction and] has been approved by [that] **the appropriate State** agency.

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

(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.**

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

continuing education courses conducted at such locations shall be taught by licensed instructors] or [by] individuals approved as continuing education instructors pursuant to N.J.A.C. 11:5-12.10, **as applicable.**

(g) [All schools shall furnish to the Commission at the time of application for initial licensure the school] **A school must submit their policy [and regulations] pertaining to standards for satisfactory course completion, [of the courses offered at the school and] the issuance of [a] the Course Completion Certificate, conditions for dismissal of a student and conditions for [reinstatement] 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 [and regulations,] **submitted**, as set forth [in] **at** (g) above, [from the information submitted with the original application for school licensure or as otherwise previously supplied,] shall be disclosed to the Commission within 10 business days, in writing, or on a form [which] **that** the Commission prescribes.

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

(i) An [individual seeking approval as a] **applicant for** director of a [licensed real estate] school administered by a public adult education program or an accredited college or university who is not licensed as [a real estate] **an** instructor [may nevertheless qualify as the director of such a school, so long as he or she is] **must be** at least 18 years of age; [has a background of] **demonstrates** good moral character, including the absence of any conviction for the crimes or other offenses specified [under the provisions of] **at** N.J.S.A. 45:15-12.1 **and 45:1-21.5**; and [has fulfilled all of] **satisfies** the education requirements [imposed upon candidates] for licensure as [real estate] **an** instructor[s] within two years of [applying to the Commission for approval to be the director of such a school] **their application.**

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

(k) No person, other than a guest lecturer, shall teach [real estate education] **prelicensure** courses[, the attendance and successful completion of which shall constitute the fulfillment of] **that fulfill** the [educational prerequisites for licensure established under] **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. [Each] **An** applicant [for licensure as a real estate instructor shall] **must be at least** 18 years of age [or older and shall have a background of] **and demonstrate that they possess** good moral character, including the absence of any conviction for those certain crimes or [other] like offenses [referred to in] **specified at** N.J.S.A. 45:15-12.1 **and 45:1-21.5**], subject to the applicant's ability to affirmatively demonstrate his or her rehabilitation from such conviction. In order to confirm the absence of any such conviction, the Commission shall require all]. A non-attorney applicant[s to] **must** submit [with their application for instructor licensure a New Jersey State Police] a Request for Criminal History Record Information Form [and a certified check or money order in the amount established by] **to** the New Jersey State Police as the processing fee for such forms.

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

i.-ii. (No change.)

3. [Except as provided in (l)3i and ii below, all instructor license] **An** applicant[s] must [successfully complete all of] **satisfy** the education requirements [for licensure as a New Jersey broker established] **at**

N.J.A.C. 11:5-2.1(g), [totaling 150 hours,] not more than one year prior to passing the instructor license examination and [applying for an instructor license.] **submitting their application, except for the following:**

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

ii. The following [individuals] **applicants** will not be required to [take] **complete** the 90-hour general [broker] course [but must successfully complete the two 30-hour broker precursory courses referred to in] **at** N.J.A.C. 11:5-2.1 in order to fulfill the instructor precursory education requirements: **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 [for an instructor license] but who have not previously completed those two courses; and

(2) (No change.)

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

(1) Regulations applicable to the renewal of school and [instruction] **instructor** licenses are as follows:

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

2. [As a prerequisite for the renewal of] **To renew** an instructor license, an instructor must attend a Commission-sponsored seminar [updating them on recent developments affecting the] **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] **State**, during the second year of each two-year license term. [Persons] **Instructors** initially licensed [as instructors] in the last six months of the two-year license term are exempt from [this] **the** seminar attendance requirement for the first renewal [of their instructor license] **term**.

3. [In the event that any person to whom an instructor's license has been or shall have been issued shall] **If an instructor** fails to renew [such] **their** license [or obtain a new license for a period of two consecutive years or more after] **for more than two years following** the expiration of [the last] **their** license [held], [the Commission shall require such person to again fulfill all the qualifications for initial licensure as an instructor prior to issuance of a further instructor's license. This requirement shall not apply to a person reapplying for an instructor's license who was a licensed instructor and who allowed] **the instructor will need to reapply for licensure and meet the requirements set forth at (k) above. If an instructor** allowed their license to [expire] **lapse beyond two years of expiration** due to [subsequent] employment in a public agency in this State [with responsibility for dealing with matters] relating to real estate, [if] the [person reapplying does so] **instructor must apply for renewal** within one year of termination of that employment.

(m) [For real estate precursory courses, the maximum teaching load per instructor or guest lecturer shall not exceed the ratio of one instructor or guest lecturer to 60 students per class. Each precursory course offered by a licensed school] **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 [N.J.A.C. 11:5-2.2(k)] **(k) above**. At least one licensed instructor shall be present in the classroom at all sessions. [However, additional instructors or] **At the discretion of the instructor**, guest lecturers may [be utilized for] **provide course** instruction [so long as not], **which cannot exceed** more than 25 percent of the required [instruction is done by guest lecturers. Broker precursory courses] **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 [having the responsibility for the quality of instruction in that course. School directors] **a supervising instructor. Directors** shall maintain [as a business record] the names of any [persons teaching as] guest lecturers or [as a] group of instructors, with an indication of the designated **noting the** supervising instructor, **at their main office**.

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

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

(p) [Any person] **A student** who has a permanent disability or physical handicap [which] **that** precludes [that person] **them** from [attending regular scheduled classes at] **receiving instruction offered by** a licensed school may request Commission approval to receive [special] **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) [No] **A** school shall, without the approval of the Commission,] **not** accept [for enrollment as a transfer student any person] **a student** concurrently enrolled [with any other] **at another** licensed school[, unless] **without the student submitting written approval from the Commission** upon [the] a showing of good cause [by said student to the Commission in writing].

(r) [Any] **A** school [that offers real estate] **offering** continuing education courses shall maintain records of [licensees'] **student** attendance [at such courses] as prescribed [by] **at** N.J.A.C. 11:5-12.8. [Every] **A** school shall [permanently] establish and maintain for each student enrolled in a precursory education course, complete, accurate, and detailed records for [a period of] not less than three years after student matriculation. Such records shall be available for inspection [during regular school hours] **within 48 hours of a request made by the** Commission and shall contain the following information:

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

(s) To [satisfactorily complete any precursory] **receive credit for a** course, [a] **the** student must receive a passing grade and attend at least 80 percent of the class [session hours required for the course by] **instruction as set forth at N.J.A.C. 11:5-2.1.**

(t) Upon [a student's] **the** satisfactory completion of a precursory course [in real estate], the school shall issue, to the student, a Course Completion Certificate.

(u) The director of a [real estate] school shall be responsible for properly closing the school [in compliance with this subsection.] **as follows:**

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

2. Within 30 days of the [date on which the] school [ceases operations] **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 [name of the person who is to act as] **individual named**

custodian of the record[s]. The Commission shall be notified immediately of any change in such information[. Records shall be kept for a period of not less than three years];

ii. The name of the owner or authorized representative of the school and the address **and phone number** where [he or she] **they** may be contacted [by the Commission];

iii. [That] **If applicable, that** the [school license and] school stamp [have] **has** been returned to the Commission;

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

v. [That all] **All** signs have been removed[,] and all advertisements and trade materials [which refer] **referring** to the school have been recalled;

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

vii. [That there] **There** are no outstanding fees, fines, or penalties due [and owing] **by the school** to the Commission.

(v) [No] **A** school shall **not** use any name other than the name [in which it is licensed] **appearing on their license** for advertising [or publicity] purposes; nor shall [any] **a** school advertise or imply that it is "recommended," "endorsed," "accredited," or "approved" by the Commission[, but a licensed]. **A** school may indicate that it has been "licensed" to conduct courses [of education in real estate subjects] to qualify [applicants] **candidates** for [licensure] **the State licensing** examination. [No] **A** school shall **not** make any warranties or guarantees that a student will pass the [State] license examination as a result of taking its course.

(w) (Reserved)

(x) [The purpose of this subsection is to ensure that there is a] **There shall be** total separation between instructional activity conducted by [licensed] a school[s] and [any] solicitation of students[, which] **to become salespersons for a particular broker**, as defined at (x)2ii below[, means any recruiting efforts or brokerage activity directed at students. These provisions will be construed in a manner consistent with that regulatory objective]. A violation of [any of these] **this** provision[s] will be considered [by the Commission as] conduct demonstrating unworthiness for licensure, [thereby] subjecting the offending licensee to sanctions pursuant to N.J.S.A. 45:15-17(e) and (t)] **17.e and t**. The [Commission may also impose sanctions for a violation of these provisions pursuant to N.J.S.A. 45:15-10.11 and N.J.A.C. 11:5-12.15. Requirements regulating the] involvement of [licensed] a school[s] in [soliciting] **permitting the solicitation** of students to become salespersons [or referral agents] for particular real estate brokers [are] **is limited** as follows:

1. At the beginning of the first class [session] of [all] a salesperson [or referral agent] prelicensure course[s], all [licensed] schools shall distribute to [all] students [in writing] 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 [OR REFERRAL AGENT LICENSE] 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. [This policy is reflected in Commission rule N.J.A.C. 11:5-2.2(x), which is reproduced in its entirety below.]

If you are subjected to any recruitment efforts or are solicited for listings or offers during class time you should immediately notify your instructor, the Director of your school, and the New Jersey Real Estate Commission **at 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 [employment] **business relationship** with any broker. It is in your own best interest to talk to several prospective [employing] brokers [before deciding] **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 [for you].** You should also consider a prospective employer's professionalism and reputation for honesty and integrity when deciding which broker to work for. [In the event an enrolled student does not attend the first session of a salespersons/referral agents course, a copy of the foregoing notice shall be delivered to that student at the commencement of the first class session which that student does attend.]

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

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

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

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

3. [With the exception of posting, distributing or displaying written materials as provided in (x)5 below, no school] **A** director, instructor, guest lecturer, or staff member shall **not**, prior to, [nor] **or** within seven days following[, a student's successful completion of a course, solicit a student to become a salesperson [or referral agent] for [any] **a** particular [real estate] broker[, nor]. **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 [real estate] broker.

4. [No in-person or electronic solicitation of] **A school is prohibited from soliciting** students to apply for employment as salespersons [or referral agents] with a particular [real estate] broker [shall be permitted] at a licensed school location during [the prescribed class hours, nor in the breaks between such class hours] **course instruction, including breaks**. Such soliciting may be [scheduled and held at licensed schools] **made** before, after, or separate from [the prescribed class] **course instruction** hours, for example [as] **at a "career night"** [for students,]; provided that students are notified, in writing, in advance that [their] attendance at such recruitment functions is [completely] voluntary. [However, no school director, instructor, guest lecturer or staff member shall engage in such activity at any time prior to, nor within seven days following, a student's successful completion of a course.] Licensed instructors who are also licensed brokers[, salespersons or referral agents may conduct prelicensure courses, and licensees who are not licensed instructors] may appear as guest lecturers in such courses, so long as their presentations do not include the solicitation of students.

5. [Any licensed] **A** school [which posts, distributes or displays] **that elects to permit the posting, distribution, or displaying of** written material [which] **to solicit[s]** students to inquire about employment as a salesperson [or referral agent with a particular broker] must [similarly post, distribute or display comparable written] **permit the posting, distribution, or displaying of such material** from any [real estate] broker who requests [the school] to do so. [However, no written material soliciting students to apply for employment with a particular real estate broker or any referral program shall be distributed during the prescribed class hours.] **No solicitation materials may be distributed to students during course instruction.**

6. [No licensed] **A** school may **not** offer a reduced tuition rate to students [where eligibility for the lower tuition is] contingent upon a

student making a commitment to becoming licensed through a particular broker subsequent to their qualifying for licensure and [no licensed] a school may [otherwise] **not** make or imply any promise or guarantee of employment to any student.

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

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

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

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

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

i. Where space on two or more floors in a multi-story building is licensed as a main or branch office location, it is permissible for prelicensure courses to be conducted in such a building, provided that the primary means of access to and egress from the floor where the courses are conducted does not require the students to walk through any area of the licensed office location wherein brokerage activity occurs.

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

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

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. [No licensed] 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 [at] any time [while such] students are on [school] **the premises.**

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

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

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

1. [Real Estate] Instructor license;
2. [Real Estate] School license;
3. License for additional teaching location of a licensed [real estate] school;
4. Approval of [Real Estate School Director] **school director**;
5. (No change.)
6. Approval of [real estate] a continuing education provider;

7. Approval of [real estate] a continuing education instructor; and
8. Approval of [real estate] a continuing education course.

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

1. Waiver of salesperson [or referral agent] 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; [and]
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 [certificates]

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

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

11:5-2.5 Education Bureau forms [and]; processing times

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

1. Application for [real estate] a **non-public** school license [for non-public school];
2. Application for licensure of **an** additional teaching location for a non-public [real estate] school;
3. Application for [real estate] a school license for a public college, university, or adult education program;
4. Application for [real estate] **an** instructor license;
5. Application for change [in] **of** address of [administrative] **the main office location** or primary teaching location of non-public [real estate, prelicensure] 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 [or with new] partner(s) (partnership), [or new] owner(s) of a controlling interest (corporation), or school name change;
8. Application for waiver of **the** salesperson [or referral agent] prelicensure education requirement;
9. (No change.)
10. Experience report for [Broker License Applicant] **broker applicant**;
11. (No change.)

12. Application for approval of [real estate] a continuing education provider;

13. Application for approval of [real estate] a continuing education instructor; [and]

14. Application for approval of [real estate] 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 [by the Commission] of complete and accurate application forms with the required fee(s) [in the correct form, the applications specified below are generally] **are** processed [by the Education Bureau] within the time frames indicated:

1. Applications for [real estate] instructor [licenses], school [licenses], and additional teaching location licenses—three weeks;
2. (No change.)

3. Applications for relicensure of schools with new directors, **partners**, or [new] owners of a controlling interest—three weeks;

4. Applications for renewal of instructor [licenses], school [licenses], and additional teaching location licenses—four weeks;

5. (No change.)

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

7. Applications for approval of [real estate] a continuing education provider—three weeks after a recommendation [by the Voluntary Advisory Committee is considered by] **is made to** the [Real Estate] Commission;

8. Applications for approval of [real estate] a continuing education instructor—three weeks after a recommendation [by the Voluntary Advisory Committee is considered by] **is made to** the [Real Estate] Commission;

9. Applications for approval of [real estate] a continuing education course—three weeks after a recommendation [by the Voluntary Advisory Committee is considered by] **is made to** the [Real Estate] Commission; and

10. Applications for the issuance of a waiver of the continuing education requirement—three weeks [after receipt of a complete waiver application].

11:5-2.6 [Education Bureau transaction] **Transaction fees**

The fee[s] applicable to **schedule for certain** transactions processed by the Education Bureau [of the Real Estate Commission that are unrelated to real estate continuing education] are listed in the table below. Fees [applicable to applications for approval of real estate] **for transactions related to** continuing education [providers, instructors and courses] are listed [in] at N.J.A.C. 11:5-12.17.

EDUCATION BUREAU TRANSACTION FEES

<u>Description</u>	<u>Amount</u>
Criminal history check and [electronic] fingerprint scan	State-contracted vendor fee (paid directly to vendor)
Application fee, school license	\$100.00
Application fee, instructor license	\$50.00
[Application fee, waiver of salesperson or referral agent education	\$25.00]
Initial license fee, non-public school	\$400.00 for licenses issued in the first year of a [two-year] license term; \$200.00 for licenses issued in the second year of a [two-year] 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 [two-year] license term; \$100.00 for licenses issued in the second year of a [two-year] 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

<u>Description</u>	<u>Amount</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

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 June 30 of the odd year.

11:5-3.1A Proof of licensure

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

11:5-3.3 Criminal history record check

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

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

(c) [The] **If the** applicant[, if] is a natural person, **they** shall submit with [his or her] **their** license application, the [evidence] **proof** of completion [of the fingerprint scanning process] set forth [in] **at** (b) above.

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

11:5-3.4 [Examination] **State licensing examination rules**

(a) [In the administration of examinations for licensure as a real estate broker, broker- salesperson, salesperson or referral agent, the] **The** following [examination] rules shall apply **to the administration of examinations for licensure as a broker or salesperson:**

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

2. [The copying of] **Copying** questions or [making of] **taking** notes for personal use [is] **are** strictly prohibited.

3. (No change.)

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

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

(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] **Social Security** numbers and electronic mailing addresses

(a) The Commission may request that [licensees and license] applicants **and licensees**, including registrants for [license] **State licensing** examinations, [submit] **provide** their [social security] **Social Security** number[s] to the Commission]. [All such requests] **Requests** shall [either include or] be accompanied by a notice stating:

1. [The purpose or purposes for which] **How** the Commission intends to use the [social security] **Social Security** numbers;

2. [That] **Whether** disclosures made pursuant to the request [is either] **are** voluntary or mandatory; and

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

(b) Business entity and sole proprietor broker licensees [“brokers”] shall establish an official [e-mail] **email** address[. Brokers shall] **and** provide **such** to the Commission [their current official e-mail address at the time of applying for license] **when applying for renewal** [through the on-line renewal system] **online**. [Upon the establishment by the Commission of an Internet-based system for updating brokers’ official e-mail addresses, brokers shall, within 30 days of being advised of the availability of that system, enter their current official e-mail address on that system. Subsequent to the implementation of the Internet-based system for updating the official e-mail addresses of brokers, the Commission shall, at its discretion, transmit all general orders, bulletins and public notices to brokers either through e-mail or regular mail.] **The Commission shall use the official email address to transmit general orders, bulletins, and public notices to brokers.**

(c) [Upon making any] **Any** subsequent change to [their] **the** official [e-mail] **email** address[, the broker] shall [update the information on the on-line broker e-mail address] **be updated in the** notification system within 10 days of [making such a] **the** change.

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

[(a) No salesperson’s or referral agent’s license shall be issued to any person who has not attained the age of 18 years.]

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

(b) [Every] **An** applicant for [licensure as] a salesperson [or referral agent] **license** shall [present] **submit** with [his or her] **their** application [for licensure a certificate of satisfactory completion of a course of education in real estate subjects at] **a Course Completion Certificate issued by a school licensed by the Commission pursuant to N.J.S.A. 45:15-[10.1(a)]10.1.a and 10.4 and N.J.A.C. 11:5-2.2, unless waived [by the Commission] in accordance with [the provisions of] N.J.S.A. 45:15-10.2.**

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

(d) [All] **An** applicant[s] for [licensure as] a salesperson [or referral agent] **license** shall certify that they possess a high school education or equivalency. The Commission may require [the production] **proof** of [evidence of such education] **educational attainment**, or equivalency, as a condition to issuing a license [to any applicant].

11:5-3.7 Employment of salesperson [or referral agent] sponsored by broker

(a) [No] **A** broker shall **not** knowingly sponsor [an applicant for licensure as a real estate] **a salesperson or salesperson** (referral) [agent who does not bear a good] **license applicant who does not have a** reputation for honesty and fair dealing[s].

(b) An application for licensure [or renewal of licensure] as a **salesperson** (referral) [agent] **or renewal of licensure** shall include a certification signed by the [licensed real estate] 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 [referral agent] **salesperson (referral)**; and

2. The applicant [or referral agent] has acknowledged that [he or she is] **they are** aware that the activities of a **salesperson** (referral) [agent] are limited to [referring prospective consumers of real estate brokerage services only] **as set forth [in] at N.J.A.C. 11:5-6.10(a)2.**

(c) Applications for licensure as a **salesperson** (referral) [agent] other than renewal applications shall also contain a certification signed by the applicant confirming the statements [in] **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. [The experience requirement for] **Applicants for** licensure as a broker [imposed by] **must satisfy the experience requirement imposed at N.J.S.A. 45:15-9 [is construed to], which requires a** demonstration [by the applicant of their] **of the applicant’s** commitment to real estate brokerage as their primary vocation, [as] evidenced by their involvement in the real estate brokerage business on a full-time basis.

1. A person [who is] presently licensed as a broker in another state [and], who has been actively licensed and engaged in the [real estate] brokerage business on a [full time] **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 [for licensure as a New Jersey real estate broker].

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

i. (No change.)

ii. [Such] **The** work [in] **at** (a)2i above was performed during any five days in each week of the three-year period; and

iii. [If the applicant was employed in any other occupation] **Any other employment held by the applicant** during the [three year] **three-year** period[, such other employment] 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 [at least] the three years immediately preceding such application; **and**

ii. Has completed the **education requirement set forth** [90-hour general broker’s prelicensure course and the two 30-hour courses referred to in] **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 [having been actively involved] **active involvement** in the [real estate] brokerage business as a [real estate] salesperson on a full-time basis during each year of the [three year] **three-year period**. Written statements by the brokers with whom the applicant was licensed [during the three year period] which certify the applicant's activity as a salesperson [while licensed through those brokers] must be submitted.

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

3. [In no event will an] **An applicant whose brokerage activity was limited to solely making referrals to other licensees will not be deemed to have fulfilled the [full-time, active involvement in the brokerage business requirement for licensure] experience requirement.**

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

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

(e) An applicant must pass the State [broker license] **licensing** examination and apply for [and request] the issuance of a license as a broker or broker-salesperson not later than one year after successful completion of the [150-hour broker prelicensure] education requirements. [Any person] **An applicant** who fails to apply [for the issuance of a license as a broker or broker-salesperson] within [the said one year time] **that one-year period** shall be required to retake and [successfully] complete [all prescribed courses and] **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 [Return of license when broker ceases to be active; office] **Office closing; change of broker of record**

(a) [Each] **A broker** who ceases to be active shall within five business days of the cessation of business [return to the Commission his license, and] **terminate** the licenses of [all] salespersons[,] **and** broker-salespersons [and referral agents for cancellation] **in their employ through the online licensing system on the Commission's website.**

(b) Each [employee's] **employee whose license has been terminated** must be [accompanied by a letter terminating employment] **notified, in writing**, in compliance with N.J.S.A. 45:15-14.

(c) [No] **A broker** engaging in the [real estate] brokerage business as a sole proprietor[,] **or as a broker of record of a partnership [or as a broker of record of], a corporation, or other form of business entity** shall [be relicensed by the Commission unless] within 30 days of [the date of which the broker ceases engaging] **ceasing to engage** in the [real estate] brokerage business [he or she shall complete and] submit an **office closing** affidavit [to the Commission certifying that:] **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. The broker's license, the corporate or partnership license, and the licenses of all referral agents, salespersons and broker-salespersons have been returned to the Commission for cancellation;]

1. All licenses affiliated with the office have been terminated;

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

3. [All commissions] **Commissions** and other compensation owed to salespersons[, referral agents] and broker-salespersons have been paid, or, if not yet received by the broker, will be paid upon receipt;

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

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

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

7. The broker has recalled all [signs and other] **physical and electronic** advertisements [or] **from** trade [materials indicating that the broker is engaged in the real estate brokerage business] **publications and multiple listing services;**

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

[9.] **8.** There are no outstanding fines or penalties due [and owing] **to** the [Real Estate] Commission; **and**

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

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

(e) [No] **A new broker of record of a corporation or partnership shall not** be substituted [unless] **until** the new broker [of record] and [the] former broker [of record] prepare and submit a joint affidavit [to the Commission] certifying that:

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

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

3. All salespersons'[, and broker-salespersons' [and referral agents'] commissions and other compensation are paid to date;

4. The new broker acknowledges responsibility to pay salespersons'[, and broker-salespersons' [and referral agents'] commissions in accordance with the policy for payment existing on the date of substitution;

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

6. (No change.)

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

8. The new broker acknowledges that [he or she] **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 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 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 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 is revoked and whether a new designee is to be named. 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) [Applications for the] **The** following [license types] **applications** are processed by the Licensing Bureau:

1. [Real Estate] Salesperson;

2. [Real Estate] Referral Agent;

2. Salesperson (referral);

3. [Real Estate] Broker—Salesperson;

4. [Real Estate] Broker—Sole [Proprietor] **proprietor**;

5. [Real Estate] Broker—Business entity;

6. [Real Estate] Broker—Broker of [Record] **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 [or referral agent] **and salesperson (referral)** license application;

2.-4. (No change.)

5. [Referral agent, salesperson] **Salesperson, salesperson (referral),** or broker-salesperson transfer of license [(on rear of license document)];

6.-9. (No change.)

10. Application for reactivation within current license term or for reinstatement of [referral agent or] salesperson **or salesperson (referral)** license;

11. (No change.)

12. [Office Closing] **Brokerage firm office closing** affidavit;

13.-14. (No change.)

[15. Initial Application for Renewal of Broker License and of all related licenses;

16. First Supplemental Renewal Application (lists licensees who became licensed with the broker between the date on which the Initial Renewal Application form was generated and the date on which the First Supplemental Renewal Application form was generated);

17. Second Supplemental Renewal Application (lists licensees who became licensed with the broker between the date on which the First Supplemental Renewal Application form was generated and the expiration date of the license term in which the renewal forms are generated);]

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

[32.] **29.** The form to request fingerprint [scan processing utilized] **scanning used** by the State-contracted [fingerprint scanning] vendor;

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

(b) In addition to the instructions [that are contained] on the forms themselves, separate instructions for the [licensing] forms related to broker licenses and branch offices are available [from the Licensing Bureau,] **on the Commission's website.**

(c) License applications are [normally] processed within 15 business days from the date a complete [and accurate] application [with all required] **and associated** fees [in the correct form is] **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 [written] request and [correct] **associated** fee.

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

1. Original salesperson, **salesperson (referral)**[agent], broker-salesperson, or broker[:] **applications shall be submitted** one year from the date on which precensure [course and] education requirements were completed (see N.J.A.C. 11:5-3.6(c) [for salespersons and referral agents] and [11:5-]3.8(e) [for brokers and broker-salespersons];

2. Applications for the reinstatement of a salesperson, **salesperson (referral)** [agent], broker-salesperson, or broker license[:] **shall be submitted** two years from the expiration date of the last license held, unless exempted [as provided at] **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 [in which] 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 [license] renewals [postmarked and] received [by the Commission] after the deadlines referenced [in] at (d)6 above. Those fees are] **and as set forth** [in] 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

Renewal Fees:

<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

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 [status] from **salesperson** (referral) [agent] to salesperson or broker-salesperson

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

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

(d) A [licensed] **salesperson (referral)** [agent] who was previously licensed as a broker, broker-salesperson, or salesperson, who has been licensed as a **salesperson (referral)** [agent] for **between one and six years** immediately preceding [years or any lesser period shall, in order to qualify] **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)** [agent] for less than three years shall complete 12 hours of continuing education[, all of which shall be] in core topics as set forth [in] 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)** [agent] **for at least** three years [or more], but less than six years, shall complete 18 hours of continuing education[, all of which shall be] in core topics as set forth [in] 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)** [agent] for less than three years shall complete 18 hours of continuing education within two years immediately preceding application[, all of which shall be in core topics as set forth in N.J.A.C. 11:5-12.4].

4. To qualify for relicensure as a broker or broker-salesperson, a person who has been licensed as a **salesperson (referral)** [agent] for three years [or more], 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 [in] at N.J.A.C. 11:5-12.4.

(e) A [licensed] **salesperson (referral)** [agent] who was previously licensed as a broker, broker-salesperson, or salesperson who has been licensed as a **salesperson (referral)** [agent] for more than the six years immediately preceding [years] **their application for reissuance of a broker, broker-salesperson, or salesperson license** shall, in order to qualify for re-licensure as a broker, broker-salesperson or salesperson, complete 30 hours of continuing education[, 24 hours of which shall be] in core topics as set forth [in] 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 [Licensee business] **Business** relationship agreements; commissions; accounting to salespersons [and referral agents]; actions for collection of compensation

(a) Prior to [a salesperson or referral agent] engaging in any [real estate] brokerage activity, [a] **the** broker and [the] salesperson [or referral agent] must enter into [and sign] 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 [or referral agent] during [his or her] **their** affiliation with the broker;

2. A [promise by] **provision that** the broker [to] **will** pay [to] the salesperson [or referral agent his or her] **their** portion of commissions earned within 10 business days of their receipt, [by the broker or] as soon [thereafter] as such funds have cleared the broker's bank **account**, or in accordance with [another] **a** payment schedule explicitly set forth in the written agreement;

3. The rate of compensation payable to the salesperson [or referral agent] on transactions [which] **that** close [and, if applicable, on] **or** renewals [which] **that** occur subsequent to the termination of the salesperson's [or referral agent's] affiliation with the broker; and

4. A provision that any future changes to the agreement will not be binding unless [the changes are contained in a writing] **memorialized and** signed by both parties.

(b) A copy of the fully executed agreement shall be provided to the salesperson [or referral agent] upon the commencement of [his or her] **their** affiliation with the broker, and the original thereof shall be maintained by the broker [as a business record] 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 [by the broker].

(d) If any monies due a salesperson [or referral agent under the terms of the written agreement with their broker] are not paid [within 10 business days of the broker's receipt of such funds or promptly thereafter upon their having cleared the broker's account,] **in accordance with (a)2 above**, the broker shall provide to the salesperson [or referral agent] a [complete] written explanation of the failure to pay such monies.

(e) Within 30 days of the termination of the affiliation of a salesperson [or referral agent with a broker], the broker shall provide a [complete] written accounting of all monies due the salesperson [or referral agent] as of the date of termination and/or [which] **monies that** may become due in the future. If [any sums so accounted for are not in accord] **the accounting is not consistent** with the [terms of the] post-termination compensation clause in the written agreement [between the broker and the salesperson or referral agent], the broker shall [give a complete written explanation of any difference] **provide** to the salesperson [or referral agent with the] **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 [or referral agent] for six years: [agreements]

1. **Agreements** as described [in] **at** (a) above; [explanations]

2. **Explanations** of the failure to pay compensation due a salesperson [or referral agent on a timely basis as] described [in] **at** (d) above; and [accountings]

3. **Accountings** and explanations regarding compensation due a salesperson [or referral agent] subsequent to the termination of their affiliation with a broker as described [in] **at** (e) above.

[(g) If the Commission confirms that a broker has complied with the requirements imposed by this section, the Commission will not further investigate a complaint alleging the non- payment of a commission by a broker to a salesperson or referral agent unless such complaint is accompanied by a copy of an arbitration decision or the equivalent, or a copy of a judgment of a court of competent jurisdiction secured by the salesperson or referral agent against the broker. Unless appealed, the failure by a broker to pay monies awarded to a salesperson or referral agent under 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.]

(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 [and referral agent] licensees may only bring [or maintain] actions in the courts of New Jersey for the payment of compensation due them for brokerage services performed as provided [in] **at** N.J.S.A. 45:15-3.

1. The [Commission interprets the language] **phrase** "at the time the alleged cause of action arose" as used [in] **at** N.J.S.A. 45:15-3 [to] 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 [Commission does not interpret the language] **phrase** "at the time the alleged cause of action arose" [as requiring] **as used at N.J.S.A. 45:15-3 does not require** that the licensee [must have been] **be** actively licensed at the time that the compensation allegedly due was to have been paid. For example, [the Commission does not construe this language as requiring] 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) [All references] **References** to "salesperson" in this section include individuals licensed as broker-salespersons. [All references] **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 [Commission interprets] **terms** "employment agreement," "employ," and "employing broker" [in N.J.S.A. 45:15-1 et seq., and this section to permit] **refer to** an employment relationship or an independent contractor relationship between a broker and a broker-salesperson[,] **or** salesperson[,] or referral agent[.]

11:5-4.4 Main office

(a) **A resident broker who is not licensed as a broker-salesperson shall maintain a main office in New Jersey, which shall be open to the public during usual business hours where the activities of the licensees working from it shall be under the direct supervision of either the resident broker or a licensed broker-salesperson. Such supervision shall be maintained on a full-time basis and shall require the supervisory licensee to be present at the main office continuously during usual business hours. The supervisory licensee shall provide contact information that allows personnel to communicate with them at all times. The licensee supervising the main office shall be employed on a full-time basis and, when not required to be away from the office for business-related reasons, shall be physically present during usual business hours at least five days per calendar week (excluding vacations and emergencies) and shall not be otherwise employed during such time.**

1. **If the main office is under the direct supervision of a broker-salesperson, the broker who maintains such a main office shall be ultimately responsible for all activities conducted by licensees and employees. The broker shall provide contact information that allows personnel to communicate with them at all times. This section shall not limit a broker's responsibility to comply with N.J.A.C. 11:5-4.3.**

(b) **If the main office is located in a residence, it shall be independent of living quarters and have a separate exterior entrance plainly visible from the street upon which the licensed premises shall have frontage. This subsection shall not apply to offices in existence prior to December 1, 1963.**

(c) **A main office shall not be in the dwelling premises of any salesperson in that broker's employ.**

(d) A sole proprietor employing a broker and persons licensed as a broker of record for a licensed entity are responsible to supervise the brokerage activity of licensees within their authority, regardless of where such activity takes place.

11:5-4.5 Branch office(s) [compliance with N.J.A.C. 11:5-4.4 (Maintained offices)]

(a) [In the event] **When** a [real estate] broker maintains a branch office or offices, every [such place of business] **main office** shall comply with [the provisions of] N.J.A.C. 11:5-4.4 [(Maintained offices)].

(b) [No] **A** license shall **not** be issued for a branch office situated in the dwelling premises of a [referral agent, a] salesperson or a broker-salesperson.

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

[(d) Such individual shall devote his or her full time to management of said office during the usual business hours.]

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

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

[(f) When a branch office license is issued to a broker it shall specifically set forth the name of the broker and the address of the branch office, and shall be conspicuously displayed at all times in the branch office. The branch office shall also prominently display the name of the broker-salesperson licensee in charge as "office supervisor" and the names of all other licensees doing business at that branch office.]

(g) The said branch office license shall be returned for cancellation or correction upon the change of an "office supervisor".]

(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) [No] **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 [palpably] give [him] **them** reason to know, any facts [which] **that** would tend to [reasonably] create a **reasonable** doubt **as to the ability of the seller to:**

1. [As to the ability of the seller to perform his] **Perform their** contractual obligations; or

2. [As to the ability of the seller to return such] **Return** funds [or deposits] in the event of the failure of a contingency contained in a [real estate] contract.

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

1. [His] **The purchaser's** awareness of any risk or contingency;

2. The disposition of [his] **the purchaser's** funds or deposits; and

3. The absence of any representations by the licensee as to the solvency of the seller and [his] **their** ability to return such funds.

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

11:5-5.3 Advance fees; accounting

(a) [Any] **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 [after such charge or collection], furnish [his] **their** principal with an accounting [as to the use] of such moneys.

(b) [Such] **The** accounting shall [set forth] **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 [the] funds [are] spent [for] other than newspaper or periodical advertising.

11:5-5.5 Inspection of licensee records

(a) [Every] **A** licensee shall make available for inspection by the Commission, or its designated representatives, [all] records of transactions, books of accounts, instruments, documents, and forms [utilized] **used** or maintained [by such licensee] in the conduct of [the licensed] business, which may be pertinent to [the conduct of the] **an** investigation [of any specific complaint].

(b) [To accomplish the objectives and carry out the duties prescribed by this Act, especially the provisions of N.J.S.A. 45:15-17, the] **The** Commission may issue subpoenas [to any person], administer an oath or affirmation [to any person], and conduct hearings in aid of any investigation or inquiry.

(c) All files [on] **related to** pending and closed sales, exchange, or lease transactions, [all files on] listings for sales or rentals, and [all] property management files shall be maintained [or stored] at the offices of [brokers licensed as] **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, [no referral agent,] **a** salesperson or broker-salesperson shall **not** remove, or cause to be removed, [any of] the contents of such files from the offices of the broker. The term "files" [as used herein] shall [be construed to] mean all transaction records required to be kept [by brokers] 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 [herein] **in this section**, [subsections] (b) through (o) below shall apply to all [categories] of advertising, including [all] **printed** publications, radio or television broadcasts, [all] electronic media, including [E-mail] **email** and the Internet, business stationery, business cards, business and legal forms and documents, [and] signs, and billboards.

1.-2. (No change.)

(b) [All advertising] **The advertisement** of [any licensed] **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 [individual, partnership, firm or corporation is] **licensee has** on record with the Commission [as doing business as a real estate broker]. [All advertising by a referral agent,] **The advertisement of a salesperson or a broker-salesperson** shall include the name in which they are licensed and the regular business name of [the individual, partnership, firm or corporate broker through whom they are licensed. If such advertisements contain a reference to the licensed status of the person placing the ad, their status as a referral agent, a salesperson or a broker-salesperson must be indicated through inclusion of a descriptive term as provided in (c) below.] **their affiliated broker.** A [referral agent or] salesperson may not indicate in [any] **an** advertisement or otherwise that [he or she is] **they are** licensed as a broker-salesperson. **The advertisements of a salesperson (referral) shall include the descriptive terms provided at (c) below.**

1. [In all advertisements which] **Where an advertisement** contains the name of a [referral agent, a] salesperson or a broker-salesperson, the regular business name of the [individual, partnership, firm or corporate] **affiliated** broker [through whom that person is licensed] shall [appear in larger print or] be displayed in a more prominent manner than the name of the [referral agent,] salesperson or broker-salesperson.

2. Where [a] **the** webpage [on the worldwide web established by a referral agent,] **of a salesperson, a broker-salesperson, or a team of such**

licensees is not linked electronically to [the webpage of the broker through whom the person or team is licensed] **their broker's website**, the webpage shall display the telephone number [and may display the street address] of the licensed brokerage office from which the [individual or team operates as real estate licensees. That information] **advertising licensee(s) operate, which** shall appear in [wording as large as the predominant] a size [wording on the webpage] **consistent with the rest of the page.**

[3. Where a webpage of an individual or team is linked electronically to the webpage of the broker through whom such person or persons are licensed, the webpage of the nonbroker licensee(s) shall display information which clearly indicates how to link to the broker. That information shall appear in wording as large as the predominant size wording on the webpage.]

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) [All advertising, with the exception of lawn signs placed on residential properties containing four or fewer units,] **An advertisement** shall clearly indicate after the licensee's regular business name that the [advertising] licensee is engaged in the [real estate] brokerage business. [Except as prescribed by N.J.S.A. 45:15-17(j), examples of permissible language] **Permissible language** shall include, but [are] not be limited to, "Realtor," "Realist," "real estate broker," "broker," or "real estate agency." [Examples of prohibited] **Prohibited** language when used alone shall include[, but are not limited to,] "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) [Any advertising which contains a home] **An advertisement containing** a telephone number, [cell-phone number, beeper or pager number, home fax number, or e-mail] **email address, or website** of an individual [referral agent,] salesperson or broker-salesperson[, or a team of such licensees, shall also include the telephone number [and may include the street address] of the licensed brokerage office from which the advertising licensee(s) operate. [All such advertising shall also contain language identifying each number included in the advertising. For example, a home telephone number may be followed or preceded by the word "home" or the abbreviation "res."]

1. [No advertising] **An advertisement** shall **only** represent that [a location is a place at which] the business of a [real estate] licensee is conducted [unless that location is the] **at a** licensed main office or [a licensed] branch office of the broker through whom the advertising licensee is [licensed. Referral agents, salespersons and broker-salespersons shall not include in their advertisements any] **affiliated and shall not** reference [to] a ["home office."]

[(e) The business card of any licensed referral agent shall indicate that this licensee is a referral agent by the use of the words referral agent or referral associate. The business card of any licensed salesperson shall indicate that this licensee is a salesperson by the use of the words salesperson or sales representative, or sales associate, or where permitted by law, realtor-associate or realtist associate. The business card of any licensed broker-salesperson shall indicate that this licensee is a broker-salesperson by the use of the words broker-associate, associate broker, realtor- associate or broker-salespersons. The business card of any licensed broker shall indicate that this licensee is a broker by use of the word broker or, where permitted by law, Realtor or Realist.]

(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) [Any advertising which] **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) Any advertisement which sets forth amounts of down payment, monthly payment, carrying charges, taxes or mortgage money obtainable shall contain appropriate qualifying words such as "approximate" or "estimated," which qualifying words shall be clearly associated with the amounts set forth. If such amounts are mentioned the broker shall maintain written proof of the validity of these statements in the broker's files. Such written proof shall be maintained for a period of 12 months from the date upon which an advertisement containing such references shall have last appeared in any publication.]

(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, [any] **an** advertisement for the sale, exchange, or rental of real property, or any interest therein, shall [designate the geographical area containing that property by specifying] **specify** the municipality [within which that] **the** property is located.

(i) [No licensed individual, limited or general partnership, firm or corporation] **A licensee** shall **not** advertise, [or] use any form of application, or make any inquiry [which] **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 [in] **at** N.J.A.C. 11:5-6.4(k).

(j) [Any use] **Use** of an insignia, emblem, logo, **or** trade name [or other form of identification] in any [advertising or other public utterance, either by a single] **advertisement by** a licensee or any group of licensees[, which suggests or otherwise implies] **implying** common ownership or [common] management among [such] licensees[, shall be prohibited, except in the case of] **duly licensed** branch offices controlled by a single broker or licensee [and duly licensed as branch offices pursuant to the provision of N.J.S.A. 45:1-1 et seq]. Nothing [herein provided] **in this section** is intended to preclude [or inhibit] the use, advertising, or display of any insignia, emblem, logo, or trade name of any bona fide trade association by any licensee [provided that such licensee is a member of such trade association].

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

2. [Any] **A** licensee, including the franchisor using the trade name of a franchisor in [any advertising] **an advertisement**, shall [also] include [in a manner reasonably calculated to attract the attention of the public the following legend or a substantially similar legend] **the following statement or a substantially similar statement:** "each office is independently owned and operated," [except in the following categories of advertising:] **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 [by a licensee] **appearing in a** newspaper[s], magazine[s], or other publication[s] advertising properties]. A [small] "spot" [classified] advertisement is [defined as an advertisement which is] no more than one column wide and 20 lines long and [which] describes [no more than] **up to two** properties[; a]. 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. [Advertising] **An advertisement** placed or distributed by **an** office[s], which are wholly owned by the franchisor[, which] **and** contains

the office address and contains language [which] **that** identifies the office as being wholly owned or the franchisor.

3. [The intent of this subsection is to further promote the general purpose of the Real Estate License Act of ensuring that all] **All** individuals, firms, or corporations [are] **must be** clearly identifiable to the public as the licensed brokers who are financially and otherwise responsible to the [consuming] public for their [real estate] brokerage activities. [It is not the intent of this subsection to] **This section does not** limit or [otherwise] inhibit the operation of branch offices as set forth [in] **at** N.J.S.A. 45:15-12 [and sections 18 and 19 of this subchapter], nor [is it the intent of this subsection to] **does this section** prevent the franchising of any group of licensees; provided such franchising or other association is [not inconsistent] **consistent** with the purpose of the [Real Estate License] Act, as expressed [herein] **in this subchapter**.

(k) [Any advertising] **An advertisement** by [any licensed individual, partnership, firm or corporation] **a licensee** referring generally to membership in any [real estate] multiple listing service operation shall specify the complete name of the listing service [in which membership is held], except in the following [categories] **types** of advertising:

1.-3. (No change.)

(l) [Any] **An advertisement that contains** a home warranty offer [contained in any advertisement] shall comply with all Federal and State warranty legislation, including the New Home Warranty and Builder's Registration Act, [P.L. 1977, c.467,] N.J.S.A. 46:3B-1 et seq., and the Magnuson-Moss Warranty Act, [P.L. 93-637,] 15 U.S.C. §§ 2301 et seq. [Such advertising] **The advertisement** shall **clearly** specify [clearly] whether the warranty is by inspection or non-inspection of the premises, [whether] **if** the warranty is mandatory, and who is responsible for payment for the warranty. [No] **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) [No] **A licensee** shall **not** publish [or cause to be published any] **an** advertisement or place [any] **a sign** [which] **that** makes reference to the availability of a specific property [which is] exclusively listed for sale by another broker unless the licensee obtains the prior written consent of the broker [with whom the property is exclusively listed]. Such consent shall not be given or withheld by the listing broker without the knowledge of the owner.

1. [With regard to information on] **For online** listings disseminated [through the Internet] by licensees other than the listing broker, **the** listing broker[s] shall be deemed to have given [the] consent [referred to in (n) above with the knowledge of the owner] where:

i. [A written] **The listing agreement** [contains] **sets forth** the seller's authorization for [information on] the listing to be posted on the **broker's** website [of the broker, or], **on the website** of a multiple listing service to which the broker belongs, or [of another party] **on the website of a third party** to which the broker or [such an MLS] **multiple listing service** submits [information on] listings; and

ii. The website on which the listing information shall initially appear has instituted no measures to prevent other parties with websites from utilizing an electronic link to enable consumers to view that information while remaining in the website of the other party.]

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

(o) [No licensee shall indicate in any] **An advertisement** **shall not indicate** that a property has been sold, or that [they] **a licensee** participated in the sale of a property, until [a] **the** closing has occurred [at which] **where** title to the property was transferred from the seller to the buyer.

1. (No change.)

2. [In the time period after] **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, [unless such a contract is canceled and the seller authorizes the listing broker to renew efforts to market the property,] any advertisement of the property [which] **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) [Advertisements] **An advertisement** by licensees may[, but are not required to,] include a statement indicating that the advertiser is licensed by the [New Jersey Real Estate] Commission. [Any] **An advertisement** by a licensee that includes a reference to licensure by the [New Jersey Real Estate] Commission shall immediately thereafter [also] include the following statement: "Licensure does not imply endorsement," which [statement] shall [be included in the advertisement] **appear** in a clear and conspicuous manner.

1. [The foregoing] **This subsection** shall not apply to the display[s] which, pursuant to N.J.S.A. 45:15-12, are] required to conspicuously appear on the exterior of every place of business maintained by [New Jersey real estate] **the** broker[s] and [to] include the name of the broker and, in the case of business entities licensed as brokers, the name of the individual [licensed as its] authorized broker, and the words "Licensed Real Estate Broker[.]," **pursuant to N.J.S.A. 45:15-12.**

(q) [Any] **An advertisement** [which] **that** includes [any] **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 [also] include, **in a clear and conspicuous manner**, the following statement: "In New Jersey [commissions are], **broker compensation is fully negotiable and not set by law.**" [The said statement shall be included in the advertisement in a clear and conspicuous manner.]

(r) [No] **An advertisement** shall **not** contain false, misleading, or deceptive claims or misrepresentations. [In all advertisements which] **Where an advertisement** makes an express or implied claim[s] that [are] is likely to be misleading in the absence of certain qualifying information, such qualifying information shall [be disclosed in the advertisement] **appear** in a clear and conspicuous manner.

(s) [No person licensed as a] **A salesperson** (referral) [agent] shall **not** include [in] any [advertisement any content stating or implying] **content in any advertising that states or implies** that [he or she is] **they** are authorized to engage in [real estate] brokerage activity beyond that which [he or she is] **they** are permitted, [under] **pursuant to** N.J.S.A. 45:15-3 or N.J.A.C. 11:5-6.10.

(t) [On all advertisements, except business cards,] **A salesperson** (referral) [agents] 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 [New Jersey] Real Estate [License] **Brokers and Salespersons Act**, N.J.S.A. 45:15-1 et seq., and shall comply with the provisions of this section in addition to the obligations imposed [by] **pursuant to** the Act, and [other rules contained in] this chapter.

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

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

(a) [No] **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 requirements, obligations, or standards upon licensed members or participants which conflict with the Real Estate License Act, N.J.S.A. 45:15-1 et seq., the Real Estate Sales Full Disclosure Act, N.J.S.A. 45:15-16.27 et seq., the New Jersey Antitrust Act, N.J.S.A. 56:9-1 et seq., or the New Jersey Law Against Discrimination, N.J.S.A. 10:5-1 et seq., or which otherwise relate to the comprehensive scheme of regulation already preempted by the State of New Jersey.]

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 [his] **their** client's interests, [his] **their** obligation [of dealing] **to deal** fairly with all other parties in a transaction, or [his] **their** obligation [of] **to** fully [cooperating] **cooperate** with any other New Jersey licensee, as [more fully set forth in] **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 [real estate] 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] **buyer/borrower**. This disclosure must be made even though the licensee will **not** receive [no] fees or compensation for the referral, see N.J.A.C. 11:5-7.2, and even though the licensee also refers the [buyer] **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 [rule] **section**, a [real estate] licensee is considered to be affiliated with a mortgage lender or mortgage broker when:

1.-3. (No change.)

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

(c) Where [an] **a real estate broker**, employing broker, or broker of record [of a real estate agency] 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 [referral agent] **salesperson (referral)**, a salesperson, or a broker-salesperson has such an individual affiliation, [he or she] **they** must provide the disclosure to all buyers [he or she] **they** refer[s] to the affiliate.

(d) (No change.)

11:5-6.10 [Referral agents] **Real estate salespersons licensed with a real estate referral company or salesperson (referral)**

[a] A licensed referral agent's real estate brokerage-related activities shall be limited to:]

(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 [general] public; and

2. Referring prospects for the sale, purchase, exchange, leasing, or rental of real estate to the [real estate] broker through whom they are licensed [as a referral agent or], should that broker authorize the **salesperson (referral) [agent]** to do so, to another [real estate] licensee. In [all] cases where referrals are made pursuant to such an authorization, the **salesperson (referral) [agent]** shall provide written or electronic notice to [his or her] **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) [agent]** for any referral shall be paid by the broker through whom the **salesperson (referral) [agent]** is licensed.

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

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

(d) [Referral agents] **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] **in-person**, or through electronic communication including telephone and the internet,

beyond the information which [referral agents] **the salespersons (referral)** are permitted to provide with respect to websites and other sources of information as [referenced in] **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] **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 [real estate referral agent,] salesperson or broker-salesperson shall not solicit, [or] receive any compensation, or reimbursement pursuant to (e) above from any person other than [his or her] **their** employing [real estate] broker unless licensed as a residential mortgage broker, [or] mortgage banker, or a mortgage loan originator [by the Department of Banking and Insurance] pursuant to the New Jersey Residential Mortgage Lending Act, N.J.S.A. 17:11C-51 et seq.

(g) [Any real estate] 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 [his or her] **their** licensed mortgage employer for providing mortgage services in residential mortgage transactions.

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

(a) [Any real estate] A licensee who solicits or accepts any fee, kickback, compensation, or thing of value [merely] for referring a customer or client to a lender, mortgage broker, or other provider of related services, shall be subject to sanction [by the Commission] for engaging in conduct demonstrating unworthiness, bad faith, and dishonesty. Any compensation received by a [real estate] 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) [Any compensation] **Compensation** paid by a [real estate] broker to a **salesperson (referral) [agent]** shall be limited to compensation for referring prospective consumers of [real estate] brokerage services to the broker. [Real estate brokers] **Brokers** are prohibited from offering incentives to the **salesperson (referral) [agents]**, salespersons, or broker-salespersons licensed under them for merely referring clients [or customers] to a particular lender, mortgage broker, or other provider of related services. [Any compensation] **Compensation** paid by a [real estate] broker to a salesperson or broker-salesperson for services [in transactions] 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 [real estate] 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 [any] extra consideration of any kind to licensees of [his or her] **their** firm for merely referring buyers to the in-house mortgage service or any particular lender or mortgage broker. For example, a [real estate] 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 [these rules] **this subchapter** are defined as follows:

1. "Orders to show cause" means orders issued by the Executive Director on behalf of the [New Jersey Real Estate] 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. "Complaint" means a filing by the Office of the Attorney General of New Jersey alleging violations of one or more of the provisions of N.J.S.A. 45:15-1 et seq. and/or of the Commission's rules.]

[3.] **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 [or complaint] **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 [Real Estate] Commission [through compliance with all of the requirements established in (b) below]:

1. (No change.)

[2. Applications from disabled veterans for education waivers and/or broker experience requirement waivers;]

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

3. Applications for the [issuance of education] waiver[s] **of the precicensure education requirement** by persons other than disabled veterans;

4. Applications for the [issuance] **waiver of the broker experience requirement** [waivers] by [broker] licensees of other states; [and]

5. Applications [by broker license candidates] for [the Commission's] approval of [their] experience as a salesperson [so as to qualify] 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) [All] **An appeal[s]** to the [Real Estate] Commission [provided for in (a) above] shall be filed [by the appealing applicant submitting to the Commission] within 45 days of the date of the notice of denial [an original and two] **and shall include three copies** of [all of the documentation noted below] **the following**:

1. A [covering] letter stating the factual and legal basis of the appeal, [to] which shall [be attached a copy of the application and the denial letter which forms the basis of the appeal. The said covering letter shall] also state whether the applicant [desires] **seeks** to [appear and] present oral argument and/or testimony when the appeal is considered by the Commission;

2. [Where] **If** the denial was based upon an applicant's prior criminal history [and/or their loss of a professional license, all judgments], **the appeal shall include any judgment(s)** of conviction [on the convictions which] **that** form the basis of the denial. [and a letter from their probation or parole officer, if within one year of making the application they were] **If an applicant was under [such] the supervision of a probation or parole officer within one year of making their application,** [which] a letter [shall state] **from their probation or parole officer stating** the extent of the applicant's compliance with the terms and conditions of [his or her] **their** probationary sentence or parole supervision[, and/or] **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. [On all] **All** applications [as] described [in] **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 [factors which] **information that** formed the basis of the initial denial;

4. (No change.)

5. Any [other] documentation [which] **that** the Commission [determines is required in order to allow it] **deems necessary** to make a fully informed decision on the appeal.

(c) Upon the proper filing of an appeal as described [in (b) above] **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 [Real Estate] Commission; or

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

3. [The] **That** the appeal package is deficient in certain respects[, which shall be] specified to the applicant, [with an indication that] **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 [Real Estate] 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 [real estate] brokers, broker-salespersons, and salespersons as a condition of [biennial] licensure renewal, and [by establishing] **to establish** standards for the approval of continuing education courses, [course] providers, and [course] instructors.

(b) This subchapter shall apply to [all individuals licensed as real estate] brokers, [and to all] broker-salespersons, and salespersons licensed in this State, and to all applicants for the approval of continuing education courses [or for approval as continuing education course instructors or], 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, [commencing with the July 1, 2013 renewal and continuing for every renewal thereafter, in order] to qualify for license renewal [every individual licensed as] a [real estate] broker, [and every licensed] broker-salesperson, or salesperson shall, during the 24-month period prior to that renewal, [have completed] **complete** 12 [hours] **credits** of approved [continuing education as] **instruction** as set forth in this subchapter, two [hours] of which shall have been on the topic of ethics, except that:

1. (No change.)

2. A [person] **licensee** who successfully completes one or more broker [pre-licensure education] **prelicensure** courses as set forth [in] at N.J.A.C. 11:5-2.1 shall be deemed to have fulfilled [the] **their** continuing education requirement [applicable to the license that such person may seek to renew] upon the conclusion of the license term during which the [broker pre-licensure] course was completed; and

3. A [person] **salesperson** who is [initially] **first** licensed [as a salesperson] in the second year of [a biennial] **the** license term shall not be required to fulfill [any] continuing education requirements [in order] to renew [the salesperson's] **their** license upon the conclusion of that license term. A [person who is initially] **salesperson first** licensed [as a salesperson] during the first year of [a biennial] **the** license term shall complete [all applicable] **the** continuing education requirements [in order] to renew [the salesperson's] **their** license upon the conclusion of that license term.

(b) A licensee [for whom a renewal application is timely submitted] who completes the continuing education requirements [between] **after** May 1 [and June 30] of the second year in a [biennial] license term, [and a licensee for whom a late renewal application as referenced in N.J.S.A. 45:15-15 is submitted who completes the continuing education requirements between May 1 of the second year of a biennial license term and the conclusion of the late renewal period,] shall pay a processing fee of \$200.00 [in order to qualify for the renewal of his or her] **to renew their** license. Renewing licensees who complete the continuing education requirements on or before April 30 [of the second year of a biennial license term] shall not be required to pay this [processing] fee.

(c) The successful completion of an approved continuing education course shall not be considered for [continuing education] credit more than once [within a two-year] **in a** license term.

(d) When applying [to renew their licenses] **for renewal**, licensees shall certify to the Commission, either directly or through their broker, that they have either [complied with] **met** the continuing education requirement, were not required to do so for one of the reasons set forth [in] **at** (a) above, or have received a waiver [as set forth in] **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) [The] **In order to fulfill the** continuing education requirement, [may be fulfilled by acquiring credits exclusively in the core topic areas listed below in this subsection. Licensees shall] **licensees must** acquire [at least six] **a total of** [the] 12 [continuing education] credits [required for license renewal pursuant to this subchapter in one or more of the following core topic areas:

1. Agency;
2. Disclosure;
3. Legal issues, for example, listing agreements, contracts of sale, leases, attorney review, forms of ownership and deed restrictions;
4. Ethics;
5. Fair housing and the New Jersey Law Against Discrimination;
6. New Jersey real estate brokers and salesmen statute and rules;
7. New Jersey and Federal environmental laws/rules pertinent to the practice of real estate brokerage; and
8. Legal requirements regarding escrow monies and financial recordkeeping.] **that satisfy the curricula requirements set forth in this section. One credit is equivalent to one hour of instruction.**

[(b) The remaining number of continuing education credits may be acquired through the acquisition of continuing education credits in excess of the core topic area minimum requirement referenced in (a) above through the completion of elective courses approved in accordance with this subchapter.]

(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.

[(c)] (d) [All courses] **Courses** [in] **on** core topics other than ethics shall include instruction on [the manner in which] **how** ethics relate[s] to the subject matter [of the course].

11:5-12.5 Waiver of continuing education requirements

(a) [An applicant for license renewal] **A licensee** who [was] **is** unable to fulfill the continuing education requirements imposed [by] **pursuant to** N.J.S.A. 45:15-16.2a and this subchapter may request [and be granted] a waiver[, in whole or part,] of the [continuing education] requirement by the Commission, **in whole or part.**

(b) [An applicant] **A licensee** requesting a waiver of the continuing education requirement shall certify that [the applicant was] **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 [two-year licensure period] **license term;**

3. (No change.)

4. Other substantial and unavoidable hardship[. Financial], **which shall not include financial** hardship, unreasonable delay, and conflicts with business or personal obligations [shall not constitute a basis on which the continuing education requirement may be waived pursuant to this section].

(c) [An applicant for] **A licensee requesting** a waiver [of the continuing education requirements] shall **make their** request [the waiver], in writing, on a form prescribed by the Commission, **which may be available online at www.state.nj.us/dobi/division_rec/index.htm** and provide documentation that corroborates [the applicant's] **their** certification [as to the basis upon which the waiver is sought].

(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 [two-year] 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 [an applicant's request for] a waiver [of the continuing education requirement under] **request pursuant to** this section, including, but not limited to, [the provision of] sworn statements or testimony [under oath by the waiver applicant] **of the licensee.**

(f) With the exception of **a** waiver[s] granted to active duty military personnel, licensees who receive a waiver of any portion of the core [course continuing education] **topics** requirement shall make up the waived core course(s), in addition to [all] **fulfilling the** continuing education [credits required for] requirement for the current license term, as a condition of [renewing their license for the license] **renewal in the** term immediately following the [license] 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 [and the full] **in addition to 12** [continuing education] credits **in approved courses**, for a total of 18 credits, [in the immediately following licensing term in order] to be eligible for renewal upon the conclusion of [that] **the next** license term.)

(g) Licensees who receive a waiver of the elective course requirement shall not be required to make up the waived [elective] 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. 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 [from the Commission to become an approved] **as a continuing education provider** shall submit a completed application on a form[s] provided by the Commission [with the required fee. The application], **which** shall include the following:

1. A non-refundable [application] fee of \$300.00;
2. The [business name which the Commission is to record as 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 [distance learning, including the specific type(s) of distance learning course(s)] **by online instruction, including the specific methods of delivery**);
4. [A designation of an individual, including their] **The name**, phone number, and [e-mail] **email address[,] of the provider's continuing education coordinator** who [will serve as the provider's primary contact person with the Commission for matters relating to continuing education and who] shall be **individually designated to serve** as the provider's [New Jersey] **primary contact person for matters relating to** continuing education [coordinator]; and
5. If the provider will offer in-person [courses] **instruction**, the address(es) and a description of the known location(s) where the course(s) will be offered.

(b) Upon the assignment [to them] of a [New Jersey] continuing education provider identification number, the following shall be deemed [to be] approved providers of [real estate] continuing education courses without [being required to file] **making** an application [for approval as a continuing education provider or pay the provider approval application] **and without payment of the fee** specified at N.J.A.C. 11:5-12.17:

1. [Real estate] **A** prelicensure school[s] 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 [all] accredited colleges and universities shall be deemed [to be] approved providers upon application[.

Public adult education programs and public accredited colleges and universities shall], **but are** not [be] required to pay [an] **the** application fee.

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

(e) [All approvals of providers that are conferred by the Commission prior to June 30, 2016 shall remain in effect until that date. Providers whose approval is expiring may seek re- approval by complying with all of the requirements set forth in this section, including payment of the non-refundable application fee.] Applications for [re-approval] **reapproval** may be submitted [commencing] on January 1 of the year in which approval is scheduled to expire[. Subsequent to June 30, 2016, approvals] **and** shall expire [on June 30, 2020 and at] **in** four-year intervals thereafter.

11:5-12.7 Continuing education providers; responsibilities

(a) Providers' responsibilities shall include [the following]:

1. The general supervision of the [continuing education] courses **offered**;
2. [Ensuring the] **The** course and instructor have been approved by the Commission;
3. [Ensuring that the] **The** instructor is knowledgeable in the subject matter of [each] **the** course [offered by the provider that is taught by that instructor];
4. [Securing, maintaining, and reporting upon evaluations of courses] **Course** and instructor[s as set forth in] **evaluations are compliant with** N.J.A.C. 11:5-12.8(h) and (i);
5. (No change.)
6. Ensuring that all course offerings comply with the requirements imposed by this subchapter (for example, appropriate facilities.)

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 [provider's] **following**: business name(s), [its] continuing education coordinator [and the] **and/or** contact information [for that individual], [the provider's] business telephone number, or [any] material changes [in] **to** its qualifications (for example, a change in the [provider's] location [at which classroom-based] **where an in-person** course[s are] **is** offered).

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

(d) [Providers] **A provider** shall be responsible for verifying attendance at each [continuing education] course delivered [in a classroom or conference room setting, or] **in-person and for** verifying completion of each [continuing education] course delivered [via distance learning,] **online** by the licensee who, based upon information reported by the provider, will receive credit for having completed the course.

1. Providers [of non-distance learning continuing education courses] shall verify the identity of all individuals attending [such] courses. Providers may do so by requiring [such individuals to] **that attendees** present a driver's license or other form of photographic identification and their [real estate] license [pocket card] to a representative of the [course] provider [at the location where the course is offered,] or through other means [that assure] **to ensure** that the individual attending the course is the licensee who registered for the course.

(e) Prior to [a student's completion of the process of registering for] **registration in** a continuing education course [and a provider's acceptance of any fee related to such registration], the [course] provider shall provide prospective students with a notice [which] **that** specifies the number of credits [for which] the course is approved **for** and whether the course is on a core or elective topic. The notice shall also include information about [course] fees, refund policies, [course] subject matter,

and learning objectives, procedures, and requirements for satisfactory course completion.

(f) [Continuing education course providers] **Providers** shall enable representatives of the Commission to attend [an in-person] a course or review a [distance learning] course [in the form it is offered] at no cost [to the Commission].

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

(a) Providers shall provide a **Course Completion Certificate** to a licensee[s] who successfully [complete an approved] **completed a continuing education** course. [a certificate of completion signed or affirmed by the provider, which] **The certificate** shall include the licensee's name, the course name, date of completion, [New Jersey continuing education] course number, number of credits earned for the course, and the provider's New Jersey continuing education provider identification number.

(b) [For a period of six years, providers] **Providers** shall maintain and be [capable of producing] **able to produce** for inspection, [by a Commission representative the course and instructor evaluations referenced in] **the records specified at (d), (h), and (i) below** [and the information on the satisfactory completion of continuing education courses by licensees set forth in (d) below] **for six years**. In addition, providers shall maintain and be [capable of producing for inspection] **able to produce** copies of [all] course-specific written material provided to students [who attend a course]. 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[s] [that are] capable of producing [written] reports on attendance at [approved continuing education] a course[s], which **shall** include [all of] the information set forth [in] **at (a) above**.

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

1. (No change.)
 2. The license term for which the licensee is seeking credit for [having] **the completed [the continuing education] course;**
 3. (No change.)
 4. The [continuing education] course name, [course] number, [course] category (core or elective), completion date, and number of credit hours.
- (e) The data referenced [in] **at (d) above** shall be submitted on forms or in a [computer readable] format provided by the Commission, or its designee.

(f) Providers [who offer distance learning] **offering online** courses shall [utilize] **have** systems [that assure] **in place to ensure** that students have actually performed [all] tasks designated to [assure student] **ensure** participation and otherwise comply with all applicable provisions [of] **at N.J.A.C. 11:5-12.12 and 12.14.**

(g) [An approved] **A** provider shall notify the Commission in the event [that] it intends to cease offering continuing education courses[. Such notice shall be submitted], in writing, no later than 30 days prior to the provider's cessation of operations [as a continuing education course provider] and shall specify that the records required by this section will be maintained by the provider for [the six-year period referenced in (b) above,] **six years** and the location [at which] **where** those records will be maintained.

(h) Providers shall request [all] a student[s] who completes [the] a continuing education course[s] [they provide to] submit **anonymous** evaluation[s] of the course(s), [attended by the student and, for all courses except distance learning or correspondence courses that are not taught by an instructor] **where applicable**, of the instructor of the course. [All students who supply such evaluations shall remain anonymous.] The evaluation[s] shall provide for the students to indicate their favorable, neutral, or negative assessments of the performance factors referenced [in] **at (h)4 and 5 below.**

1. Providers of [non-distance learning] **an in-person** course[s may] **shall** request that students **either** manually complete such evaluations [during] **in** the concluding minutes of the course or electronically [subsequent to] **upon** the completion of the course.

2 Providers of [distance learning] **online** courses shall request that a student[s] complete [such] **an** evaluation[s] electronically upon completing the course.

3. [All evaluations] **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 [after offering] **of concluding** a course, providers shall report to the [Commission's Education Bureau] **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 [to be evaluated as referenced in] **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 [in] **at (b) below**, [all] continuing education courses shall require approval by the Commission. An applicant seeking approval of a course [by the Commission] shall submit a complete application on a form provided by the Commission with the required fee[. An application for approval of a continuing education course] **which** shall include:

1.-6. (No change.)

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

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

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

(d) [All approvals] **Approvals** of continuing education courses shall expire on December 31 of the fifth year following the year in which the course was approved [by the Commission]. Applications for [re-approval of a course] **reapproval** shall comply with [all] **the** requirements set forth [in] **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) [In order to] **To** qualify for approval, courses may [but are not required to] compel a licensee to pass a [comprehensive] **final** examination testing [the licensee's] **their** knowledge of the [entire] course content, as a condition of [the receipt of] **receiving** credit for [the] completion [of the continuing education course].

(c) Approved [continuing education] courses may be offered [in a traditional classroom setting or as distance learning courses] **in-person or online.**

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

1. [Real estate salesperson] **Salesperson** precicensure 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 [a real estate broker's or salesperson's] **the broker or salesperson State licensing** examination;

3.-4. (No change.)

5. Offerings in mechanical office and business skills, [such as] **including** typing, computer training, [instructional navigation of the world wide web and] **the** internet, [instructional use of] generic computer

software, speed reading, memory improvement, report writing, salesmanship, and sales psychology.

(e) To qualify for approval, a [continuing education] course shall have a duration of at least one hour and be designed to confer credits in whole credit increments. [All courses] **Each hour of the course duration** shall consist of no less than 50 minutes of actual instruction [for each hour of the course's duration], with no more than 10 minutes of each hour [utilized for attendance, the completion of or an explanation of the anonymous evaluations required pursuant to N.J.A.C. 11:5-12.8(h) and (i), and other] **for administrative [work] tasks.**

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

11:5-12.14 [Distance learning] **Online** continuing education courses; additional requirements

(a) [The Commission may approve distance learning continuing education courses that] **Continuing education courses offered online shall** include periodic progress assessments and [the achievement of] a satisfactory level of performance by the licensee [on such progress assessments] as a condition to continuing to a succeeding segment of the course.

(b) Except as limited [in] **at** (b)1 below, [distance learning] **online** courses shall meet the following criteria:

1. The course is designed to promote [students'] active [participation in the instructional process by utilizing techniques that provide for substantial student interaction with the instructor, other students or a computer program. However, upon] **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 [correspondence] course [or a course offered through a video modality] that does not provide for such substantial interaction, but fulfills all other requirements [for course approval as] set forth in this section and [in] **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 [distance learning education] **instruction**, in accordance with N.J.A.C. 11:5-12.12(e);

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

4. [Providers of distance learning courses shall, in] **In** addition to providing [to students the] a notice [containing all of] **to students setting forth** the information referenced [in] **at** N.J.A.C. 11:5-12.7(e), **providers shall** include [in that notice] information on how interaction is accomplished [in the course] and [on] any special requirements related to [computer] hardware, software, or any other equipment needed to complete the [distance learning] course;

5. Providers [of distance learning courses shall make provisions for handling equipment failures, including hardware or software failures or transmission interruptions, and] **shall** provide appropriate instructor and/or technical support[, as necessary, to enable] **for** students to [satisfactorily] complete the course in the event of [such] a **hardware or software** failure or interruption;

6. Providers [of distance learning courses] shall use procedures that [provide reasonable assurance of student] **reasonably ensure the identity of the student** and verification that the student receiving [the continuing education] **course** credit [for completing the course] is [actually] the individual who performed [all of] the **course** work [required to complete the course];

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

8. The provider [of a distance learning course] shall obtain, electronically or through other means, a signed and dated statement from each student certifying that [he or she] **they** personally completed the course.

LAW AND PUBLIC SAFETY

(a)

DIVISION OF CONSUMER AFFAIRS OFFICE OF CONSUMER PROTECTION

Data Privacy

Proposed New Rules: N.J.A.C. 13:45L

Authorized By: Cari Fais, Director, Division of Consumer Affairs.

Authority: P.L. 2023, c. 266.

Calendar Reference: See Summary below for explanation of exception to calendar requirement.

Proposal Number: PRN 2025-061.

Submit written comments by August 1, 2025, to:

Cari Fais, Acting Director
New Jersey Division of Consumer Affairs
124 Halsey Street
PO Box 45027
Newark, NJ 07101
or electronically at:
<http://www.njconsumeraffairs.gov/Proposals/Pages/default.aspx>

The agency proposal follows:

Summary

The Division of Consumer Affairs (Division) proposes new N.J.A.C. 13:45L to implement P.L. 2023, c. 266, also known as the New Jersey Data Privacy Act (NJDPDA), enacted on January 16, 2024, and codified at N.J.S.A. 56:8-166.4 et seq. The NJDPDA regulates controllers that conduct business in this State or produce products or services that are targeted to residents of this State, and the processors that process personal data on behalf of those controllers. Among other things, the NJDPDA grants consumers certain rights regarding their personal data, defined as "any information that is linked or reasonably linkable to an identified or identifiable person" (with exceptions for "de-identified data or publicly available information"). The NJDPDA also requires controllers to notify consumers of their personal data rights and provide them with information as to how they may exercise those rights. Additionally, the NJDPDA requires controllers that process personal data for purposes of targeted advertising or the sale of personal data to allow consumers to exercise their right to opt out of such processing through a user-selected universal opt-out mechanism.

N.J.A.C. 13:45L-1.1 sets forth the purpose and scope of proposed new Chapter 45L.

N.J.A.C. 13:45L-1.2 defines certain terms and phrases used in the chapter. N.J.A.C. 13:45L-1.2 includes definitions from the NJDPDA (with clarifications to the NJDPDA's definition of "sale") and provides new definitions for the terms "access request," "correction request," "data broker," "data portability request," "data right," "delete," "deletion request," "essential goods and services," "loyalty program benefit," "loyalty program partner," "opt-out preference signal," and "opt-out request."

Proposed N.J.A.C. 13:45L-1.3 lists exemptions to the provisions of the chapter. The exemptions mirror those at N.J.S.A. 56:8-166.13 through 166.15, with one clarification to the statutory exemptions. N.J.A.C. 13:45L-1.3(d)1 makes clear that pursuant to the exemption at N.J.S.A. 56:8-166.15.b(1), for "internal research," conduct is not "internal research" if: (1) the data or resulting research is shared with a third party, unless it is de-identified or shared pursuant to N.J.A.C. 13:45L-1.3(c); or (2) the data or resulting research is used to train artificial intelligence, unless the consumer has affirmatively consented to such use.