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United States • New Jersey Real Estate Salesperson License Exam

New Jersey

Study Guide

KNOWLEDGE POINTS	CHAPTERS	EDITION
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CHAPTER 1

Subch. 1: Organizational rules and definitions (11:5-1.1 – 1.5)

1.1 Broker of Record vs. Employing Broker

A 'Broker of record' is the individual broker who is licensed as, and acts in the capacity of, the broker authorized to transact business on behalf of a licensed business entity. An 'Employing broker' is the real estate broker by, through, or with whom a broker-salesperson, salesperson, or salesperson (referral) is licensed. Candidates must distinguish these two roles.

- ✓ 'Broker of record' is the individual broker authorized to transact business on behalf of a licensed business entity
- ✓ 'Employing broker' is the broker by, through, or with whom a broker-salesperson, salesperson, or salesperson (referral) is licensed

1.2 Scope of Real Estate Commission Authority

The New Jersey Real Estate Commission regulates the education, examination, and licensing of brokers, broker-salespersons, and salespersons. It also 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.

- ✓ The Commission regulates education, examination, and licensing of brokers, broker-salespersons, and salespersons
- ✓ The Commission regulates in-State promotional activities for the sale/lease of out-of-State properties to NJ residents
- ✓ The Commission investigates/adjudicates disciplinary actions and administers the Real Estate Guaranty Fund

1.3 Key Statutory Definitions Under N.J.A.C. 11:5

Chapter 11:5 defines core terms candidates must know. The 'Act' is the Real Estate License Act, N.J.S.A. 45:15-1 et seq. The 'Commission' is the New Jersey Real Estate Commission. These definitions govern the entire chapter unless context clearly indicates otherwise.

- ✓ 'Act' means the Real Estate License Act, N.J.S.A. 45:15-1 et seq.
- ✓ 'Commission' means the New Jersey Real Estate Commission
- ✓ Definitions apply throughout the chapter unless context clearly indicates otherwise

1.4 Salesperson (Referral) Designation

Effective January 20, 2026 (R.2026 d.020), the former term 'referral agent' was renamed 'real estate salesperson licensed with a real estate referral company,' abbreviated 'salesperson (referral).' This licensee category, the 'real estate referral company,' and related broker/salesperson terms all take their meaning from N.J.S.A. 45:15-3.

- ✓ 'Salesperson (referral)' means a real estate salesperson licensed with a real estate referral company
- ✓ The definition and other license-type definitions derive from N.J.S.A. 45:15-3
- ✓ Effective 2026-01-20, 'referral agent' was renamed 'salesperson licensed with a real estate referral company'

1.5 Real Estate Brokerage Activity Defined

'Real estate brokerage activity' (or 'brokerage activity') means any of the activities described in N.J.S.A. 45:15-3 for which a real estate license is required. This ties the licensing requirement directly to the statutory list of licensed activities.

- ✓ 'Brokerage activity' means any activity in N.J.S.A. 45:15-3 for which a real estate license is required
- ✓ A real estate license is required to perform brokerage activity

1.6 Confidential vs. Public Licensee Records

Public licensing records are available for inspection and copying during business hours, and certified copies require a written request (at least 10 working days). However, criminal history information obtained under N.J.A.C. 11:5-3.3 and personal data such as a licensee's home address, home telephone number, and date of birth are confidential. Other nonpublic records include criminal complaints/indictments/convictions, criminal history check results, bankruptcy pleadings, and orders of suspension/revocation submitted with license applications.

- ✓ Criminal history information and licensee personal data (home address, home phone, date of birth) are confidential
- ✓ Certified copies of public records require a written request and at least 10 working days
- ✓ Criminal complaints, indictments, convictions, criminal history checks, and disciplinary orders submitted with applications are nonpublic under N.J.S.A. 47:1A-1 et seq.
- ✓ Records are generally maintained for a minimum of three years

CHAPTER 2

Subch. 2: Pre-licensure education requirements (11:5-2.1)

2.1 General pre-licensure education requirement for all license types

Every applicant for a salesperson's, salesperson (referral)'s, or broker's license must present evidence of satisfactory completion of an approved real estate education course with their license application, taught in accordance with N.J.S.A. 45:15-10.1. Salesperson and broker courses are not interchangeable for credit.

- ✓ All applicants for salesperson, salesperson (referral), or broker licenses must submit evidence of completed real estate education with their application
- ✓ No credit toward the salesperson/salesperson (referral) requirement is given for attending a broker's course, and no credit toward the broker requirement is given for attending a salesperson's course
- ✓ Courses must be taught in accordance with N.J.S.A. 45:15-10.1

2.2 Minimum hours to challenge the licensure examination

To qualify to sit for the salesperson or salesperson (referral) exam, a candidate must first complete a minimum 75-hour course at a Commission-licensed school. To qualify for the broker exam, a candidate must complete a minimum 150 hours (a 90-hour general course plus two 30-hour courses).

- ✓ Salesperson/salesperson (referral) exam candidates must complete a minimum 75-hour course at a school licensed under N.J.S.A. 45:15-10.4
- ✓ Broker exam candidates must complete a minimum of 150 hours of prelicensure education
- ✓ Broker courses must be taken at a licensed school, except certain courses in (g)5 which may be offered by a Commission-approved provider

2.3 Broker 150-hour course structure and two-year completion rule

Broker prelicensure education is 150 hours: a 90-hour general broker's course completed first, followed by two 30-hour courses (ethics/agency and office management). All three courses must be completed within two years or the candidate must retake and re-satisfy the experience requirement.

- ✓ The 150 hours consists of a 90-hour general course plus two 30-hour courses (ethics/agency and office management)
- ✓ The 90-hour general course must be completed before the two 30-hour courses
- ✓ All three courses (150 hours) must be completed within a two-year period
- ✓ If not completed in two years, the candidate must retake previously taken courses and again fulfill the

experience requirement under N.J.S.A. 45:15-9 and N.J.A.C. 11:5-3.8

2.4 Salesperson license prerequisite for broker's course

With the exception of qualified disabled veterans, a person must be a licensed salesperson at the time of enrollment to receive credit for the 150 hours of broker's prelicensure courses.

- ✓ A person must hold a salesperson's license at the time of enrollment in a broker's course to receive credit for completing the required 150 hours
- ✓ Qualified disabled veterans are the only exception to this salesperson-license-at-enrollment requirement

2.5 Waivers of the prelicensure education requirement

The general 90-hour broker and 75-hour salesperson prelicensure course requirements are waived for specified applicants, including out-of-state brokers with 3+ years of active brokerage experience, attorneys, degree holders with sufficient real estate coursework, out-of-state licensees meeting equivalency conditions, and former NJ brokers whose license expired more than two but less than five years ago.

- ✓ Out-of-state brokers actively engaged in brokerage 3+ years immediately preceding application are exempt
- ✓ Attorneys at law admitted in NJ (broker or salesperson applicants) or admitted in any state (salesperson applicants) are exempt
- ✓ College degree holders qualify if 75+ college-level real estate hours were completed within 3 years, or they hold a bachelor/associate degree in real estate, or completed 75+ hours (45+ post-graduate) within 3 years
- ✓ Out-of-state salesperson applicants qualify if they completed a state-sanctioned 75+ hour course, qualified by examination, and were actively licensed within 3 years
- ✓ Former NJ brokers whose license expired more than two but less than five years prior are exempt for salesperson/referral licensure

2.6 75-hour salesperson prelicensure course content

The salesperson (and salesperson referral) prelicensure course consists of 75 hours covering enumerated subjects, from property rights and contracts through agency law, the License Act, and a final examination.

- ✓ The course totals 75 hours: Property rights (9), Contracts/instruments (12), Leases and landlord-tenant (6), Mortgages/liens (12), Business opportunity sales (2)
- ✓ Additional subjects: Laws of agency (12), Appraising (2), License Act and regulations (9), Other state/Federal/municipal laws (5)
- ✓ Concludes with Salesperson duties and pitfalls (3) and Quizzes and final examination (3)

2.7 90-hour general broker course syllabus and module rules

The 90-hour general broker course may be taught in up to 23 modules matching 23 subject areas. Students may not start on a date other than a module's starting date, and credit requires instruction in all subject areas plus passing a comprehensive final exam.

- ✓ The course may be divided into a maximum of 23 modules corresponding to 23 subject matter areas
- ✓ Students may not commence a modular course on a date other than a module's starting date
- ✓ No credit is given unless the student receives instruction in all subject areas and passes a comprehensive final examination
- ✓ Subject areas include agency principles (6 hrs), settlement/RESPA (6 hrs), fair housing/discrimination laws (3 hrs), and financing (6 hrs), among others

2.8 Two 30-hour broker courses: ethics/agency and office management

After the 90-hour course, broker candidates must complete a 30-hour ethics/agency course and a 30-hour office management course, both taught by licensed instructors at licensed schools, each requiring a final exam of at least one hour.

- ✓ Both 30-hour courses must be taught by licensed instructors at licensed schools
- ✓ The ethics/agency course must use case studies of recent Commission disciplinary decisions and non-lecture techniques
- ✓ A final exam of not less than one hour requiring a passing grade must be given in each course
- ✓ Students may not commence either 30-hour course on a date other than its starting date

2.9 Content of the 30-hour ethics/agency course

The broker ethics/agency course covers fiduciary duties, dual agency, conflicts of interest, sub-agency, disclosure requirements, and the obligation to qualify prospective purchasers.

- ✓ Covers fiduciary duties owed by agents to principals, and disclosed and undisclosed dual agency
- ✓ Covers conflicts of interest and self-dealing, and the risks and benefits of sub-agency
- ✓ Covers disclosure requirements to non-principals, restrictions on acting for more than one party (including mortgage services), and the obligation to properly qualify/pre-qualify prospective purchasers

2.10 Content of the 30-hour office management course

The broker office management course covers supervising broker requirements for main and branch offices, recordkeeping with emphasis on escrow account records, supervision and training of licensees, qualification techniques, contract/lease/listing and advertising requirements, closings, and environmental concerns.

- ✓ Covers office management requirements imposed on supervising brokers of main and branch offices
- ✓ Places particular emphasis and extensive coverage on escrow account recordkeeping requirements
- ✓ Covers the importance of adequate supervision and training of other licensees to assure compliance with the license law and Commission rules
- ✓ Covers statutory/rule requirements for contracts, leases, listing agreements, broker advertising, and closings

2.11 Disabled veteran education alternative

Disabled veterans applying for licensure under N.J.S.A. 45:15-11 are subject to the education requirement, but the Commission will approve a real estate program completed through a provider other than a licensed school if it meets the minimum hours and was offered by an accredited college or university for credit.

- ✓ Disabled veteran salesperson/salesperson (referral) applicants may substitute a program of at least 75 hours offered by an accredited college/university for credit
- ✓ Disabled veteran broker applicants may substitute a program of at least 225 hours offered by an accredited college/university for credit
- ✓ The program must be offered for credit by an accredited college or university

2.12 Classroom instruction time and break rules

Time for a final exam covering real estate subjects counts toward minimum course hours. No more than five minutes of each course hour may be used for breaks. Instructors must also cover State examination and license issuance procedures and perform administrative duties during class time.

- ✓ Final examination time on real estate subjects counts toward the minimum course hours
- ✓ No more than five minutes of each course hour may be used for breaks
- ✓ Instructors must provide thorough instruction on State license examination and license issuance procedures in addition to substantive material

CHAPTER 3

Subch. 2: Examination eligibility certificates and Education Bureau fees (11:5-2.4 – 2.6)

3.1 Certificates of Examination Eligibility issued by Education Bureau

The Education Bureau of the Real Estate Commission issues Certificates of Examination Eligibility, which authorize candidates to sit for licensing examinations. A candidate must either fulfill the applicable experience and/or education requirements, or have those requirements waived, before a Certificate is issued. This applies to broker, instructor, and salesperson (including salesperson licensed with a real estate referral company) candidates.

- ✓ Broker license candidates must have fulfilled or had waived (per N.J.A.C. 11:5-3.8 and 2.1(e)) the broker experience and/or education requirements to receive a Certificate of Examination Eligibility
- ✓ Instructor license candidates must have fulfilled or had waived (per N.J.A.C. 11:5-2.2(k)) the instructor education requirement
- ✓ Salesperson and salesperson-with-referral-company candidates must have had the education requirement waived under N.J.A.C. 11:5-2.1(e) to receive a Certificate
- ✓ The Education Bureau is the office responsible for issuing all Certificates of Examination Eligibility

3.2 Education Bureau waivers and processing time frames

The Education Bureau processes applications for waivers of prelicensure education and broker experience requirements, and continuing education waivers. Waivers include salesperson/referral-company prelicensure education waivers, partial broker prelicensure education and/or complete broker experience waivers, disabled veteran waivers under N.J.S.A. 45:15-11, and continuing education waivers under N.J.A.C. 11:5-12.5. Processing time frames begin only after receipt of complete and accurate applications with the correct fees.

- ✓ Qualifying disabled veterans may obtain a waiver of the broker experience and certain prelicensure education requirements pursuant to N.J.S.A. 45:15-11
- ✓ Waivers of prelicensure education and/or broker experience requirements not requiring additional review are generally processed within four weeks
- ✓ Applications to approve salesperson experience toward the broker experience requirement (N.J.S.A. 45:15-9; N.J.A.C. 11:5-3.8) are processed within four weeks
- ✓ Continuing education requirement waivers are processed within three weeks after receipt of a complete waiver application
- ✓ Instructor, school, and additional teaching location license applications are processed within three weeks; renewals within four weeks

✓

Processing times run only after the Commission receives complete, accurate applications with required fees in the correct form

3.3 Education Bureau transaction fees

N.J.A.C. 11:5-2.6 sets the fees for Education Bureau transactions unrelated to continuing education (CE provider, instructor, and course approval fees appear separately in N.J.A.C. 11:5-12.17). Fees for school and instructor licenses vary, and license fees are prorated based on whether issued in the first or second year of the two-year license term.

- ✓ Application fee for a school license is $100.00; application fee for an instructor license is $50.00
- ✓ Initial non-public school license fee is $400.00 if issued in the first year of the two-year term, $200.00 if issued in the second year
- ✓ Non-public school renewal fee is $400.00 plus $200.00 for each additional licensed location
- ✓ Additional teaching location license fee is $200.00 (first year) or $100.00 (second year) of the two-year term
- ✓ Criminal history check and electronic fingerprint scan are charged at the state-contracted vendor fee, paid directly to the vendor
- ✓ CE provider, instructor, and course approval fees are governed by N.J.A.C. 11:5-12.17, not by the 11:5-2.6 fee table

CHAPTER 4

Subch. 3: Licensing – terms, criminal history, exam rules, sponsorship, transfers, fees (11:5-3.1 – 3.15)

4.1 Terms of Real Estate Licenses

Broker, broker-salesperson, salesperson, and branch office licenses run for a two-year (biennial) period concluding on June 30 of the odd-numbered year. Licenses issued during a biennial term run from the date of issuance to the end of that term, regardless of when in the term they are issued.

- ✓ All real estate licenses run for a two-year term ending June 30 of the odd-numbered year
- ✓ Licenses issued mid-term run from date of issuance to the end of the current biennial term
- ✓ The definition of 'salesperson' includes a salesperson (referral)

4.2 One-Year Deadline to Apply After Passing Exam

A salesperson or salesperson (referral) applicant must pass the State exam and apply for issuance of the license no later than one year after successful completion of the prescribed prelicensure course. Failure to apply within one year requires retaking and completing both the course and the exam. The same one-year rule applies to broker/broker-salesperson applicants (from completion of the 150-hour education).

- ✓ A salesperson applicant must apply for the license within one year of completing the prelicensure course
- ✓ Failure to apply within one year requires retaking the course and the exam
- ✓ Broker/broker-salesperson applicants must apply within one year of completing the 150-hour education requirement

4.3 Broker Experience Qualification Requirement

Licensure as a broker requires demonstrating commitment to real estate brokerage as a primary, full-time vocation. Except for brokers licensed in other states, applicants must have been continuously licensed and employed full-time as a salesperson during the three years immediately preceding application (at least 40 hours/week, approximately 10 A.M.–8 P.M., five days per week; any other job limited to part-time not exceeding 25 hours/week). Brokers actively licensed in another state for at least three years may qualify for a waiver.

- ✓ Applicants must have been continuously licensed and full-time employed as a salesperson for the three years preceding application
- ✓ Full-time means at least 40 hours/week, five days/week; other employment limited to 25 hours/week
- ✓ Out-of-state brokers actively licensed and engaged for three years may qualify for a waiver of the experience requirement

✓

Activity limited solely to making referrals does NOT satisfy the full-time active-involvement requirement

4.4 Broker-Salesperson Status and Supervision

Broker-salespersons must meet the same qualifications as brokers but must be employed by and act under the supervision of a duly licensed broker. A broker-salesperson may NOT independently maintain an office or an escrow account. A broker-salesperson may be authorized to serve as an office supervisor or a branch office supervisor under N.J.S.A. 45:15-12.

- ✓ Broker-salespersons must meet the same qualifications as brokers
- ✓ A broker-salesperson must work under a licensed broker's supervision and may not independently maintain an office or escrow account
- ✓ A broker-salesperson may serve as an office or branch office supervisor if authorized

4.5 Office Closing Affidavit Requirements

A sole proprietor broker or broker of record ceasing business cannot be relicensed unless, within 30 days, they submit an affidavit certifying: all licenses returned; trust account closed and trust funds disbursed to proper parties; all commissions paid or to be paid on receipt; remaining future commissions listed; all principals in ongoing transactions notified in writing; signs and advertisements removed/recalled; telephone directories updated; no outstanding fines; and acknowledgment of the duty to maintain records for six years.

- ✓ An office-closing affidavit must be submitted within 30 days of ceasing business
- ✓ The affidavit must certify the trust account is closed and all trust funds disbursed to proper parties
- ✓ The affidavit must certify no outstanding fines and acknowledge the six-year record retention duty
- ✓ The broker must provide the address of the record depository and notify the Commission of any changes for six years

4.6 Proof of Licensure in Possession

Licensees must have a copy of their license in their possession at all times when engaged in the business of real estate. This may be a physical copy or a digital copy on a phone, tablet, laptop, or other electronic device. Copies may be printed or downloaded from the Commission's online licensing system at www.reconline.nj.gov.

- ✓ Licensees must possess a copy of their license (physical or digital) whenever engaged in real estate business
- ✓ A digital copy on an electronic device satisfies the possession requirement

4.7 Payment of Fees to the Commission

With limited exceptions (fingerprint scanning vendor, license examination vendor, and online transfer/termination fees under 11:5-3.11), all fees prescribed by the Real Estate License Act must be paid by broker's business account check, certified or bank check, or money order payable to the State Treasurer of New Jersey. No cash or currency is accepted.

- ✓ Fees must be paid by broker's business account check, certified/bank check, or money order payable to the State Treasurer of NJ
- ✓ No cash or currency is accepted
- ✓ Fingerprint vendor, exam vendor, and online transfer/termination fees are exceptions

4.8 Criminal History Record Check Requirement

The Commission requires an individual licensee, or any officer, director, partner, or owner of a controlling interest of a licensed corporation or partnership, to complete an electronic fingerprint scan through the State-contracted vendor, pay the processing fees, and submit proof of completion with the licensing application. Evidence includes the applicant's copy of the completed vendor form plus the payment receipt.

- ✓ Individual licensees and controlling officers/directors/partners/owners must complete an electronic fingerprint scan through the State-contracted vendor
- ✓ Proof of completion (vendor form plus payment receipt) must accompany the license application
- ✓ Corporation/partnership applicants must submit fingerprint evidence for each officer, director, partner, or controlling owner

4.9 Examination Rules for Licensure

During licensing examinations, examinees may not refer to notes, books, or memoranda; copying questions or making notes for personal use is prohibited; and no examinee may leave the examining room except at the examiner's discretion. Exams are multiple-choice, prepared by a Commission-designated testing service. Exam and fingerprinting fees are service fees paid directly to the vendors, separate from Commission fees.

- ✓ Examinees may not use notes/books/memoranda, copy questions, or make personal-use notes
- ✓ No examinee may leave the exam room except at the examiner's discretion
- ✓ License exams are multiple-choice, prepared by a testing service designated by the Commission
- ✓ Exam and fingerprint fees are paid directly to the vendors, separate from the Commission application fee

4.10 Salesperson Age and Education Requirements

No salesperson or salesperson (referral) license is issued to anyone under 18. Applicants must present a certificate of satisfactory completion of a Commission-licensed prelicensure course (unless waived), and must certify possession of a high school education or equivalency.

- ✓ Salesperson/salesperson (referral) applicants must be at least 18 years old
- ✓ Applicants must complete a Commission-licensed prelicensure education course unless waived
- ✓ Applicants must certify a high school education or equivalency

4.11 Broker Sponsorship of Good-Reputation Applicants

No broker may knowingly sponsor an applicant for salesperson or salesperson (referral) licensure who does not bear a good reputation for honesty and fair dealing. For salesperson (referral) applicants, the application must include a broker certification (and, for non-renewals, an applicant certification) confirming that both reviewed the legal restrictions on referral activities and that the referral agent's activities are limited to referring prospective consumers only.

- ✓ A broker may not knowingly sponsor an applicant lacking a good reputation for honesty and fair dealing
- ✓ Salesperson (referral) applications require a broker certification confirming review of referral-activity restrictions
- ✓ Salesperson (referral) activities are limited to referring prospective consumers of real estate brokerage services

4.12 Broker Prelicensure Course Requirement

Before applying for approval of experience, an applicant must have completed the 90-hour general broker prelicensure course plus two 30-hour courses (150 hours total). Applicants must submit written broker statements certifying their salesperson activity, and may be required to provide closed-transaction documentation as evidence of full-time activity.

- ✓ Broker applicants must complete the 90-hour general broker course plus two 30-hour courses (150 total hours)
- ✓ Written statements from supervising brokers certifying salesperson activity must be submitted
- ✓ Supporting documentation of closed transactions may be required as proof of full-time activity

4.13 Return of Licenses When Broker Ceases Activity

A broker who ceases to be active must, within five business days, return to the Commission their own license and the licenses of all salespersons, broker-salespersons, and salespersons (referral) for cancellation. Each employee's license must be accompanied by a letter terminating employment per N.J.S.A. 45:15-14.

- ✓ A broker ceasing activity must return all licenses (own and employees') to the Commission within five business days
- ✓ Each employee license must be accompanied by an employment-termination letter

4.14 Substitution of Broker of Record

When a new broker of record is substituted, the new and former brokers must submit a joint affidavit certifying: the new broker has assumed custody of all trust funds; all trust funds are accounted for; all commissions are paid to date; the new broker will pay commissions per existing policy; no fines are owed (with joint-and-several liability for pre-substitution fines); signs/advertisements changed; and all required records turned over with a six-year retention acknowledgment.

- ✓ Broker-of-record substitution requires a joint affidavit from both the new and former broker
- ✓ The new broker must assume custody of all trust funds and confirm all funds are accounted for
- ✓ Both brokers are jointly and severally liable for fines assessed for pre-substitution actions
- ✓ Required records must be turned over and maintained by the new broker for six years

4.15 License Transfer and Termination Procedures

When a licensee transfers between brokers and asks to hand-carry their license, the terminating broker must sign/date the rear, complete the termination confirmation section, and within five business days either mail it to the Commission or process the termination online, sending a copy to the licensee. The new employing broker enters the effective employment date, signs, detaches the temporary stub, and either mails the license with the transfer fee or processes online and pays electronically.

- ✓ The terminating broker must complete and sign the termination confirmation section and act within five business days
- ✓ The transferring licensee may hand-carry the license to the new broker only after it is signed and dated by the terminating broker
- ✓ The new broker must enter the effective employment date and pay the required transfer fee before the licensee begins work
- ✓ Only salesperson (referral), salesperson, or broker-salesperson licenses can be transferred/terminated online

4.16 Online Transfer and Termination Rules

Only salesperson (referral), salesperson, or broker-salesperson licenses may be transferred or terminated online. All online terminations/transfers must be completed by an active broker of record or employing broker, who may not process on their own license. Online transfers require prior termination by the supervising broker. Brokers must retain records of terminations and transfers for six years.

- ✓ Only salesperson (referral), salesperson, or broker-salesperson licenses can be processed online
- ✓ An active broker of record/employing broker must process the transaction and may not process on their own license
- ✓ Online transfers require prior termination by the supervising broker
- ✓ Brokers must maintain termination and transfer records for six years

4.17 License Application Processing and Deadlines

Complete applications are normally processed within 15 business days of receipt with correct fees. Key deadlines: original licenses within one year of completing education; reinstatement within two years of the last license's expiration; office closing affidavit within 30 business days of closing; brokerage change of address prior to or immediately upon the move; temporary broker license within 30 business days of death/incapacity of a sole proprietor or broker of record.

- ✓ Applications are normally processed within 15 business days of a complete submission with correct fees
- ✓ Reinstatement of an unrenewed license must be applied for within two years of the last license's expiration
- ✓ Original license applications must be filed within one year of completing education requirements
- ✓ Temporary broker license must be sought within 30 business days of death/incapacity of a sole proprietor or broker of record

4.18 License Renewal Deadlines and Late Fees

The initial renewal application is due by June 30 of the year the license expires; the first supplemental renewal is due 45 days from the date the application is issued; the second supplemental renewal is due 30 days from issuance. Late fees are assessed for renewals postmarked/received after the deadlines.

- ✓ Initial renewal applications are due by June 30 of the expiration year
- ✓ First supplemental renewal due 45 days from issuance; second supplemental due 30 days from issuance
- ✓ Late fees apply to renewals postmarked and received after the deadline

4.19 Licensing Fee Schedule

Key initial license fees (including $50 application fee and Guaranty Fund fees): broker/broker of record/sole proprietor/broker-salesperson/business entity $270; salesperson and salesperson (referral) $160; branch office $150; temporary broker license $300. Renewal fees: brokers/broker-salesperson $200; salesperson/salesperson (referral) $100; branch office $100. Transfer fee: $25. Name change, change of status, change of business address, and change of branch office supervisor: $50 each.

- ✓ Initial broker/broker-salesperson license fee is $270; salesperson (and referral) is $160
- ✓ Renewal fee is $200 for brokers/broker-salespersons and $100 for salespersons and branch offices
- ✓ Transfer fees are $25; name change, status change, and address change are $50 each
- ✓ Reinstatement fees include a $50 application fee (e.g., $250 broker, $150 salesperson)

4.20 Change of Status from Salesperson (Referral)

A salesperson (referral) never previously licensed otherwise: licensed under one year needs no continuing education to become a salesperson; one to six years requires 24 hours of core-topic CE within the prior two years; more than six years requires completing the full prelicensure course and passing the exam. Those previously licensed as broker/broker-salesperson/salesperson have tiered CE requirements (12–24 hours) based on years as a referral agent.

- ✓ A referral agent licensed under one year needs no CE to become a salesperson
- ✓ A referral agent licensed 1–6 years must complete 24 hours of core-topic CE within the prior two years
- ✓ A referral agent licensed over six years must retake the full prelicensure course and pass the exam
- ✓ Previously-licensed referral agents have graduated CE requirements of 12 to 24 hours based on years as a referral agent

4.21 Special Accommodations for Exams

An applicant qualifying under the Americans With Disabilities Act or other applicable law may request special accommodations. The request is initially made to the firm administering the exam, but the Commission retains final authority to determine whether it is granted.

- ✓ Accommodation requests are made initially to the firm administering the exam
- ✓ The Commission retains final authority to grant or deny accommodation requests

4.22 Broker Official E-mail Address

Business entity and sole proprietor broker licensees ('brokers') must establish an official e-mail address and provide it to the Commission when applying for renewal. Once an Internet-based updating system is available, brokers must enter their e-mail within 30 days. Any subsequent change to the official e-mail must be updated on the online system within 10 days.

- ✓ Brokers must establish and provide an official e-mail address at renewal
- ✓ Brokers must enter their e-mail on the online system within 30 days of being advised of its availability
- ✓ Changes to the official e-mail must be updated online within 10 days

4.23 Sponsoring and Authorized Designees

A broker of record or employing broker may designate one other person to authorize initial license applications; this designee must hold a broker's license and be an officer/partner (or a broker-salesperson if the employer is a sole proprietor). A separate designee (who need not be licensed) may be authorized to sign and surrender terminated licensees' licenses. Each designation requires a power of attorney or form filed with the Commission at least 10 days before delegation.

- ✓ A designee authorizing initial license applications must hold a broker's license and be an officer/partner or broker-salesperson
- ✓ A power of attorney or designation form must be filed at least 10 days before delegating the function
- ✓ Only the broker plus one duly designated person may perform license transfer functions at any one time

CHAPTER 5

Subch. 4: Employment practices, offices and licensee supervision (11:5-4.1 – 4.5)

5.1 Written Business Relationship Agreement Required

Before a salesperson or salesperson (referral) engages in any real estate brokerage activity, the broker and the licensee must sign a written agreement setting out the terms of their business relationship. The agreement must contain specific mandatory terms and a copy of the fully executed agreement must be given to the licensee at the start of the affiliation, while the broker keeps the original as a business record.

- ✓ A signed written agreement is required BEFORE the licensee engages in any brokerage activity
- ✓ Agreement must state the rate of compensation payable during affiliation
- ✓ Agreement must include a promise to pay the licensee's portion of earned commissions within 10 business days of receipt (or after funds clear the broker's bank), or per another schedule stated in the agreement
- ✓ Agreement must specify compensation on transactions that close and renewals occurring after termination of the affiliation
- ✓ Future changes are not binding unless in a writing signed by both parties
- ✓ A copy must be provided to the licensee at commencement of affiliation; the original is kept by the broker under N.J.A.C. 11:5-5.5

5.2 Individual Broker Supervision and Escrow Oversight

The individual broker (sole proprietor employing broker or broker of record) is responsible for all actions of the broker licensee and its licensees taken in pursuit of the brokerage business, and for ultimate supervision of every transaction and control over escrow funds.

- ✓ The Commission holds individual brokers responsible for any license-law/regulation violations by the broker licensee or persons employed/licensed through it, regardless of where the actions occur
- ✓ Every real estate transaction the broker licensee participates in must be under the ultimate supervision of the individual broker
- ✓ The individual broker must ensure a separate account is maintained for funds of others and that no such funds are disbursed without his/her express authorization and knowledge
- ✓ These broker-supervision provisions do not apply to brokers licensed as broker-salespersons

5.3 Prohibition on License Lending

No licensee may lend his name or license for another's benefit or circumvent licensing rules. A broker who fails to personally oversee the business is deemed to be lending the license.

- ✓ No arrangement, direct or indirect, may lend a licensee's name/license for another's benefit or circumvent licensing law
- ✓ A broker must personally oversee and direct the business and be physically present in the main or branch office at least one day each week (excluding vacations/emergencies)
- ✓ Relying on telephone/mail communication alone for an extended period may be treated as evidence of prohibited license lending

5.4 Main Office Requirements and Supervision

Every resident broker (not a broker-salesperson) must maintain a main office in New Jersey open to the public during business hours, under full-time direct supervision by the broker or a broker-salesperson.

- ✓ A resident broker must maintain a NJ main office open to the public during usual business hours under direct full-time supervision by the broker or a broker-salesperson
- ✓ The supervisor need not be present continuously but must be reachable at all times and must be physically present at least 5 days per calendar week (excluding vacations/emergencies) and not otherwise employed during that time
- ✓ If a broker-salesperson supervises the main office, the broker remains ultimately responsible for all activities and must be reachable at all times
- ✓ A home office must be independent of living quarters with a separate exterior street-facing entrance (exempt if in existence before Dec. 1, 1963)
- ✓ A broker's place of business may not be in the dwelling of any salesperson or salesperson (referral) in that broker's employ

5.5 Deposit and Payment of Commissions

Compensation paid to brokers must be deposited into the broker's general business account within five business days of receipt, unless properly debited from escrow funds. Amounts owed to salespersons must be paid on schedule, and failure to pay timely triggers a written explanation requirement.

- ✓ All compensation paid to brokers must be deposited into the broker's general business account within 5 business days of receipt (unless debited from escrow per N.J.A.C. 11:5-5.1(d))
- ✓ Monies due a salesperson must be paid within 10 business days of the broker's receipt or promptly after funds clear
- ✓ If not timely paid, the broker must give the salesperson a complete written explanation of the failure to pay

5.6 Post-Termination Accounting to Salespersons

When a salesperson's or salesperson (referral)'s affiliation ends, the broker must provide a written accounting of all monies due within 30 days, and explain any amounts that differ from the post-termination compensation clause.

- ✓ Within 30 days of termination the broker must provide a complete written accounting of all monies due as of the termination date and/or which may become due in the future
- ✓ If amounts differ from the post-termination compensation clause, the broker must give a complete written explanation with the accounting

5.7 Six-Year Recordkeeping of Compensation Documents

Brokers must retain the business-relationship agreements, explanations of non-payment, and post-termination accountings/explanations, along with proof of delivery to the licensee, for six years.

- ✓ Broker must keep for 6 years: the written agreements, explanations of failure to timely pay compensation, and post-termination accountings/explanations
- ✓ Broker must also keep proof of delivery of each document to the salesperson or salesperson (referral)

5.8 Commission Non-Payment Complaints and Court Actions

If a broker complies with the section's requirements, the Commission will not investigate a non-payment complaint unless accompanied by an arbitration decision or court judgment. Licensees may sue for compensation only as allowed by N.J.S.A. 45:15-3, and unpaid awards subject the broker to sanctions.

- ✓ If the broker complied with this section, the Commission won't further investigate a non-payment complaint unless it includes an arbitration decision/equivalent or a court judgment against the broker
- ✓ Failure to pay a decision/judgment award within 30 days of its effective date (unless appealed) subjects the broker to sanctions under N.J.S.A. 45:15-17
- ✓ Licensees may only bring court actions for compensation for brokerage services as provided in N.J.S.A. 45:15-3
- ✓ 'Salesperson' includes broker-salespersons; 'non-payment of a commission' includes non-payment of other forms of compensation

5.9 Broker Oversight Regardless of Location

Sole proprietor employing brokers and brokers of record must supervise, track, and oversee the brokerage activity of their licensees no matter where the activity occurs.

- ✓ Employing brokers and brokers of record must supervise, track and oversee licensees' brokerage activity regardless of where it takes place

5.10 Branch Office Requirements

Branch offices must comply with the maintained-office rules and be supervised full-time by a broker-salesperson designated as 'office supervisor,' with proper licensing and display requirements.

- ✓ Each branch office must comply with N.J.A.C. 11:5-4.4 (maintained offices)
- ✓ No branch office license may be issued for an office in the dwelling of a salesperson (referral), salesperson, or broker-salesperson
- ✓ A branch office must be under direct supervision of a licensed broker employed as a broker-salesperson who devotes full time to managing it during usual business hours
- ✓ The supervisor's name must be recorded with the Commission at all times, and the branch license (naming broker and address) must be conspicuously displayed
- ✓ The branch must display the office supervisor's name and all other licensees at that office; the branch license must be returned for cancellation/correction when the office supervisor changes

5.11 Employment vs. Independent Contractor Relationship

The Commission interprets the license law's employment terms to permit either an employment relationship or an independent contractor relationship between a broker and a broker-salesperson, salesperson, or salesperson (referral).

- ✓ 'Employment agreement,' 'employ,' and 'employing broker' are interpreted to permit an employment OR independent contractor relationship
- ✓ This flexibility applies to broker-salespersons, salespersons, and salespersons (referral)

CHAPTER 6

Subch. 5: Trust accounts and records of brokerage activity (11:5-5.1 – 5.5)

6.1 Special trust accounts required for funds of others

Every resident NJ real estate broker must establish and maintain a special account (or accounts) in an authorized NJ financial institution, separate from other business or personal accounts, for all money of others received while acting as broker, escrow agent, or temporary custodian in a real estate transaction. A reciprocally licensed broker may maintain the account in NJ or in the state where they hold a resident broker's license.

- ✓ Resident brokers must use an authorized financial institution in New Jersey
- ✓ The trust/special account must be separate and apart from personal or other business accounts
- ✓ Covers all money received acting as broker, escrow agent, or temporary custodian in a real estate transaction
- ✓ Reciprocal brokers may use NJ or their resident-license state institution

6.2 What constitutes commingling under N.J.S.A. 45:15-17(o)

Commingling includes: mingling principals' money with the broker's own; failing to maintain and promptly deposit all money received (as broker, escrow agent, or temporary custodian) in a separate special account; or failing to promptly segregate money received to be held for others. 'Promptly' means not more than five business days following receipt.

- ✓ Mingling a principal's money with the broker's own money is commingling
- ✓ Failure to promptly deposit funds in a separate special account is commingling
- ✓ Failure to promptly segregate funds held for others is commingling
- ✓ 'Promptly' = not more than five business days after receipt

6.3 Five-business-day deposit rule and earnest money exception

Money of another must generally be deposited within five business days of receipt. Exception: if good faith/earnest money accompanies an offer and, during that five-day window, the offer is withdrawn before acceptance or rejected with no counteroffer, the licensee need not deposit the funds and may return them (in original form) to the offerer upon request. In all other cases (ongoing negotiations, attorney review, or offerer requesting the licensee hold funds for a possible future offer), the funds must be deposited within five business days.

- ✓ Default: deposit money of another within five business days of receipt
- ✓ Exception applies only if the offer is withdrawn before acceptance or rejected with no counteroffer within the five-day window
- ✓ Returned funds must be given back to the offerer in the same form received, upon request
- ✓ Ongoing negotiations, attorney review, or a request to hold funds require deposit within five business days

6.4 Records brokers must maintain and retention periods

Brokers must keep records of all funds of others for at least six years from receipt. Cash trust funds require a signed written receipt to the payor (date, amount, purpose, source). Required records include checkbook references, an appropriate trust ledger book (a regular checkbook ledger is insufficient), at least quarterly reconciliations, bank statements/cancelled checks/deposit slips, offers, contracts, listings, leases, management agreements, owner/tenant statements, records of payments to licensees and cooperating brokers, and security deposit receipts. Trust withdrawals must be by authorized bank transfer or check to a named payee — never to cash.

- ✓ Records of others' funds retained at least six years from receipt
- ✓ Cash trust funds require a signed written receipt stating date, amount, purpose, and payor
- ✓ An appropriate trust ledger book is required — a regular checkbook ledger is insufficient
- ✓ At least quarterly reconciliation of checkbook, bank statement, and client trust ledger balances
- ✓ Trust/escrow withdrawals only by authorized intra/interstate bank transfer or check to a named payee, never to cash
- ✓ Non-trust transaction records kept six years; unaccepted offers and expired listings (no contract/tenancy) kept six months

6.5 Disclosure of trust accounts to the Commission

Brokers must file an affidavit or certificate with their application for licensure or license renewal identifying the financial institution(s) where trust accounts are held and all account numbers. Any change to an existing account or opening of a new account must be immediately reported to the Real Estate Commission by affidavit or certification.

- ✓ Affidavit/certificate identifying institutions and all account numbers filed with application or renewal
- ✓ Changes or new accounts must be immediately reported to the Commission
- ✓ Reporting must be in the form of an affidavit or certification

6.6 Broker commission included in trust deposit

When a broker's earned commission is included among funds deposited to the trust account, that commission portion must be promptly paid out of the trust account, with proper annotations in business records showing the amount and source, provided the broker was previously authorized to make the disbursement.

- ✓ Commission portion in a trust deposit must be promptly withdrawn/paid from the trust account
- ✓ Business records must annotate the amount and source of the commission
- ✓ Prior authorization to disburse is required

6.7 Nominal funds and required reserves are not commingling

Keeping clearly nominal amounts of the licensee's own funds in a trust account solely for continuity or to cover bank service charges is not commingling. Likewise, maintaining a fixed amount of the licensee's funds required by any law or regulation as a safety factor is not commingling.

- ✓ Nominal licensee funds kept to maintain continuity or cover bank service charges are not commingling
- ✓ A fixed reserve required by law/regulation as a safety factor is not commingling

6.8 Signatories on brokerage escrow/trust accounts

Every broker of record and every sole proprietor broker must be a signatory on their firm's escrow/trust account(s). Only individuals actively licensed by the Commission as a broker-salesperson or salesperson may be additional signatories on those accounts.

- ✓ Broker of record or sole proprietor broker must be a signatory on the firm's trust/escrow account(s)
- ✓ Additional signatories must be actively licensed broker-salespersons or salespersons

6.9 Acceptable forms of trust/escrow payments

Brokers may accept trust/escrow funds as: cash; a negotiable instrument payable to the broker's firm; a charge against a check debit card credited to the trust/escrow account; or a wire transfer directly from the payor's account. Credit card charges may only be accepted for deposit and rent payments in short-term rental transactions, not in other real estate transactions.

- ✓ Acceptable: cash, negotiable instrument payable to the firm, check debit card charge, or direct wire transfer
- ✓ Credit card payments are limited to short-term rental deposit and rent payments
- ✓ A 'short term rental' is a residential rental of not more than 125 consecutive days with a specific termination date
- ✓ All such payments must be recorded in the trust/escrow account ledger per N.J.A.C. 11:5-5.4

6.10 Safeguarding buyer funds/deposits from prospective purchasers

A licensee may not accept funds/deposits from a prospective purchaser without ensuring adequate escrow or other precautions to safeguard them, where the licensee knows or has reason to know facts creating doubt about the seller's ability to perform contractual obligations or to return the funds if a contingency fails. This does not apply if, before accepting, the licensee adequately informs the purchaser of the risk and obtains a separate signed writing acknowledging the risk/contingency, the disposition of the funds, and the absence of any representation about the seller's solvency.

- ✓ No accepting deposits where facts create reasonable doubt about seller performance or return of funds, without adequate safeguards
- ✓ Exception requires disclosure of risk plus a separate signed purchaser acknowledgment of risk, fund disposition, and absence of solvency representations
- ✓ Escrowed funds may be held by any legally authorized person/entity (e.g., the broker, lawyers, or banks)

6.11 Advance fees; required accounting to principal

A broker who charges or collects an advance fee over $25.00 for services to be rendered (such as advertising costs) under an advance fee agreement must furnish the principal an accounting of how the money was used within 90 days of the charge or collection. The accounting must itemize each expenditure, including advertising dates and the newspaper/periodical name, and detail any other promotional expenditures.

- ✓ Advance fee over $25.00 triggers a required accounting within 90 days of charge or collection
- ✓ Accounting must state the actual amount of each expenditure, with advertising dates and publication names
- ✓ Non-advertising promotional expenditures must be similarly detailed

6.12 Location and inspection of broker records

Financial books and records must be maintained per generally accepted accounting practice at the broker's main NJ office (or the relevant licensed branch office where separate accounts are kept). Records may be paper or electronic, provided they can be reproduced on paper to show complete activity and remain accessible for the six-year period. Every licensee must make all business records available for inspection, compliance checks, and copying by the Commission or its authorized representatives, and may be required to certify the accuracy of reproduced data.

- ✓ Records maintained per generally accepted accounting practice at the main NJ office or relevant licensed branch
- ✓ Electronic records permitted if reproducible on paper and accessible for the six-year period
- ✓ Licensees must make all records available for Commission inspection, compliance checks, and copying
- ✓ Licensees may be required to certify the accuracy of reproduced data

6.13 Credit card charge-back safeguards for short-term rentals

Before accepting a credit card charge on a short-term rental, the broker must inform the owner in writing of charge-back risk and obtain the owner's signed written authorization (retained as a business record; if secured by the listing broker, made part of the listing agreement). Credit card payments must be credited to a special trust/escrow account distinct from other trust accounts, and the broker must maintain a separate business account. Brokers must have a written cancellation policy and provide it to owners and tenants. In a charge-back dispute, the broker may never set off the disputed amount against monies the same consumer paid on another transaction.

- ✓ Written owner disclosure of charge-back risk and signed owner authorization required before accepting credit card charges
- ✓ Credit card payments credited to a special trust/escrow account distinct from other trust accounts; a separate business account also required
- ✓ A written credit card cancellation policy must be created and provided to owners and prospective tenants
- ✓ Broker may never set off a disputed charge-back against funds the same consumer paid on another transaction
- ✓ Full charged amount must be credited to the trust account before any transaction fees are paid to the credit card company

CHAPTER 7

Subch. 6-7 excerpts: referral-company salespersons (11:5-6.10) and anti-kickback rule (11:5-7.2)

7.1 Storage and retention of broker transaction files

All files on pending and closed sale, exchange, or lease transactions, all listing files for sales or rentals, and all property management files must be maintained or stored at the offices of brokers licensed as employing, corporate, or partnership brokers. Upon terminating employment or transferring to another broker, no licensee (salesperson (referral), salesperson, or broker-salesperson) may remove or cause the removal of any file contents from the broker's offices. 'Files' means all transaction records required to be kept by brokers under N.J.A.C. 11:5-5.4.

- ✓ Transaction, listing, and property management files must be stored at the employing/corporate/partnership broker's office
- ✓ No salesperson (referral), salesperson, or broker-salesperson may remove file contents when leaving or transferring brokers
- ✓ 'Files' means all transaction records required under N.J.A.C. 11:5-5.4

7.2 Permitted activities of salesperson (referral)

A salesperson licensed with a real estate referral company (formerly 'referral agent') is strictly limited in brokerage activity. They may only: (1) direct prospects to websites and other sources of real estate information generally available to the public; and (2) refer prospects for sale, purchase, exchange, leasing, or rental to the broker through whom they are licensed, or (if that broker authorizes) to another licensee. When referring under such authorization, the salesperson (referral) must give written or electronic notice to their broker or the broker's designee (a broker-salesperson or salesperson) at the time the referral is made. Under N.J.S.A. 45:15-16, all compensation payable to the salesperson (referral) must be paid by the broker through whom they are licensed. The term was renamed effective January 20, 2026.

- ✓ Referral salesperson activity is limited to directing prospects to public info sources and referring prospects to their broker (or authorized licensee)
- ✓ Written or electronic notice must be given to the broker/designee at the time a referral is made
- ✓ All compensation to a salesperson (referral) must be paid by the broker through whom they are licensed (N.J.S.A. 45:15-16)
- ✓ 'Referral agent' was renamed 'salesperson (referral)' effective January 20, 2026

7.3 Single broker and exclusive licensure for referral salesperson

A salesperson (referral) may not be employed by or licensed with more than one real estate broker at any given time. Additionally, no person may be simultaneously licensed as a salesperson (referral) and as a real estate broker, broker-salesperson, or salesperson in New Jersey. These licenses are mutually exclusive.

- ✓ A salesperson (referral) may be employed/licensed with only one broker at a time
- ✓ No person may hold a salesperson (referral) license simultaneously with a broker, broker-salesperson, or salesperson license

7.4 Prohibition against kickbacks for related business referrals

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 is subject to sanction by the Commission for conduct demonstrating unworthiness, bad faith, and dishonesty. Any compensation received under N.J.A.C. 11:5-7.1(e) for services in related transactions must be for services actually performed beyond mere referral. Compliance with the anti-kickback provisions of RESPA (12 U.S.C. § 2607), its regulations, or HUD RESPA opinions is deemed compliance with this subsection.

- ✓ Soliciting or accepting anything of value merely for referring a client to a lender, mortgage broker, or related service provider is sanctionable (unworthiness, bad faith, dishonesty)
- ✓ Compensation for related transactions must be for services actually performed beyond mere referral
- ✓ Compliance with RESPA (12 U.S.C. § 2607) and HUD RESPA guidance is deemed compliance with this rule

7.5 Prohibited brokerage activity for referral salesperson

Salespersons (referral) must not engage in prohibited brokerage activity for their broker or others, and must not receive compensation for such activity. The rule lists 13 enumerated prohibited items. Item 12 (added by the January 2026 amendment) prohibits providing information on listings—in person or through electronic communication including telephone and internet—beyond the information referral salespersons are permitted to provide regarding websites and other public information sources under 11:5-6.10(a).

- ✓ A salesperson (referral) may not engage in or be compensated for prohibited brokerage activity
- ✓ Item 12 prohibits providing listing information beyond the limited public-source info allowed under 11:5-6.10(a), whether in person, by phone, or online

7.6 Limits on broker compensation and incentives to referral salespersons

Compensation paid by a broker to a salesperson (referral) is limited to compensation for referring prospective consumers of real estate brokerage services to the broker. Brokers are prohibited from offering incentives to salespersons (referral), salespersons, or broker-salespersons under them for merely referring clients to a particular lender, mortgage broker, or other related-service provider. A broker may not award prizes or bonuses for such referrals.

- ✓ Broker compensation to a salesperson (referral) is limited to compensation for referring prospective brokerage-service consumers to the broker
- ✓ Brokers may not offer incentives, prizes, or bonuses to licensees for merely referring clients to a particular lender, mortgage broker, or related-service provider

CHAPTER 8

Art. I: License required, definitions, Real Estate Commission (45:15-1 – 45:15-8)

8.1 License Required to Engage in Real Estate Business

No person may engage, directly or indirectly, in the business of a real estate broker, broker-salesperson, or salesperson, temporarily or otherwise, without being licensed. This also prohibits advertising or representing oneself as authorized to act as a broker, broker-salesperson, or salesperson, or to engage in any of the activities described in R.S.45:15-3, without a license.

- ✓ A license is required to engage directly OR indirectly in real estate brokerage, even temporarily
- ✓ You may not advertise or represent yourself as authorized to act as a broker, broker-salesperson, or salesperson without a license
- ✓ The three license categories are broker, broker-salesperson, and salesperson

8.2 Single Act Constitutes Engaging in Business

Under 45:15-2, any single act, transaction, or sale constitutes 'engaging in business' within the meaning of the license law. A person cannot avoid licensing requirements by claiming they only performed one transaction.

- ✓ A single act, transaction, or sale is enough to constitute engaging in the real estate business
- ✓ One-time activity does not exempt a person from the licensing requirement

8.3 Definition of Real Estate Broker

A real estate broker is a person, firm, or corporation who, for a fee, commission, or other valuable consideration (or expectation thereof), lists, sells, exchanges, buys, or rents real estate; offers or attempts to negotiate such transactions; collects rent; solicits prospects; assists in procuring prospects or negotiating/closing transactions; negotiates mortgage loans for others; or conducts public/private competitive sales of land. The term also includes anyone who supervises a real estate referral company.

- ✓ A broker may be a person, firm, or corporation and acts for a fee, commission, or valuable consideration (or expectation thereof)
- ✓ Broker activities include listing, selling, buying, renting, exchanging, negotiating loans, collecting rents, and soliciting/procuring prospects
- ✓ A broker includes any person, firm, or corporation who supervises a real estate referral company

8.4 Definition of Real Estate Salesperson

A real estate salesperson is a natural person who, for compensation, is employed or contracted by and operates under the supervision of a licensed broker to sell, buy, negotiate, lease, rent, collect rents, or solicit prospects. A salesperson must always work under a licensed broker's supervision. The definition also includes a salesperson licensed with a real estate referral company unless otherwise indicated.

- ✓ A salesperson must be a natural person operating under the supervision of a licensed broker
- ✓ A salesperson works under and is compensated by the broker; they cannot operate independently
- ✓ The salesperson definition includes referral-company salespersons unless otherwise indicated

8.5 Definition of Broker-Salesperson

A real estate broker-salesperson is a natural person who is qualified to be licensed as a broker but who, for compensation, is employed or contracted by and operates under the supervision of a licensed broker to perform the functions of a salesperson. Despite qualifying as a broker, the broker-salesperson still works under another broker's supervision.

- ✓ A broker-salesperson is qualified to be a broker but chooses to work under a supervising broker
- ✓ A broker-salesperson performs the functions of a salesperson while under broker supervision

8.6 License Required to Sue for Compensation

No person, firm, partnership, association, or corporation may bring or maintain an action in NJ courts to collect compensation for brokerage acts without alleging and proving they were a duly licensed broker at the time the cause of action arose. A salesperson or broker-salesperson may only sue their employing broker (not third parties) for compensation, and must prove they were duly licensed at the time.

- ✓ To sue for compensation as a broker, you must allege and prove you were duly licensed when the cause of action arose
- ✓ A salesperson or broker-salesperson can only bring an action for compensation against their own employing/contracting broker
- ✓ Being unlicensed at the time of the transaction bars recovery of a commission in court

8.7 Written Agreement Required Before Business Activity

Under 45:15-3.2, no broker-salesperson or salesperson may commence business activity for a broker, and no broker may authorize them to act, until a written agreement signed by both parties recites the terms of the retention. The business affiliation may be either an employment relationship or an independent-contractor arrangement, and its nature must be defined in the written agreement.

- ✓ A signed written agreement between broker and licensee is required BEFORE the licensee commences any business activity
- ✓ The affiliation may be either employee or independent contractor, and the nature must be specified in the written agreement

8.8 Rental Locator Fee Requires License

Any person who, before a lease is fully executed (or before possession where no lease is drawn), charges or accepts any fee or compensation for assistance in locating rental housing—including providing written lists or telephone information on purportedly available units—without a license is a disorderly person, subject to a fine of not less than $200 or imprisonment up to 30 days, or both. This does not prohibit a licensed broker or owner/agent from requiring a deposit to reserve a unit, or charging an application/credit-check fee before lease execution.

- ✓ Charging advance fees for rental-locating assistance without a license is a disorderly persons offense (fine ⩾ $200 and/or up to 30 days)
- ✓ A licensed broker or owner may still charge a deposit to reserve a unit or a fee to process an application or run a credit check before the lease is signed

8.9 Referral Company Salesperson and Referral Company Defined

A salesperson licensed with a real estate referral company is limited to referring prospects for sale, purchase, exchange, lease, or rental of real estate. They may only refer prospects to the supervising broker and may only accept compensation from that broker. A referral company is a business entity established and supervised by a licensed broker, separate from other business entities, for employing licensed salespersons who strictly engage in referrals on behalf of the supervising broker.

- ✓ A referral-company salesperson's activity is strictly limited to referring prospects to the supervising broker and accepting compensation only from that broker
- ✓ A referral-company salesperson may not be licensed with more than one broker/referral company at a time, nor simultaneously as a broker or broker-salesperson
- ✓ A referral company is a separate business entity established and supervised by a licensed broker solely for referral activity

8.10 Referral Fees to Out-of-State Brokers

Under 45:15-3.1, a duly licensed NJ broker may pay a referral fee or commission to an out-of-state licensed broker who maintains a bona fide office in another jurisdiction. That out-of-state broker may make a referral, receive the fee, and sue a NJ broker to collect it. A 'referral' is the introduction, assisting, or directing of a person by one broker to another for brokerage services, aid, or information; 'referral fee/commission' is the compensation paid or received for the referral.

- ✓ A NJ broker may pay a referral fee to a broker of another jurisdiction who maintains a bona fide office there
- ✓ An out-of-state licensed broker may bring an action in NJ courts to collect a referral fee from a NJ broker
- ✓ Referral fees may only be paid to licensed brokers, not unlicensed persons

8.11 Exemptions From the License Law

Under 45:15-4, the article does not apply to bona fide owners/lessors handling their own property, nor to attorneys at law, receivers, trustees in bankruptcy, executors, administrators, or persons selling under court order or a deed of trust. It also excludes state banks, federal banks, savings banks, and trust companies located in the state, and insurance companies incorporated under NJ insurance laws.

- ✓ Owners/lessors dealing with their own property are exempt from the license law
- ✓ Attorneys, court-appointed fiduciaries (receivers, trustees, executors, administrators), and persons selling under court order are exempt
- ✓ Banks, trust companies, and NJ-incorporated insurance companies are exempt

8.12 New Jersey Real Estate Commission Composition

The NJ Real Estate Commission is continued as a division within the Department of Insurance. It consists of eight members appointed by the Governor, each a NJ resident for at least 10 years. Five members must have been real estate brokers for at least 10 years, two are public members, and one is a department representative (serving at the Governor's pleasure). Non-department members serve three-year terms. A majority of voting members is a quorum. The Governor may remove a commissioner for cause after notice and hearing.

- ✓ The Commission has eight members: five brokers (10+ years), two public members, and one department representative
- ✓ Members must be NJ residents for at least 10 years; broker members must have been brokers for at least 10 years
- ✓ Non-department members serve three-year terms and a majority of voting members constitutes a quorum

8.13 Commission Rulemaking Authority

The Commission selects a president from its members and may do all things necessary to carry out the license law, including promulgating rules and regulations pursuant to the Administrative Procedure Act (P.L.1968, c.410). This grants the Commission its authority to adopt the regulations governing real estate practice in New Jersey.

- ✓ The Commission may promulgate rules and regulations under the Administrative Procedure Act
- ✓ The Commission selects a president from among its members

CHAPTER 9

Licenses, examination, education, schools (45:15-9 – 45:15-11.3)

9.1 Basic Qualifications for License Applicants

All persons desiring to become real estate brokers, broker-salespersons, or salespersons must apply to the New Jersey Real Estate Commission. Applicants must meet minimum age, education, and character requirements, and pay a non-refundable application fee. In the case of an association or corporation, the directors must also meet the age requirement.

- ✓ Every applicant must be at least 18 years of age; directors of an association or corporation must also be 18 or over
- ✓ Every applicant must have the equivalent of a high school education
- ✓ Application must be made on forms prescribed by the commission and accompanied by a non-refundable $50 application fee
- ✓ Applicant must furnish evidence of good moral character; members, officers, or directors of an association, partnership, or corporation must also furnish such evidence

9.2 Written State Examination Requirement

Before any license is granted, the applicant (and in the case of an entity, the partners/directors/officers actively engaged in the business) must pass a State examination administered under commission supervision.

- ✓ The examination tests general knowledge of NJ statutes concerning real property, conveyancing, mortgages, agreements of sale, leases, the provisions of R.S.45:15-1 et seq., and commission rules
- ✓ A license is granted only upon satisfactorily passing the examination and fulfilling all other qualifications
- ✓ The commission may make rules and regulations for the conduct of examinations

9.3 License Term and Biennial Renewal

Licenses expire at the end of a two-year term set by the commission and are renewed biennially without examination upon fee payment and completion of continuing education, with an exception for referral company salespersons.

- ✓ A license expires on the last day of a two-year license term established by the commission
- ✓ Renewal is without examination, biennially, upon payment of the fee fixed by R.S.45:15-15
- ✓ Broker, broker-salesperson, and salesperson renewals require completion of applicable continuing education, EXCEPT a salesperson licensed with a real estate referral company is not required to complete

continuing education for renewal

9.4 Pre-Licensure Education Hours: Salesperson

Every individual applicant for a salesperson license must complete a mandated number of pre-licensure education hours, including specific hours dedicated to ethics and fair housing, at a commission-licensed school.

- ✓ Salesperson applicants must complete 75 hours in the aggregate of real estate courses at a commission-licensed school as a prerequisite to admission to the examination
- ✓ At least three hours must be on ethics and ethical conduct in the salesperson profession
- ✓ At least one hour must be on fair housing and housing discrimination

9.5 Pre-Licensure Education Hours: Broker

Every individual applicant for a broker or broker-salesperson license must complete a greater number of pre-licensure hours, including a significant ethics component and fair housing instruction.

- ✓ Broker/broker-salesperson applicants must complete 150 hours in the aggregate of real estate and related courses at a commission-licensed school
- ✓ Thirty hours must be on ethics and ethical conduct in the broker profession
- ✓ At least one hour must be on fair housing and housing discrimination
- ✓ The commission may approve specialized courses from non-school providers to fulfill a portion of the total broker pre-licensure requirement

9.6 Broker License for Partnerships and Corporations

A general partnership or corporation cannot be licensed as a broker unless at least one partner or officer qualifies and holds a broker's license as the authorized broker. The entity's license ceases if no authorized broker is maintained.

- ✓ At least one partner or officer must qualify as and hold a broker's license to act as the authorized broker on behalf of the general partnership or corporation
- ✓ An authorized broker cannot act as a broker on his own individual account unless also licensed as a broker in his individual name
- ✓ The entity's license ceases if at least one partner/officer does not hold a license as its authorized broker at all times
- ✓ A change in status of an authorized broker's license to individual capacity (or vice versa) requires application and a $50 fee
- ✓ A limited partnership requires its general partner to be licensed as a broker; if a corporation is the general partner, the corporation must be licensed and one of its officers must hold the authorized broker license

9.7 Real Estate Referral Company Salesperson Certification

Applications for licensure as a salesperson licensed with a real estate referral company (and renewals) require a certification signed by the licensed broker confirming that both understand the restrictions on referral company activity.

- ✓ The certification must confirm the broker and salesperson reviewed the legal restrictions on the activities of a salesperson licensed with a referral company
- ✓ The certification must confirm the salesperson acknowledged that his activity is limited to referring prospective consumers of real estate brokerage services to that broker

9.8 License Reinstatement Within Two Years

A person who fails to renew a broker, broker-salesperson, or salesperson license and seeks reinstatement within two years must complete outstanding continuing education requirements as a condition of reinstatement.

- ✓ If reinstatement is sought within two years of the expiration date of the last license held, the applicant must submit proof of having completed the continuing education requirement applicable to that license type in the preceding license term

9.9 Broker Relicensure After Lapse of 2–5 Years

A broker or broker-salesperson whose license lapses for more than two but less than five consecutive years must satisfy additional education, experience, and examination requirements before being relicensed.

- ✓ Must complete continuing education requirements applicable to salesperson licensees in the preceding license term
- ✓ Must work as a licensed salesperson full-time for one full year
- ✓ Must pass the broker's license examination and successfully complete a 90-hour general broker's pre-licensure course at a licensed school

9.10 Broker Relicensure After Lapse of 5+ Years

A broker or broker-salesperson whose license lapses for more than five consecutive years faces the most stringent relicensure requirements, essentially starting over as a salesperson.

- ✓ Must pass the salesperson's license examination
- ✓ Must work as a licensed salesperson full-time for three years
- ✓ Must fulfill all educational requirements applicable to first-time broker/broker-salesperson applicants and pass the broker's license examination

9.11 Salesperson Relicensure After Two-Year Lapse

A salesperson (including one licensed with a referral company) whose license lapses for two or more consecutive years must attend a licensed school and pass the State examination before a new license is issued.

- ✓ If the license lapses for two consecutive years or more, the person must attend a licensed school and pass the State examination prior to issuance of a further license
- ✓ Salesperson applicants licensed with a referral company are not required to complete continuing education as a condition of relicensure

9.12 Temporary Broker's License on Death or Incapacity

When a licensed broker dies or becomes incapacitated leaving no qualified broker-salesperson to carry on, the commission may issue a one-time temporary broker's license to a qualified salesperson to continue the business.

- ✓ Available when a broker dies or is incapacitated and no member/officer holds a broker-salesperson license (or a sole proprietor broker leaves no broker-salesperson employee)
- ✓ The applicant must have held a real estate salesperson's license for at least three years immediately preceding the application, and apply within 30 days of the death or incapacity
- ✓ The temporary license is effective for one year and cannot be extended or renewed; it lasts only until the licensee can pursue the broker's course and qualify by examination
- ✓ Requires a certified death certificate or physician-certified incapacity plus the regular license fee

9.13 Medical Hardship and Public Agency Exceptions

The commission may approve relicensure with reduced requirements where the applicant was medically unable to renew, and certain public-agency employment exceptions apply to lapsed licenses.

- ✓ The commission may approve relicensure for a former licensee who did not renew for two or more years upon sufficient showing of medical inability; such applicants still must pass the applicable license examination and complete continuing education for the preceding term
- ✓ Relicensure requirements do not apply to a person whose license expired due to subsequent employment in a NJ public agency dealing with real estate matters, if reapplying within one year of termination of that employment

9.14 Referral Company Salesperson Transitioning to Full License

A salesperson licensed with a referral company who was not previously otherwise licensed and seeks a full salesperson license faces education requirements that vary based on time spent as a referral salesperson.

- ✓ If a referral salesperson for six immediately preceding years or less (and not previously otherwise licensed), must complete up to 30 hours of continuing education to qualify as a salesperson
- ✓ If a referral salesperson for more than the six immediately preceding years (and not previously otherwise licensed), must complete the full pre-licensure education requirement and pass the State license examination
- ✓ A person previously licensed as a broker/broker-salesperson/salesperson who became a referral salesperson must complete up to 30 hours of continuing education to qualify for relicensure

9.15 Waiver of Educational Requirements

The commission may waive some or all salesperson educational requirements for applicants whose education or experience is substantially equivalent.

- ✓ The commission may waive some or all educational requirements where the applicant's education or experience is, in the commission's judgment, substantially equivalent
- ✓ The commission prescribes by regulation the requirements an applicant must meet to qualify for the waiver

9.16 Licensure of Real Estate Schools

No school may conduct pre-licensure real estate courses unless licensed as a real estate school; licensure requires owners, management, and facilities to meet all qualifications and demonstrate good moral character.

- ✓ A school must be licensed as a real estate school to offer courses fulfilling pre-licensure educational prerequisites
- ✓ Owners, management, and facilities must meet all licensure qualifications; members, officers, directors, and controlling-interest owners must affirmatively demonstrate good moral character
- ✓ The Bureau of Real Estate Education within the NJREC is responsible for licensure of pre-licensure schools and instructors

9.17 Licensure of Real Estate Instructors

Except for guest lecturers, no person may teach pre-licensure real estate courses unless licensed as a real estate instructor after meeting character, coursework, and examination requirements.

- ✓ No person, except a guest lecturer, may teach pre-licensure real estate courses unless licensed as a real estate instructor
- ✓ An instructor must demonstrate good moral character, complete a commission-approved instructor course, and pass a written examination conducted under commission auspices

9.18 Real Estate School Director Requirement

A licensed real estate school must be managed by a director who is a licensed real estate instructor; the commission may issue temporary authorization upon a director's death or incapacity.

- ✓ A school must be under the management and supervision of a director approved by the commission and licensed as a real estate instructor
- ✓ Upon a director's death or incapacity leaving no qualified instructor, the commission may issue temporary authorization until a new director is approved or courses in progress are completed
- ✓ A school may not commence new courses until a qualified licensee is designated and approved as director
- ✓ Public adult education programs and accredited colleges/universities are exempt from certain director-licensing requirements

9.19 Grounds for Suspension/Revocation of School or Instructor License

The commission may discipline a real estate school or instructor for misconduct including misrepresentation, dishonesty, improper enrollment schemes, and falsely certifying course completion.

- ✓ Grounds include false promises/substantial misrepresentation, a flagrant course of misrepresentation, conduct showing unworthiness/incompetency/bad faith/dishonesty
- ✓ Failing to provide students a written agreement stating tuition, charges, and refund policy is a ground for discipline
- ✓ Using lotteries, contests, games, prizes, or drawings to attract students is prohibited
- ✓ Falsely stating that a person attended or completed a course, or procuring a license by fraud, is a ground for discipline

9.20 Restrictions on Persons with Revoked School Licenses

A person whose school/instructor license is revoked faces broad restrictions on any involvement with a licensed school, and revocation of a controlling person's instructor license can trigger revocation of the school's license.

- ✓ A person with a revoked license may not be a general partner, officer, director, or controlling-interest owner of a licensed school, nor be employed, compensated, or share office space with a licensed school during revocation
- ✓ Upon revocation of a controlling person's instructor license, the school's license is revoked unless the person's connection and interest are severed/divested within a fixed time
- ✓ A 'controlling interest' means 5% or more of the equity of a licensed corporation or of a partnership's ownership

9.21 Disabled War Veteran License Waiver

Qualifying disabled New Jersey war veterans may obtain a real estate license without cost and without the salesperson experience requirement upon completing approved courses and passing the exam.

- ✓ An eligible honorably discharged NJ veteran wounded or disabled in the line of duty may obtain a license without cost and without qualifying through salesperson experience, upon completing approved courses and passing the examination
- ✓ Renewals may be granted for each ensuing license term upon request without fees

CHAPTER 10

Offices, bars to licensure, special (escrow) accounts, fees, commissions and rebates (45:15-12 – 45:15-16c)

10.1 Broker Trust/Escrow Account Requirement

Every individual, partnership, or corporation licensed as a real estate broker must maintain a special account in a state- or federally-chartered bank, savings bank, savings and loan, or other depository institution physically located and authorized to do business in New Jersey and approved by the commission. Into this account the broker must deposit and maintain all monies received while acting as a broker, escrow agent, or temporary custodian of others' funds in NJ real estate transactions. The account must be in the broker's licensed name, designated as the 'trust account' or 'escrow account,' and kept separate and apart from all other personal and business accounts. All checks and deposit slips must bear the words 'trust account' or 'escrow account.' This requirement does NOT apply to an individual licensed as a broker-salesperson.

- ✓ Brokers must maintain a special trust/escrow account in a commission-approved NJ depository institution for all monies received as broker, escrow agent, or custodian of others' funds
- ✓ The account must be in the broker's licensed name, labeled 'trust account' or 'escrow account,' and kept separate from all personal and business accounts
- ✓ All checks and deposit slips must contain the words 'trust account' or 'escrow account'
- ✓ This requirement does not apply to an individual licensed as a broker-salesperson

10.2 Acceptance and Prompt Delivery of Others' Monies

Any real estate licensee who, in performing activities under R.S.45:15-3, receives monies of others as a representative of a broker acting as escrow agent or temporary custodian must accept the monies only if they are cash or a negotiable instrument payable to the broker through whom the individual is licensed (or another form the commission prescribes by rule). The licensee must, immediately upon receipt, account for and deliver the funds to the broker for deposit into the escrow/trust account, or for other disposition required by the escrow agreement.

- ✓ A licensee may accept others' monies only as cash or a negotiable instrument payable to the broker through whom the licensee is licensed (or another commission-prescribed form)
- ✓ The licensee must immediately account for and deliver received funds to the broker for deposit into the escrow/trust account or as the escrow agreement requires

10.3 Licenses Kept by Employing Broker; Termination Procedures

All licenses issued to brokers, broker-salespersons, and salespersons are kept by the employing/contracting broker, while the accompanying pocket card is delivered to the licensee, who must possess it at all times when engaged in real estate business. When a licensee is terminated or resigns, written notice with the effective date must be given (by the broker upon termination, or by the licensee upon resignation). Within five business days of the effective date, the broker must either (a) deliver/mail the license to the commission and send written notice to the licensee's last known residence (with a copy to the commission), or (b) deliver prescribed transfer materials to the departing licensee and commission. No licensee may perform any acts under the authority of that license after the effective date of termination/resignation until authorized by the commission. A new license may be issued upon a $25 fee and proof of new employment/contract with a licensed broker. A broker-salesperson or salesperson must be licensed under one broker only and cannot be licensed with more than one broker at the same time.

- ✓ Licenses are held by the employing/contracting broker; the licensee keeps the pocket card and must have it when engaged in real estate business
- ✓ Upon termination or resignation, the broker must act within five business days by delivering the license to the commission (with notice to the licensee) or providing prescribed transfer materials
- ✓ A terminated/resigned licensee may not perform any licensed acts until authorized by the commission; a new license requires a $25 fee and proof of new affiliation
- ✓ A broker-salesperson or salesperson may be licensed under only one broker at a time

10.4 License Fees and Biennial License Terms

Licenses are issued for two-year (biennial) terms. The biennial fee is $200 for a broker's license, $200 for a broker-salesperson's license, $100 for a salesperson's license, and $100 for a branch office license. Late renewal fees (if a licensee fails to apply before expiration) are $20 for a salesperson/broker-salesperson and $40 for a broker, and the commission may refuse renewal for sufficient cause. The commission must refuse to renew the license of any licensee convicted of an offense enumerated in C.45:15-19.1 during the last license term (unless already subject to a revocation proceeding). Initial and reinstated license fees are based on the biennial fees, with a full biennial fee payable for the term in which the application is received.

- ✓ Biennial fees: broker $200, broker-salesperson $200, salesperson $100, branch office $100; licenses run for two-year terms
- ✓ Late renewal fees are $20 (salesperson/broker-salesperson) and $40 (broker); the commission may refuse renewal for sufficient cause
- ✓ The commission must refuse renewal for a licensee convicted of a C.45:15-19.1 offense during the last license term unless already the subject of a revocation proceeding

10.5 Acceptance of Commission Only from Employing Broker

No real estate salesperson or broker-salesperson may accept a commission or valuable consideration for performing any licensed act from any person except his employer or contracting broker, who must be a licensed real estate broker. This channels all compensation through the supervising broker.

- ✓ A salesperson or broker-salesperson may accept commissions or valuable consideration only from his employer/contracting broker
- ✓ That employing or contracting broker must be a licensed real estate broker

10.6 Bars to Issuance of License (Criminal Convictions)

The commission may not issue a license to any person known to have been convicted, within the previous five years, of forgery, burglary, robbery, any theft offense other than shoplifting, criminal conspiracy to defraud, or other like offenses. This bar extends to a copartnership of which such person is a member, or to any association or corporation of which the person is an officer, director, or employee, or in which the person holds/exercises a controlling interest directly or indirectly. Additionally, no license may be issued or renewed to any person known to have been convicted of a sex offense requiring registration under Megan's Law (C.2C:7-2) or an equivalent statute of another state.

- ✓ No license issued to a person convicted within the prior five years of forgery, burglary, robbery, theft (other than shoplifting), criminal conspiracy to defraud, or like offenses
- ✓ The bar extends to partnerships, associations, or corporations connected to the disqualified person as member, officer, director, employee, or controlling-interest stockholder
- ✓ No license may be issued OR renewed to anyone convicted of a sex offense requiring Megan's Law registration (C.2C:7-2) or its out-of-state equivalent

10.7 Effect of Revocation on Ownership and Employment

A person whose license has been revoked under R.S.45:15-17 or C.45:15-19.1 is subject to strict disabilities during the revocation period. That person cannot be a general partner, officer, director, or owner (directly or indirectly) of a controlling interest in a licensed partnership, limited partnership, or corporation; cannot be retained, employed, or compensated in any capacity by a licensee; and cannot occupy or share office space in a licensed office location for any purpose during the revocation.

- ✓ A revoked licensee may not be a general partner, officer, director, or controlling-interest owner of a licensed entity during revocation
- ✓ A revoked person may not be employed, retained, or compensated in any manner by a licensee during revocation
- ✓ A revoked person may not occupy or share office space in a licensed office location for any purpose during revocation

10.8 Revocation of Partnership or Corporate License

When a partner, officer, director, or controlling-interest owner of a licensed entity has their individual license revoked, the commission must revoke the entity's license unless, within a period fixed by the commission, corrective conditions are met: (a) partnerships must sever the connection and divest the revoked partner's interest; (b) corporations must terminate the revoked officer/director and divest any controlling ownership interest; (c) limited partnerships must sever/divest a revoked general partner's interest, or divest a revoked limited partner's interest if it constitutes a controlling interest. 'Controlling interest' means 5% or more of the equity of a licensed corporation or ownership of a partnership.

- ✓ The commission must revoke a partnership/corporate license upon revocation of a partner's, officer's, director's, or controlling owner's individual license unless corrective conditions are met within a fixed period
- ✓ Correction requires severing the connection and divesting the revoked person's interest (or terminating the position for corporate officers/directors)
- ✓ 'Controlling interest' is defined as 5% or more of the equity of a licensed corporation or of the ownership of a partnership

10.9 Special Interest-Bearing Escrow Accounts

A broker may establish a special interest-bearing escrow account under the broker's control, in a commission-approved depository institution, for monies from a specific transaction, provided the account is clearly identified as pertaining to that transaction. Such accounts must be maintained separate and apart from all other escrow, business, and personal funds.

- ✓ A broker may open a special interest-bearing escrow account for a specific transaction if it is clearly identified as pertaining to that transaction
- ✓ Such transaction-specific accounts must be kept separate from all other escrow, business, and personal funds

10.10 Prohibition on Using Interest from Escrow Funds

A real estate broker acting as an escrow agent or temporary custodian of others' funds in a real estate transaction may not receive, obtain, or use any interest earned on those funds for the broker's own personal or business use.

- ✓ A broker acting as escrow agent/custodian may not use interest earned on escrowed funds for personal or business benefit

10.11 Form of License and Change of Business Address

All licenses are issued by the commission in a prescribed form, showing the licensee's name and address and bearing the commission's seal. Each licensed broker must give written notice to the commission of any change of business address; the commission then issues new licenses to the broker and all persons licensed through the broker for the unexpired period, upon payment of $50 for the new broker license and $10 for each additional new license certificate. A change of business address without notifying the commission and obtaining a new broker's license automatically cancels the license previously issued.

- ✓ A broker must give written notice to the commission of any change of business address; new licenses are then issued ($50 broker license fee plus $10 per additional certificate)
- ✓ Changing business address without notification and issuance of a new broker's license automatically cancels the prior license

10.12 Automatic Suspension of Salespersons on Broker License Loss

The revocation or suspension of a broker's license automatically suspends every broker-salesperson's and salesperson's license granted to that broker's employees or contractors, pending a change of employer/contracting broker and issuance of a new license. The new license is issued without additional charge if granted during the same license term. Similarly, for a broker with an out-of-state main or branch office, any NJ license for that office is automatically suspended if the out-of-state broker's license is revoked, suspended, or not renewed—and the affiliated salespersons' NJ licenses are likewise automatically suspended pending reaffiliation.

- ✓ Revocation or suspension of a broker's license automatically suspends all affiliated broker-salespersons' and salespersons' licenses pending reaffiliation
- ✓ A new license upon reaffiliation is issued without additional charge if granted within the same license term
- ✓ A broker with an out-of-state office must maintain a good-standing license there for each NJ-licensed office; loss of the out-of-state license automatically suspends the NJ license

10.13 Broker Rebates to Residential Property Purchasers

A rebate paid by a broker to a purchaser of residential real property under R.S.45:15-17(k)(2) must be: calculated after the purchaser negotiates the rebate commission rate; memorialized in a written/electronic document or buyer agency agreement provided at the outset of the broker relationship stating the rebate terms; and disclosed to all parties in the transaction, including any mortgage lender. A rebate may NOT be: paid to a person not licensed as a broker for any act requiring licensure; contingent upon the use of other services/products offered by the broker or an affiliate; or based on a lottery, contest, or game.

- ✓ A rebate must be calculated after the purchaser negotiates the rate, memorialized in writing at the outset, and disclosed to all parties including any mortgage lender
- ✓ A rebate may not be paid to an unlicensed person for acts requiring licensure
- ✓ A rebate may not be contingent on using other broker/affiliate services or products, nor based on a lottery, contest, or game

10.14 Depository Institution Approval Requirement

The commission approves a depository institution only after the institution provides written confirmation that it will immediately notify the commission of any notice issued to a licensed broker that a check or other instrument drawn on the broker's escrow or trust account has been dishonored or returned for insufficient funds. This ensures the commission is alerted to potential trust fund problems.

- ✓ A depository institution must confirm in writing that it will immediately notify the commission of any dishonored/NSF check drawn on a broker's escrow or trust account
- ✓ Commission approval of the institution is a prerequisite to its use for the broker's required special account

10.15 Advertising Requirements for Broker Rebates

Any advertisement for a rebate allowed under R.S.45:15-17(k)(2) must include a disclosure regarding the purchaser's obligation to pay any applicable taxes on the rebate and a notice that the purchaser should consult a tax professional about the rebate's tax implications. This disclosure and notice must be clearly and conspicuously displayed, with text size equal to or larger than the text used in the advertisement itself.

- ✓ Rebate advertisements must disclose the purchaser's obligation to pay applicable taxes and advise consulting a tax professional
- ✓ The required disclosure/notice must be clear, conspicuous, and in text at least equal in size to the advertisement's text

CHAPTER 11

Continuing education (45:15-16.2 – 45:15-16.2g)

11.1 Biennial Continuing Education Requirement

The NJREC requires each natural person licensed as a real estate broker, broker-salesperson, or salesperson to complete continuing education (CE) as a condition of biennial license renewal under R.S.45:15-10. The maximum requirement is 16 hours per biennial term. Salespersons licensed with a real estate referral company are exempt from CE. Brokers or broker-salespersons with 40+ years of experience (including equivalent experience in other jurisdictions as determined by the commission) are also exempt.

- ✓ CE is required as a condition of biennial license renewal for brokers, broker-salespersons, and salespersons
- ✓ No more than 16 hours of CE may be required per biennial term
- ✓ Salespersons licensed with a real estate referral company are exempt from CE
- ✓ Brokers/broker-salespersons with 40+ years of experience are exempt from CE

11.2 CE Completion Deadline and Late Fee

CE requirements must be completed on or before April 30 of the year in which the biennial license expires. A licensee who fails to complete CE before May 1 of the second year of the biennial term is subject to a reasonable processing fee determined by the commission, not to exceed $200.

- ✓ CE must be completed on or before April 30 of the year the biennial license expires
- ✓ Failure to complete CE before May 1 subjects the licensee to a processing fee
- ✓ The late processing fee may not exceed $200

11.3 Deemed Fulfillment and New-Licensee CE Rules

A person who completes one or more broker pre-licensure education courses during a biennial term is deemed to have fulfilled the CE requirement for that license term. A salesperson initially licensed during the first year of a two-year term must complete all applicable CE to renew; a salesperson initially licensed in the second year of the term is not required to fulfill any CE to renew at the term's conclusion.

- ✓ Completing broker pre-licensure courses during a term is deemed to fulfill the CE requirement
- ✓ A salesperson first licensed in the first year of the term must complete all applicable CE to renew
- ✓ A salesperson first licensed in the second year of the term is exempt from CE for that renewal

11.4 Core Topics for CE Courses

At least 50% of required CE must consist of core topics: agency; disclosure; legal issues; ethics (not less than two hours); fair housing; rules and regulations; real estate licensee safety; financial literacy and planning; and any other core topics prescribed by the commission. Core topics may never be required to exceed 60% of total CE hours. Each hour of instruction equals one credit.

- ✓ At least 50% of required CE must be core topics; core topics may never be required to exceed 60%
- ✓ Ethics must comprise not less than two hours
- ✓ Core topics include agency, disclosure, legal issues, ethics, fair housing, rules/regulations, licensee safety, and financial literacy
- ✓ Each hour of instruction equals one credit

11.5 Mandatory Fair Housing and Agency CE

Notwithstanding the general core-topic rules, the commission must require at least one hour on the core topic of fair housing and housing discrimination during each biennial license term. The commission must also require that a CE course on agency be completed by every broker, broker-salesperson, and salesperson as a condition for license renewal during each biennial term (added by P.L. 2024 c.32, eff. 2024-08-01).

- ✓ At least one hour of CE on fair housing and housing discrimination is required each biennial term
- ✓ A CE course on agency must be completed by every licensee each biennial term as a renewal condition
- ✓ These requirements apply notwithstanding the general 50%/60% core-topic allocation

11.6 Approved CE Providers and Instructors

The commission approves CE courses, providers, and instructors on recommendation of a Volunteer Advisory Committee. Schools licensed as real estate schools (C.45:15-10.4) are deemed approved CE providers. Persons licensed as real estate instructors (C.45:15-10.5) are deemed approved instructors for core-topic CE courses. Real estate trade associations meeting commission standards may offer approved CE courses.

- ✓ Licensed real estate schools are deemed approved CE course providers
- ✓ Licensed real estate instructors are deemed approved instructors for core-topic CE courses
- ✓ Qualifying real estate trade associations may offer approved CE courses
- ✓ CE courses, providers, and instructors are approved on recommendation of the Volunteer Advisory Committee

11.7 CE Waivers and Instructor Credit

The commission may waive CE requirements in whole or in part on grounds of illness, emergency, hardship, or active duty military service. A licensed instructor or licensee who teaches an approved CE course earns CE credit toward renewal, but regardless of how many times the same course is taught in a biennial term, credit is granted only once (equal to hours conferred on attendees).

- ✓ CE may be waived for illness, emergency, hardship, or active duty military service
- ✓ Teaching an approved CE course earns credit only once per biennial term regardless of how many times taught
- ✓ Instructor credit equals the credit hours conferred on licensees who complete the course once

11.8 Delivery Methods for CE Courses

CE courses may be delivered in a classroom, or via Internet or video modalities, subject to commission approval of providers, content, and security/integrity measures. The commission may approve courses with periodic progress assessments requiring satisfactory performance before advancing to the next segment. However, the commission cannot require a licensee to pass a comprehensive final exam on the entire course content as a condition of receiving credit.

- ✓ CE may be delivered in classroom, Internet, or video modalities subject to commission approval
- ✓ Courses may include periodic progress assessments as a condition to advance to succeeding segments
- ✓ The commission may NOT require passing a comprehensive exam on the entire course as a condition of credit

11.9 Volunteer Advisory Committee Composition

A 14-member Volunteer Advisory Committee, comprised of real estate licensees and subject matter experts, is appointed by and serves at the pleasure of the Commissioner of Banking and Insurance. One licensee is recommended by the Senate President and one by the Assembly Speaker. Three members are commission members or their designees, and at least eight members (other than commission members) must be licensees. Members must provide balanced geographic representation (central, northern, southern), with at least three from each area.

- ✓ The Volunteer Advisory Committee consists of 14 members
- ✓ At least eight members (other than commission members) must be real estate licensees
- ✓ Three members must be commission members or their designees
- ✓ Members must provide balanced geographic representation with at least three from each region

11.10 Out-of-State and Timely-Topic CE Credit

The commission may confer CE credit for elective courses completed in other states if approved by that state's regulatory agency and satisfactory evidence of attendance/completion is provided by the provider. The commission may also grant credit for timely-topic courses offered in NJ not previously approved, provided they are advertised as unapproved, later submitted and approved, and attendance evidence is provided.

- ✓ Out-of-state elective CE courses may earn credit if approved by that state's regulatory agency
- ✓ Satisfactory evidence of attendance and completion must be provided by the course provider
- ✓ Timely-topic courses must be advertised as unapproved and later submitted for and granted approval

CHAPTER 12

Land Sales Full Disclosure – subdivided lands (45:15-16.27 – 45:15-16.37)

12.1 Definition of Subdivision and Subdivided Lands

'Subdivision' and 'subdivided lands' mean land situated OUTSIDE the State of New Jersey (whether contiguous or not) where one or more lots, parcels, units, or interests are offered as part of a common promotional plan of advertising and sale. It expressly includes condominiums (Condominium Act), homeowners associations, housing cooperatives, and community trusts. This is a critical exam distinction — the Act governs out-of-state land sold to New Jersey residents.

- ✓ Subdivided lands are located OUTSIDE New Jersey but offered to NJ purchasers
- ✓ The definition includes condominiums, homeowners associations, housing cooperatives, and community/other trust devices
- ✓ 'Common promotional plan' means offers by a single person/group acting in concert where interests are contiguous or advertised as a common entity

12.2 Conditions for Disposition of Subdivided Lands

Unless exempt, no person may offer, dispose, or participate in the disposition of subdivided lands in New Jersey except in accordance with the Act. A current public offering statement disclosing all information required by section 12 must be delivered to the purchaser, who must have a reasonable opportunity to examine it before the disposition takes place.

- ✓ Registration/compliance is required before offering or disposing of subdivided lands in NJ
- ✓ A current public offering statement must be delivered to the purchaser prior to disposition
- ✓ The purchaser must have a reasonable opportunity to examine the public offering statement before disposition

12.3 Seven-Day Right of Rescission

Forms of conveyance for secondary-registration subdivided land must include a seven-day right of rescission. A purchaser may cancel without cause by delivering written notice by midnight of the seventh calendar day following execution of the contract OR the day the purchaser is notified that secondary registration is complete, whichever is later. A disclosure statement covering common property, owner obligations, HOA assessments, mandatory club membership, and special taxing districts must be provided with a signed receipt.

- ✓ The purchaser has a seven-calendar-day right of rescission without cause, measured from contract execution or notice of completed registration, whichever is later
- ✓ A disclosure statement detailing common property, HOA assessments, mandatory club membership and special taxing districts must be provided before contract execution, with a signed purchaser receipt

12.4 Exemptions from the Act

Unless the method is adopted to evade the Act, it does not apply to dispositions: by an owner for his own account in a single/isolated transaction; wholly for industrial/commercial purposes; by court order; by a governmental agency; of cemetery lots; of fewer than 100 lots/parcels/units; where common elements are limited to unimproved, unencumbered open space; or in developments comprised wholly of rental units (landlord-tenant). It also excludes certain mortgage-secured debt, REIT securities, registered securities, and oil/gas/mineral interests regulated as securities.

- ✓ Offerings of fewer than 100 lots, parcels, units or interests are exempt
- ✓ Single/isolated transactions by an owner for his own account, court-ordered, governmental, cemetery, all-rental (landlord-tenant), and industrial/commercial dispositions are exempt
- ✓ Exemptions do not apply if the disposition method is adopted for the purpose of evading the Act
- ✓ The commission may grant additional exemptions where enforcement is unnecessary for public/purchaser protection due to small amount or limited character

12.5 Real Estate Sales Full Disclosure Act Overview

The Land Sales Full Disclosure provisions (45:15-16.27 et seq.) are cited as the 'Real Estate Sales Full Disclosure Act.' The Act regulates the offering and disposition of subdivided lands to New Jersey purchasers, requiring registration with the NJREC unless an exemption applies. Its purpose is consumer protection through full disclosure to prospective purchasers.

- ✓ The Act is officially titled the 'Real Estate Sales Full Disclosure Act' (L.1989, c.239)
- ✓ The NJREC administers and enforces the Act and adopts implementing regulations under the Administrative Procedure Act

12.6 Key Definitions Under the Act

Candidates must know the Act's core definitions. 'Advertising' means publishing information to induce purchase of subdivided land via newspapers, radio/TV, billboards, model home displays, electronic means, or vacation certificates requiring attendance at a sales presentation. 'Broker' or 'salesperson' includes any NJ-licensed real estate agent acting for a subdivider. 'Subdivider'/'developer' is the owner or agent offering subdivided lands. 'Disposition' means sale, lease, assignment, or lottery award for gain. 'Offer' means any inducement or solicitation for gain. 'Purchaser' is one who acquires or attempts to acquire an interest.

- ✓ 'Advertising' excludes stockholder communications, securities prospectuses, and required government disclosure documents
- ✓ 'Disposition' and 'Offer' both require the transaction be undertaken 'for gain or profit'
- ✓ 'Broker'/'salesperson' expressly includes persons licensed under R.S.45:15-1 et seq. acting for a subdivider

12.7 Subdivisions Subject to the Act (Jurisdiction)

The Act applies if (a) any offer or disposition of subdivided lands is MADE in New Jersey, OR (b) any offer originating outside NJ is DIRECTED by the subdivider or agent to a person or resident within New Jersey. This establishes NJREC jurisdiction over out-of-state developers who market to NJ residents.

- ✓ The Act applies to any offer/disposition made in NJ
- ✓ The Act applies to out-of-state offers directed by the subdivider or agent to NJ residents

12.8 Secondary Registration for Completed Residential Units

A subdivider owning subdivided land with a completed residential unit (or a contract to build and deliver one within two years) may use a simpler 'secondary registration.' Registration must occur before contracting with or taking a deposit from an NJ-resident purchaser, the subdivider must not already be registered under c.239, and the subdivision must not qualify for the isolated-transaction exemption. The commission has 30 days to issue a notice of completion or deficiency; if it does neither, the registration is deemed complete.

- ✓ Secondary registration requires a completed residential unit or a contract to build/deliver one within two years
- ✓ Registration must be made before executing a contract or accepting any deposit from an NJ-resident purchaser
- ✓ The commission must issue notice of completion or deficiency within 30 days, or registration is deemed complete
- ✓ Secondary registrants who qualify are exempt from the standard registration requirements of section 4 (45:15-16.30)

12.9 Escrow of Deposit Moneys in Secondary Registration

For secondary registration, the subdivider must certify that deposit moneys of NJ-resident purchasers will be held in an escrow account (or protected in another manner acceptable to the commission) until closing of title and delivery of the residential unit. The subdivider must also certify it can convey or cause title to be conveyed.

- ✓ Purchaser deposit moneys must be held in escrow (or otherwise protected) until closing and delivery of the unit
- ✓ The secondary registration subdivider must certify it can convey or cause conveyance of title

12.10 Pre-Registration Conduct Restrictions

Before secondary registration is complete, a subdivider may respond to NJ-resident inquiries from its website or multi-state advertising by giving general information (including prices) and forwarding advertising materials. However, until a notice of completion is issued (or registration is deemed complete), the subdivider MUST NOT: (1) offer a contract; (2) collect deposit moneys; or (3) subsidize travel to the property.

- ✓ Before registration is complete, a subdivider may only provide general information and forward advertising materials in response to NJ-resident inquiries
- ✓ Until registration is complete, the subdivider may NOT offer a contract, collect deposits, or subsidize travel to the property

12.11 Notice of Filing, Registration and Rejection

Upon proper filing (naming the licensed NJ brokers who are the subdivider's authorized representatives, with fee, statement of record, and proposed public offering statement), the commission issues a notice of filing. Within 90 days it must register the lands or reject the application; if no rejection is entered within 90 days, the lands are deemed registered (unless the applicant consented to a delay). Deficiencies must be corrected within 30 days; a written hearing request stays a rejection until a hearing and determination.

- ✓ Lands are deemed registered if no order of rejection is entered within 90 days of the notice of filing
- ✓ The subdivider must name NJ-licensed real estate brokers as its authorized representatives in the application
- ✓ A written request for a hearing stays an order of rejection until the hearing and determination

12.12 Commission Examination Standards

On receipt of an application with a statement of record, the commission examines whether: the subdivider can convey the interest offered (with release clauses/trust safeguards as appropriate); there is reasonable assurance improvements will be completed as represented; advertising and the promotional plan are not false, misleading, or discriminatory and afford full and fair disclosure; the subdivider (or corporate officers/principals) has no disqualifying conviction or injunction involving land sales; and the public offering statement requirements are satisfied.

- ✓ Advertising and the general promotional plan must not be false, misleading, or discriminatory and must afford full and fair disclosure
- ✓ There must be reasonable assurance the subdivider can convey title and complete all represented improvements
- ✓ Disqualifying convictions or injunctions involving land dispositions can warrant denial of registration

12.13 Contents of the Statement of Record

The statement of record must include: names/addresses of interest holders; a scaled, engineer/surveyor-signed legal description, topography, and map; title condition with encumbrances and restrictions; general terms of disposition; access, utilities, and improvement schedules; whether the property is subject to natural forces or lies in a federally designated flood hazard area; blanket-encumbrance consequences; organizational documents; title/lien instruments; forms of conveyance; financial statements; management/recreation contracts; compliance status with governmental requirements; and immediate reporting of material changes.

- ✓ The statement of record must disclose whether the property lies in a federally designated flood hazard area or is subject to adverse natural forces
- ✓ It must include a scaled subdivision map signed and sealed by a licensed professional engineer or land surveyor
- ✓ The developer must immediately report any material changes in the registration information

12.14 Registration Fees

The initial registration fee is $500 plus $35 per lot/parcel/unit/interest, not to exceed $3,000. Initial registration is valid for one year from approval and is renewed annually. The commission may charge an inspection fee equal to the cost of travel from New Jersey to the site and back plus additional inspection expenses; all inspection fees are accounted for to the applicant.

- ✓ Initial registration fee: $500 plus $35 per lot/parcel/unit/interest, capped at $3,000
- ✓ Initial registration is valid for one year from date of approval and must be renewed annually
- ✓ An inspection fee equal to NJ round-trip travel plus expenses may be charged when an onsite inspection is required

CHAPTER 13

Art. II: Real Estate Consumer Protection Enhancement Act – buyer's/seller's agent, disclosed dual agency, designated agency, transaction broker (45:15-16.86 – 45:15-16.101)

13.1 Statutory Agency Relationships and Key Definitions

P.L. 2024 c.32 (effective August 1, 2024) established five statutory relationships between a brokerage firm and consumers: buyer's agent, seller's agent, disclosed dual agent, designated agent, and transaction broker. An 'agency relationship' is created between a brokerage firm and a principal for real estate brokerage services. A 'principal' is a buyer or seller who has an agency relationship with a firm. These sections apply alongside — and do not replace — the existing broker/broker-salesperson/salesperson licensing provisions.

- ✓ The Act created five statutory relationships: buyer's agent, seller's agent, disclosed dual agent, designated agent, and transaction broker
- ✓ 'Agent' means a real estate brokerage firm (including affiliated brokers, broker-salespersons, and salespersons) that has an agency relationship with a principal
- ✓ 'Principal' means a buyer or seller who has an agency relationship with a brokerage firm
- ✓ The Act took effect August 1, 2024 and supplements existing licensing provisions rather than replacing them

13.2 Buyer's Agent, Seller's Agent, and Fiduciary Duties

A buyer's agent is a brokerage firm that has an agency relationship working only with the buyer and owes fiduciary duties to the buyer. A seller's agent works only with the seller and owes fiduciary duties to the seller. A firm performing services for a buyer is a buyer's agent unless it represents the seller (seller's agent), represents both (dual agent), agreed to be a transaction broker, or an affiliated licensee is the seller. The same default logic applies in reverse for sellers.

- ✓ A buyer's agent works only with the buyer and owes fiduciary duties; a seller's agent works only with the seller and owes fiduciary duties
- ✓ A firm serving a buyer is by default a buyer's agent unless one of four exceptions applies (represents seller, dual agency, transaction broker, or licensee is the seller)
- ✓ A firm serving a seller is by default a seller's agent unless it represents the buyer, is a dual agent, is a transaction broker, or the licensee is the buyer

13.3 Transaction Broker Relationship

A transaction broker works with a buyer or seller (or both) without representing either party, has no agency relationship, and owes no fiduciary duties. A transaction broker shall not act as an agent, shall not promote one party's interest over the other's, and is not required to keep any information confidential. It must still treat all parties honestly and competently, present all offers timely, keep parties informed, facilitate closing, and advise parties to seek expert advice.

- ✓ A transaction broker has no agency relationship and owes no fiduciary duties to either party
- ✓ A transaction broker shall not promote one party's interest over the other's and is not required to keep information confidential
- ✓ Transaction broker duties include treating all parties honestly, presenting all written offers timely with written confirmation, keeping parties informed, and facilitating closing

13.4 Written Brokerage Services Agreements Required

A 'brokerage services agreement' is a written agreement appointing a firm to represent a principal as agent or to work with a buyer/seller as a transaction broker. In residential transactions, the firm must enter into a brokerage services agreement with the buyer or seller before, or as soon as reasonably practical after, commencing brokerage services. A written agreement is NOT required with a buyer in a commercial transaction.

- ✓ Brokerage services agreements must be in writing and include sale/rental listings, buyer-lessee agency, transaction broker, dual agency, and designated agency agreements
- ✓ In residential transactions a firm must enter into a brokerage services agreement with the buyer/seller before or as soon as reasonably practical after commencing services
- ✓ A brokerage services agreement is NOT required with a buyer in a commercial real estate transaction

13.5 Required Contents of Brokerage Services Agreements

A buyer's or seller's brokerage services agreement must state: its term (including any post-termination protection period); that the firm is appointed as the agent; whether the relationship is exclusive or nonexclusive; consent (with separate initialing/signature) to disclosed dual or designated agency plus acknowledgment that a dual agent will not advocate for one party to the detriment of the other; the firm's compensation, how it is calculated, and whether shared; and a disclosure that broker compensation is fully negotiable and not set by law. Seller agreements must also state whether the listing will be circulated on an MLS.

- ✓ Agreement must state its term including any post-termination protection period, exclusivity, and agent appointment
- ✓ Consent to disclosed dual or designated agency requires separate initialing or signature plus acknowledgment the dual agent won't favor one party

✓

Agreement must disclose compensation, how it is calculated, whether shared, and that broker compensation is fully negotiable and NOT set by law

13.6 Duties Owed to Principal and All Parties

When acting as buyer's, seller's, disclosed dual, or designated agent, the firm owes non-waivable duties: strict compliance with agency law/fiduciary principles; reasonable skill and care; honesty and good faith; timely presentation of all written offers/counteroffers with written confirmation of receipt; obtaining a signed property condition disclosure statement (residential seller); disclosing all known material physical-condition information; accounting to the principal; providing the Consumer Information Statement in residential deals; written agency disclosure no later than signing; and reasonable effort to obtain material info and financial qualifications of buyers.

- ✓ Core duties (skill/care, honesty/good faith, agency compliance, timely offer presentation) may NOT be waived
- ✓ In a residential transaction the firm must provide the Consumer Information Statement and obtain a signed acknowledgment of receipt
- ✓ The firm must disclose in writing, no later than when the principal signs the agreement, which agency relationship it has (in a separate 'Agency Disclosure')
- ✓ The firm must disclose all known material information about the property's physical condition

13.7 Disclosed Dual Agency Requirements

A firm may act as a disclosed dual agent only with the informed consent of both parties, set forth in signed brokerage services agreements (residential) or otherwise in writing (commercial). A dual agent owes duties to both parties, must not take action detrimental to either, must not disclose confidential information about either, and must not advocate terms favorable to one party to the detriment of the other. A dual agent may be compensated by either or both parties if sources and amounts are disclosed in writing to both.

- ✓ Disclosed dual agency requires the informed written consent of BOTH parties
- ✓ A disclosed dual agent may not disclose confidential information about either party or advocate terms favorable to one to the detriment of the other
- ✓ A dual agent may receive compensation from either or both parties only if sources and amounts are disclosed in writing to both
- ✓ Presenting additional offers or showing competing properties does not constitute action adverse to a party

13.8 Designated Agency

When different licensees at the same firm (or the same firm) would represent both buyer and seller, the firm may designate one licensee to solely represent the buyer and another to solely represent the seller. Designated agents are NOT dual agents — each owes fiduciary duties solely to their respective principal. A designated agency relationship requires a written designated agency agreement (which may be part of the brokerage services agreement) with the informed written consent of each party.

- ✓ Designated agents are NOT dual agents and owe fiduciary duties solely to their respective principals
- ✓ Designated agency requires a written agreement with the informed written consent of each party
- ✓ A designated agent may receive compensation from either or both parties if sources and amounts are disclosed in writing to both

13.9 Mandatory Open-House Disclosure Sign

At any residential property showing generally open to the public, a sign must be posted at the entrance or on the sign-in sheet advising prospective buyers that the hosting firm represents the seller only and has no relationship with the buyer. The statute prescribes exact sign text stating the agent represents the seller, that information given is NOT confidential and may be disclosed to the seller, and that the buyer is entitled to a buyer's agent. Buyers already exclusively represented must disclose this on the sign-in sheet.

- ✓ A sign must be posted at the open-house entrance or on the sign-in sheet stating the firm represents the seller only
- ✓ The mandated text must warn that information given is NOT considered confidential and could be disclosed to the seller
- ✓ A buyer already exclusively represented by a buyer's agent must disclose that representation on the sign-in sheet
- ✓ The open-house agent is not precluded from becoming a disclosed dual agent or designated agent if the buyer agrees

13.10 Buyer's Agent and Seller's Agent Specific Duties

A buyer's agent owes: loyalty (no action adverse to buyer); timely disclosure of conflicts of interest; advising the buyer to seek expert advice; non-disclosure of confidential information (even after termination) unless authorized or legally required; and a good-faith continuous effort to find a property (until under contract past attorney review). Seller's agents owe parallel duties toward the seller. Showing property to other prospective buyers, or representing multiple buyers/sellers in competing transactions, does not breach loyalty or create a conflict.

- ✓ Buyer's/seller's agent duties of loyalty and confidentiality may not be waived (except items 4 and 5)
- ✓ Confidential information may not be disclosed even after termination unless authorized by the principal or required by law
- ✓ The good-faith effort to find property/buyer ends once under a contract no longer subject to attorney review
- ✓ Showing a property to other buyers or representing competing buyers/sellers does not breach loyalty or create a conflict

13.11 Compensation Rules and Non-Establishment of Agency

Compensation may be paid by the seller, buyer, third party, or shared between firms, but agreements must be in writing signed by the seller or buyer. Payment of compensation does not by itself establish an agency relationship. Compensation may be a flat fee, a percentage, or any lawful method (all deemed commission). To receive compensation, a firm generally needs a written brokerage services agreement (with buyer or seller in residential; with the seller but not buyer in commercial). Exceptions: broker's price opinions, comparative market analyses, and no-services referrals between firms.

- ✓ Compensation agreements must be in writing signed by the seller or buyer, as applicable
- ✓ Payment of, or an agreement to pay, compensation does NOT by itself establish an agency relationship
- ✓ A firm generally must have a written brokerage services agreement to receive compensation, except for BPOs, CMAs, and no-services referrals between firms
- ✓ A firm may be compensated by more than one party regardless of its agency/transaction-broker relationship if disclosed

13.12 Termination of Agency and Transaction Broker Relationships

A relationship continues until the earliest of: completion of performance; expiration of the agreed term; mutual agreement to terminate; or termination by written notice per the agreement. Termination by mutual agreement or written notice requires written confirmation to take effect; completion or expiration does not. After termination the firm owes only a timely accounting and continued non-disclosure of confidential information. A disclosed dual agent's agreements (absent expiration/closing) can only be terminated in writing signed by the party with confirmed delivery.

- ✓ A relationship ends at the earliest of completion, expiration of term, mutual agreement, or written notice
- ✓ Termination by mutual agreement or written notice requires written confirmation to take effect
- ✓ After termination the firm owes only a timely accounting and continued protection of confidential information

13.13 Liability and Knowledge Imputation Protections

A principal is not liable for an agent's or transaction broker's act/error/omission unless the principal participated in, authorized, or benefited from it (liability limited to the benefit, absent punitive damages). A firm is not liable for property-condition information the seller failed to provide if the firm made reasonable efforts (seller inquiry and visual inspection). A principal is generally not charged with knowledge of facts known only to the firm, and vice versa, if reasonable efforts were made.

- ✓ A principal is not liable for the agent's/transaction broker's acts unless the principal participated in, authorized, or benefited from them
- ✓ A firm is not liable for property-condition information the seller failed to provide if reasonable efforts (inquiry plus visual inspection) were made
- ✓ Facts known only to the firm are generally not imputed to the principal, and vice versa, absent a written agreement

13.14 NJREC Rulemaking Authority and Cumulative Remedies

The New Jersey Real Estate Commission may promulgate regulations under the Administrative Procedure Act to effectuate the purposes of the Act, including addressing other types of agency or business relationships. The rights, remedies, and prohibitions under the Act are in addition to and cumulative of any other common-law or statutory rights, and nothing in the Act denies, abrogates, or impairs those rights.

- ✓ NJREC may adopt regulations under the Administrative Procedure Act to effectuate the Act
- ✓ The Act's rights, remedies, and prohibitions are cumulative of, and additional to, common-law and statutory rights

CHAPTER 14

Supplement: License Law Discipline

14.1 Prohibited Acts and Grounds for Discipline; Commission Penalties

N.J.S.A. 45:15-17 lists the conduct for which the Real Estate Commission may place on probation, suspend or revoke a license and/or impose fines, including substantial misrepresentation, false promises, acting for more than one party without the knowledge and consent of all parties, undisclosed dual agency, failing to account for or remit funds, commingling, paying compensation to unlicensed persons, failing to provide copies of documents, false or misleading advertising, discrimination in violation of the Law Against Discrimination, and any conduct demonstrating unworthiness, incompetency, bad faith or dishonesty. The Commission may impose a penalty of up to $5,000 for a first violation and up to $10,000 for each subsequent violation, in addition to license action. Discipline requires written notice and an opportunity for a hearing before the Commission (N.J.S.A. 45:15-17.1 et seq.), and Commission decisions are appealable to the Appellate Division. Unlicensed practice is also subject to civil penalties in the same amounts. Source: N.J.S.A. 45:15-17; 45:15-17.1; 45:15-3

- ✓ Maximum fine: $5,000 for a first violation, $10,000 for each subsequent violation
- ✓ Acting for more than one party without the knowledge and consent of all parties is a ground for discipline
- ✓ Failure to account for or promptly remit money belonging to others is grounds for suspension or revocation
- ✓ Discipline requires notice and an opportunity for a hearing before the Commission
- ✓ Paying a commission or fee to an unlicensed person is a violation

14.2 Real Estate Guaranty Fund

The Real Estate Guaranty Fund (N.J.S.A. 45:15-34 to 45:15-42) compensates members of the public who obtain a final judgment against a licensee based on fraud, misrepresentation, deceit or conversion of trust funds in a real estate transaction and who cannot collect the judgment. Every applicant pays a one-time assessment into the fund at initial licensure (brokers and salespersons pay different amounts; verify current amounts). Recovery from the fund is capped per transaction (commonly cited as $20,000; verify current amount), and the claimant must first exhaust other remedies. When the fund pays a claim, the licensee's license is automatically suspended and may not be reinstated until the fund is repaid in full with interest. Source: N.J.S.A. 45:15-34 to 45:15-42

- ✓ Fund pays only on an unsatisfied final judgment against a licensee for fraud, misrepresentation, deceit or conversion
- ✓ Applicants pay a one-time assessment into the fund at initial licensure
- ✓ Payment from the fund is capped per transaction (verify current cap)
- ✓ License is automatically suspended until the fund is repaid with interest

CHAPTER 15

Supplement: Agency Disclosure

15.1 Consumer Information Statement (CIS) and Business Relationship Declaration

N.J.A.C. 11:5-6.9 requires every licensee, in transactions involving residential property of one to four units or vacant one-family lots, to give the Consumer Information Statement on New Jersey Real Estate Relationships to prospective sellers, landlords, buyers and tenants at the first scheduled in-person meeting, or before any business relationship is formed, whichever comes first. The CIS explains the four permitted relationships: seller's agent, buyer's agent, disclosed dual agent and transaction broker. The consumer signs an acknowledgment of receipt, and the licensee must include a written declaration of business relationship in every listing agreement, buyer agency agreement, sales contract and lease. Disclosed dual agency requires the informed written consent of both parties. Source: N.J.A.C. 11:5-6.9

- ✓ CIS must be given at the first scheduled in-person meeting or before a business relationship is created, whichever is first
- ✓ Applies to residential 1-4 family property and vacant one-family lots
- ✓ Four relationships: seller's agent, buyer's agent, disclosed dual agent, transaction broker
- ✓ Declaration of business relationship must appear in listings, buyer agreements, contracts and leases
- ✓ Dual agency requires informed written consent of both parties

CHAPTER 16

Supplement: Contracts and Closing Practice

16.1 Attorney Review Clause in Licensee-Prepared Contracts and Leases

Under N.J.A.C. 11:5-6.2(g), which implements the New Jersey Supreme Court's settlement in the State Bar v. Board of Realtors matter (Opinion 26), a licensee may prepare a contract of sale for residential property of one to four units or a vacant one-family lot, and a residential lease of one year or more, only on a form containing the mandatory attorney review clause. Either party may have an attorney review the fully executed contract within three business days after delivery to both parties; the attorney may disapprove the contract by notifying the broker and the other party within that period, after which the contract is void unless the parties agree to revisions. Since Conley v. Guerrero (N.J. 2017) the disapproval notice may be sent by certified mail, fax, e-mail or personal delivery. If no disapproval is given within three business days the contract becomes legally binding. New Jersey does not require an attorney at closing; attorney closings are customary in the north and title company closings in the south. Source: N.J.A.C. 11:5-6.2(g); Conley v. Guerrero, 228 N.J. 339 (2017)

- ✓ Attorney review period is 3 business days from delivery of the fully signed contract
- ✓ Applies to residential 1-4 family sales, vacant one-family lots and residential leases of one year or more
- ✓ Disapproval must be delivered to the broker and other party within the period; may be by certified mail, fax, e-mail or personal delivery
- ✓ Contract becomes binding if not disapproved within 3 business days
- ✓ No attorney is legally required at a New Jersey closing

CHAPTER 17

Supplement: Brokerage Practice

17.1 Advertising Rules for Licensees

N.J.A.C. 11:5-6.1 requires that all advertising by a licensee, including internet and social media advertising, be under the direct supervision of the broker and include the regular business name of the brokerage firm; blind ads that omit the broker's name are prohibited. A salesperson or broker-salesperson may not advertise in his or her own name alone, and team names may not be used in a way that implies the team is a separate brokerage. Advertising must not be false or misleading, and a licensee advertising property he or she owns must disclose that the owner is a licensed real estate agent. For-sale and for-rent signs may be placed only with the written consent of the owner, and broker signs must show the brokerage name. Source: N.J.A.C. 11:5-6.1

- ✓ Every advertisement must contain the regular business name of the broker; blind ads are prohibited
- ✓ Salespersons may advertise only under the broker's supervision and with the broker's name
- ✓ Licensees selling or renting their own property must disclose their licensed status in ads
- ✓ Signs may be placed on property only with the owner's written consent

17.2 Listing Agreement Requirements and Presentation of Offers

N.J.A.C. 11:5-6.2 requires that every listing agreement be in writing, signed by the owner, and state a definite expiration date; automatic renewal or extension clauses are prohibited. A copy of the signed listing must be delivered to the owner at the time of signing, and the Attorney General's fair housing memorandum must be attached to every listing agreement. The licensee must explain the type of listing (open, exclusive agency, exclusive right to sell) and the owner's obligation to pay commission in each situation. All written offers must be presented promptly to the seller, and the broker must deliver copies of every contract, offer and document to the parties who signed them; the broker must also notify the owner in writing of any offer presented after the owner has accepted another offer. Source: N.J.A.C. 11:5-6.2

- ✓ Listings must be written, signed by the owner, with a definite expiration date and no automatic renewal
- ✓ Owner receives a copy of the listing at signing; AG fair housing memorandum must be attached
- ✓ All written offers must be presented promptly, even after acceptance of another offer
- ✓ Copies of all contracts and offers must be delivered to the signing parties

CHAPTER 18

Supplement: Fair Housing

18.1 New Jersey Law Against Discrimination: Protected Classes and Exemptions

The New Jersey Law Against Discrimination (N.J.S.A. 10:5-1 et seq.) prohibits discrimination in the sale, rental, advertising and financing of housing and in brokerage services. Protected classes go well beyond federal law and include race, creed, color, national origin, ancestry, nationality, age, marital status, civil union status, domestic partnership status, affectional or sexual orientation, gender identity or expression, sex, pregnancy, familial status, disability, liability for military service, and source of lawful income or rental assistance (including Section 8 vouchers). The LAD exempts the rental of a single apartment in an owner-occupied two-family dwelling and the rental of rooms in an owner-occupied one-family home, but no exemption applies to licensees or to discriminatory advertising. Complaints are filed with the Division on Civil Rights within 180 days; penalties are up to $10,000 for a first violation, $25,000 for a second within five years and $50,000 for a third within seven years. Listing agreements must have the Attorney General's fair housing memorandum attached. Source: N.J.S.A. 10:5-4, 10:5-5(n), 10:5-12(g)-(h), 10:5-14.1a; N.J.A.C. 11:5-6.2

- ✓ NJ adds source of lawful income, marital/civil union/domestic partnership status, sexual orientation, gender identity, age, ancestry and military liability to federal classes
- ✓ Owner-occupied two-family (one unit rented) and rooms in owner-occupied one-family homes are exempt
- ✓ Complaints to the Division on Civil Rights within 180 days
- ✓ Penalties: $10,000 first, $25,000 second within 5 years, $50,000 third within 7 years
- ✓ Refusing a Section 8 voucher holder is source-of-income discrimination

CHAPTER 19

Supplement: Landlord-Tenant Law

19.1 Rent Security Deposit Act and Tenant Protections

Under the Rent Security Deposit Act (N.J.S.A. 46:8-19 to 46:8-26) a residential landlord may collect a security deposit of no more than one and one-half months' rent, and any additional deposit collected on renewal may not exceed 10 percent of the current deposit per year. The deposit must be placed in an interest-bearing account in a New Jersey institution, with written notice to the tenant of the institution, amount and interest rate within 30 days of receipt, and interest paid or credited annually. Within 30 days after the tenancy ends the landlord must return the deposit plus interest less itemized deductions by personal delivery or certified mail; failure exposes the landlord to double the amount wrongfully withheld. Owner-occupied buildings of three or fewer units are exempt unless the tenant requests coverage in writing. The Anti-Eviction Act (N.J.S.A. 2A:18-61.1) allows eviction of residential tenants only for statutory good cause, and the Truth in Renting Act (N.J.S.A. 46:8-43 et seq.) requires landlords of certain buildings to give tenants the state's tenant rights statement. Source: N.J.S.A. 46:8-19 to 46:8-26; 2A:18-61.1; 46:8-43

- ✓ Maximum residential security deposit: 1.5 months' rent
- ✓ Written notice of deposit account to tenant within 30 days of receipt; interest paid annually
- ✓ Deposit returned with itemized deductions within 30 days after tenancy ends; penalty is double the amount wrongfully withheld
- ✓ Owner-occupied buildings of 3 or fewer units are exempt unless tenant requests coverage in writing
- ✓ Residential eviction requires statutory good cause under the Anti-Eviction Act

CHAPTER 20

Supplement: Transfer and Property Taxes

20.1 Realty Transfer Fee and the Fee on Sales Over $1,000,000

New Jersey imposes a Realty Transfer Fee on the recording of deeds, paid by the seller (grantor), computed on graduated rates per $500 of consideration that increase with the sale price (verify current rate schedule). Deeds for consideration under $100 and certain other transfers are exempt, and partial exemptions apply to qualifying senior citizens, blind or disabled persons, and low- and moderate-income housing. A separate fee applies to residential (and certain other) property sold for more than $1,000,000 (the so-called mansion tax); historically 1 percent paid by the buyer, but under P.L.2025, c.69, effective July 10, 2025, the fee is paid by the seller at graduated rates from 1 percent for sales over $1,000,000 up to 3.5 percent for sales over $3,500,000 (verify current brackets). An Affidavit of Consideration is filed with the deed when an exemption is claimed. Source: N.J.S.A. 46:15-5 et seq.; 46:15-7.2; P.L.2025, c.69

- ✓ Realty Transfer Fee is paid by the seller at deed recording on graduated rates per $500 of consideration
- ✓ Deeds for consideration under $100 are exempt; partial exemptions for seniors, blind/disabled and low-moderate income housing
- ✓ Fee on transfers over $1,000,000 now paid by the seller (since July 10, 2025) at graduated rates of 1% to 3.5%
- ✓ Affidavit of Consideration accompanies the deed when claiming an exemption

20.2 Nonresident Seller Estimated Tax Payment (GIT/REP Forms)

Under N.J.S.A. 54A:8-8 to 54A:8-10, a nonresident individual, estate or trust selling New Jersey real property must pay an estimated gross income tax at or before closing equal to the greater of 2 percent of the total consideration or the highest marginal income tax rate (10.75 percent) applied to the gain (verify current rate). The seller files Form GIT/REP-1 with the payment; resident sellers and sellers claiming a statutory exemption (such as a principal residence qualifying for the federal exclusion) file the Seller's Residency Certification/Exemption (GIT/REP-3). The county clerk will not record the deed unless the appropriate GIT/REP form is attached. This is often called the New Jersey exit tax, though it is a prepayment of income tax, not an additional tax. Source: N.J.S.A. 54A:8-8 to 54A:8-10

- ✓ Nonresident sellers prepay the greater of 2% of consideration or 10.75% of gain at closing
- ✓ GIT/REP-1 is the nonresident payment form; GIT/REP-3 is the resident/exemption certification
- ✓ Deed cannot be recorded without the GIT/REP form
- ✓ It is an estimated income tax payment, not a separate tax

CHAPTER 21

Supplement: Property Condition Disclosures

21.1 Licensee Duty to Disclose Defects; Off-Site Conditions and Megan's Law Notices

New Jersey has no statute mandating a seller property condition disclosure form, but N.J.A.C. 11:5-6.4(b) requires licensees to make reasonable efforts to ascertain all material information about the physical condition of a property and to disclose known material defects to prospective buyers or tenants, and sellers and licensees are liable under the Consumer Fraud Act and case law (Weintraub v. Krobatsch) for concealing latent defects. The New Residential Construction Off-Site Conditions Disclosure Act (N.J.S.A. 46:3C-1 et seq.) requires a seller of newly constructed housing to give the buyer written notice that lists of off-site conditions (such as contaminated sites and landfills) are available from the municipal clerk; the buyer may cancel within five business days after receiving the notice if it was not given before contract signing. Contracts prepared by licensees for residential sales must include the statutory Megan's Law notice informing buyers that sex offender registry information is available through local police and the State Police internet registry (verify exact citation). Licensees are not required to disclose psychological stigma such as a prior death on the property, but must answer material questions truthfully. Source: N.J.A.C. 11:5-6.4; N.J.S.A. 46:3C-1 to 46:3C-12; N.J.S.A. 2C:7-1 et seq.; N.J.S.A. 56:8-1 et seq.

- ✓ No statutory seller disclosure form, but licensees must disclose known material defects and make reasonable inquiry
- ✓ Off-Site Conditions Act: new construction buyers get notice that municipal clerk lists are available; 5 business days to cancel if notice comes after contract
- ✓ Residential sale contracts must include a Megan's Law registry notice
- ✓ Stigmatized-property facts (death, suicide) need not be volunteered in New Jersey
- ✓ Concealing latent defects violates the Consumer Fraud Act

CHAPTER 22

Supplement: State disclosures

22.1 Flood Risk Notification Law: Seller and Landlord Flood Disclosures

P.L. 2023, c.93 (effective March 20, 2024) requires sellers of real property to disclose flood risk on the Property Condition Disclosure Statement, including whether the property is in a FEMA Special Flood Hazard Area (100-year) or Moderate Risk Flood Hazard Area (500-year), any knowledge of past flood damage, prior flood insurance claims, receipt of federal flood disaster assistance, and any resulting obligation to maintain flood insurance. Landlords must give every prospective tenant a written flood-risk notice before the lease is signed and include it in the lease, using the Department of Community Affairs form. If a landlord fails to give the notice and the tenant suffers flood loss, the tenant may terminate the lease and recover damages. The law also requires disclosure of whether the property has been identified in the DEP flood mapping tool. Source: P.L. 2023, c.93 (N.J.S.A. 46:3C-10 and N.J.S.A. 46:8-50)

- ✓ Effective March 20, 2024, NJ sellers must disclose flood risk and flood history on the Property Condition Disclosure Statement.
- ✓ Disclosure covers both the 100-year Special Flood Hazard Area and the 500-year Moderate Risk area, plus prior flood damage, insurance claims and federal aid received.
- ✓ Landlords must give a written flood-risk notice before lease signing and include it in every residential lease.
- ✓ A tenant who did not receive the notice and later suffers flood damage may terminate the lease and seek damages.

22.2 Private Well Testing Act

The Private Well Testing Act (N.J.S.A. 58:12A-26 et seq.; N.J.A.C. 7:9E) requires that, before closing on the sale of any property whose potable water comes from a private well, the water be tested by a DEP-certified laboratory for parameters including total coliform, nitrate, iron, manganese, pH, volatile organic compounds, lead and, in specified counties, arsenic, mercury, uranium or gross alpha radioactivity. Both buyer and seller must receive the results and sign a certification at closing acknowledging receipt; the test must have been performed within one year before closing. Landlords of properties served by a private well must test at least every five years and give tenants a copy of the results within 30 days of receipt. The Act does not require the seller to remediate; failing results are a matter for negotiation. Results are reported to DEP and are confidential except as to the parties. Source: N.J.S.A. 58:12A-26 et seq.; N.J.A.C. 7:9E

- ✓ Sale of property served by a private well requires a certified water test before closing.
- ✓ Buyer and seller must both receive the results and sign a written certification of receipt at closing.
- ✓ Test results must be less than one year old at closing.
- ✓ Landlords must test private wells at least every 5 years and give tenants results within 30 days.
- ✓ The Act mandates testing and disclosure, not treatment or remediation.

22.3 Radon Test Disclosure and Lead-Safe Certification of Rental Units

Under N.J.S.A. 26:2D-73, radon test results and remediation records are confidential, but a seller who has had a radon test or mitigation performed must provide the buyer with a copy of the results and evidence of any remediation at the time the contract of sale is entered. The Lead-Based Paint Inspection Law (P.L. 2021, c.182, N.J.S.A. 52:27D-437.16 et seq., effective July 22, 2022) requires every residential rental unit built before 1978 to be inspected for lead-based paint hazards at each tenant turnover or at least every 3 years, whichever comes first. A lead-safe certificate is valid for 2 years; a lead-free certificate is permanent. Exemptions include seasonal rentals occupied less than 6 months per year, units certified lead-free, and multiple dwellings registered with DCA for at least 10 years with no outstanding lead violations. Landlords pay a $20 per-unit fee into the Lead Hazard Control Assistance Fund at each inspection. Source: N.J.S.A. 26:2D-73; N.J.S.A. 52:27D-437.16 et seq.

- ✓ A seller who has radon test or mitigation results must give them to the buyer when the contract is signed.
- ✓ Pre-1978 rental units must be inspected for lead hazards at tenant turnover or every 3 years.
- ✓ A lead-safe certificate lasts 2 years; a lead-free certificate does not expire.
- ✓ Seasonal rentals of less than 6 months per year are exempt from the lead inspection law.

CHAPTER 23

Supplement: Landlord-tenant law

23.1 Anti-Eviction Act: Good Cause, Notice Periods and Prohibition on Self-Help

The Anti-Eviction Act (N.J.S.A. 2A:18-61.1) bars removal of a residential tenant except for one of the statutory good causes, such as nonpayment of rent, disorderly conduct, willful damage, habitual late payment after written notice, substantial lease breach, or owner personal occupancy of a building of three or fewer units. The Act does not protect tenants in owner-occupied buildings of three or fewer units (other than for nonpayment procedures). Notice to quit periods vary by ground: none for nonpayment, 3 days for disorderly conduct or damage, 1 month for most lease violations and late payment, 2 months for owner occupancy, 18 months for permanent retirement of the building from residential use, and 3 years for condominium or cooperative conversion. Eviction requires a judgment for possession from the Superior Court, Special Civil Part, followed by a warrant of removal executed by a court officer; lockouts, utility shutoffs and other self-help are unlawful (N.J.S.A. 2A:39-1). Rent control is municipal, not statewide, and rent increases may be challenged only as unconscionable. Source: N.J.S.A. 2A:18-61.1 et seq.; N.J.S.A. 2A:39-1

- ✓ Residential tenants may be evicted only for a statutory good cause listed in N.J.S.A. 2A:18-61.1.
- ✓ Owner-occupied buildings of three or fewer units are outside most Anti-Eviction Act protections.
- ✓ Notice to quit: 3 days for disorderly conduct/damage, 1 month for lease violations or habitual late payment, 2 months for owner occupancy, 3 years for condo conversion.
- ✓ Only a court officer with a warrant of removal may evict; self-help lockouts are illegal.
- ✓ Rent control exists only where a municipality adopts an ordinance; there is no statewide rent control.

23.2 Truth-in-Renting Act and Landlord Identity Registration

The Truth-in-Renting Act (N.J.S.A. 46:8-43 et seq.) requires landlords of residential buildings with two or more units (other than owner-occupied buildings of two or three units) to give each tenant a copy of the current Department of Community Affairs Truth-in-Renting statement of rights and responsibilities and to post it in the building; violations carry a penalty of $100 per offense, and lease clauses that waive statutory tenant rights are unenforceable. The Landlord Identity Law (N.J.S.A. 46:8-27 et seq.) requires owners of one- and two-unit rentals to file a registration statement with the municipal clerk and owners of buildings with three or more units to register with the DCA Bureau of Housing Inspection; a copy must be given to each tenant, and a landlord who has not registered cannot obtain a judgment for possession until compliance. Multiple dwellings of three or more units are inspected by DCA every five years under the Hotel and Multiple Dwelling Law. Source: N.J.S.A. 46:8-43 et seq.; N.J.S.A. 46:8-27 et seq.; N.J.S.A. 55:13A-1 et seq.

- ✓ Landlords of 2 or more units (except owner-occupied 2-3 unit buildings) must give tenants the DCA Truth-in-Renting statement.
- ✓ Penalty for Truth-in-Renting violations is $100 per offense.
- ✓ 1- and 2-unit rentals register with the municipal clerk; 3 or more units register with DCA.
- ✓ An unregistered landlord cannot obtain a judgment for possession until registration is completed.

✓

Multiple dwellings of 3 or more units are inspected by DCA every 5 years.

CHAPTER 24

Supplement: Condominium and HOA Law

24.1 Planned Real Estate Development Full Disclosure Act and Condominium Act

The Planned Real Estate Development Full Disclosure Act (PREDFDA, N.J.S.A. 45:22A-21 et seq.) requires developers of condominiums, cooperatives, homeowner associations and other planned developments to register the development with the Department of Community Affairs and deliver a Public Offering Statement to each purchaser before the purchase contract is signed. The purchaser has a seven-day right to cancel the contract after receiving the Public Offering Statement, and the deposit must be returned. The act also governs the transition of control of the association from the developer to unit owners in stages as units are sold. The Condominium Act (N.J.S.A. 46:8B-1 et seq.) establishes condominium ownership through a recorded master deed, unit deeds and bylaws, gives the association a lien for unpaid assessments (with a limited six-month priority over prior mortgages), and requires an association to provide governing documents and financial information to owners. Source: N.J.S.A. 45:22A-21 et seq.; N.J.S.A. 46:8B-1 et seq.

- ✓ Developers must register with the DCA and give a Public Offering Statement before contract
- ✓ Purchaser has 7 days after receipt of the Public Offering Statement to cancel
- ✓ Condominium is created by recording a master deed under the Condominium Act
- ✓ Association lien for unpaid assessments has a limited 6-month priority over prior mortgages

CHAPTER 25

Supplement: Closing practice

25.1 Smoke Alarm, Carbon Monoxide Alarm and Fire Extinguisher Compliance Certificate

Under the Uniform Fire Code (N.J.A.C. 5:70-2.3), before a one- or two-family dwelling is sold, leased or otherwise changes occupancy, the owner must obtain a Certificate of Smoke Alarm, Carbon Monoxide Alarm and Portable Fire Extinguisher Compliance from the local fire official. Smoke alarms are required on every level and outside each sleeping area, carbon monoxide alarms near sleeping areas in dwellings with fuel-burning appliances or attached garages, and a portable fire extinguisher rated at least 2A:10B:C (maximum 10 pounds) within 10 feet of the kitchen. Battery-operated smoke alarms installed as replacements must be 10-year sealed-battery units. The certificate is generally valid for 6 months and is typically a seller closing requirement; verify the current local fee. Source: N.J.A.C. 5:70-2.3; N.J.A.C. 5:70-4.19

- ✓ Sale or change of occupancy of a 1- or 2-family dwelling requires a fire official certificate for smoke alarms, CO alarms and a fire extinguisher.
- ✓ Extinguisher must be rated at least 2A:10B:C, no more than 10 pounds, within 10 feet of the kitchen.
- ✓ Replacement battery smoke alarms must be 10-year sealed-battery type.
- ✓ The certificate is valid for about 6 months from issuance.

25.2 Bulk Sale Notification (Form C-9600) for Commercial and Rental Property

Under N.J.S.A. 54:50-38, a purchaser of business assets, which includes commercial real property and residential rental property, must notify the Division of Taxation on Form C-9600 with a copy of the contract at least 10 business days before closing so the State can collect any taxes owed by the seller. The Division has 10 business days to respond with an escrow letter; if the purchaser fails to file or closes early, the purchaser becomes personally liable for the seller's unpaid state taxes up to the purchase price. P.L. 2011, c.124 exempts the sale of a simple dwelling (a one- or two-family residence or seasonal rental) owned by an individual, estate or trust. Escrowed funds are released when the Division issues a clearance letter. Source: N.J.S.A. 54:50-38

- ✓ Form C-9600 must be filed with the Division of Taxation at least 10 business days before closing on commercial or rental property.
- ✓ The Division has 10 business days to respond with an escrow requirement.
- ✓ A buyer who fails to file becomes liable for the seller's unpaid NJ taxes.
- ✓ Sales of 1- or 2-family homes and seasonal rentals owned by individuals, estates or trusts are exempt.

CHAPTER 26

Supplement: New construction

26.1 New Home Warranty and Builders' Registration Act

The New Home Warranty and Builders' Registration Act (N.J.S.A. 46:3B-1 et seq.; N.J.A.C. 5:25) requires every builder of new homes to register with the Department of Community Affairs and to provide a warranty, either through the State plan or an approved private plan, before a certificate of occupancy may be issued. The warranty covers defects in workmanship and materials for 1 year, defects in plumbing, electrical, heating and cooling systems for 2 years, and major structural defects for 10 years, running from the warranty commencement date (closing or first occupancy). Filing a claim under the warranty program is an election of remedies that bars a court action on the same defect, and vice versa. Cooperatives, condominiums and other new dwellings are covered; homes built by the owner for personal use are generally excluded. Source: N.J.S.A. 46:3B-1 et seq.; N.J.A.C. 5:25

- ✓ New home builders must register with DCA and provide a warranty before a CO is issued.
- ✓ Warranty coverage: 1 year workmanship and materials, 2 years mechanical systems, 10 years major structural defects.
- ✓ Coverage runs from the warranty commencement date, the earlier of closing or occupancy.
- ✓ Pursuing a warranty claim is an election of remedies that bars a lawsuit on the same defect.

CHAPTER 27

Supplement: Property tax

27.1 Property Tax Assessment, Deductions, Appeals and Tax Sale Redemption

Real property in New Jersey is assessed by the municipal assessor at true (market) value as of October 1 of the pretax year (N.J.S.A. 54:4-23), and taxes are payable quarterly on February 1, May 1, August 1 and November 1, with a customary 10-day grace period. Appeals are filed with the County Board of Taxation by April 1 (May 1 in a municipality that has completed a revaluation or reassessment); assessments over $1,000,000 may be appealed directly to the Tax Court. Statutory deductions include $250 per year for qualifying senior citizens, disabled persons and surviving spouses (income limit $10,000 excluding Social Security), $250 for veterans, and a full exemption for 100 percent permanently disabled veterans; state programs such as Senior Freeze, ANCHOR and Stay NJ provide reimbursements or credits (verify current amounts). The Farmland Assessment Act requires at least 5 acres actively devoted to agriculture with minimum annual income and imposes a 3-year rollback tax when use changes. Delinquent taxes are sold at a municipal tax sale as tax sale certificates bearing up to 18 percent interest; a third-party certificate holder must wait 2 years (a municipality 6 months) before foreclosing the owner's right of redemption. Source: N.J.S.A. 54:4-23; N.J.S.A. 54:3-21; N.J.S.A. 54:4-8.41; N.J.S.A. 54:5-86

- ✓ Assessment date is October 1 of the pretax year; taxes are due quarterly on Feb 1, May 1, Aug 1 and Nov 1.
- ✓ Tax appeals are due April 1 (May 1 after a revaluation); assessments over $1,000,000 may go directly to Tax Court.
- ✓ Senior/disabled and veteran deductions are $250 each; 100 percent disabled veterans are fully exempt.
- ✓ Farmland assessment needs at least 5 acres and carries a 3-year rollback tax on change of use.
- ✓ A third-party tax sale certificate holder must wait 2 years before foreclosing the right of redemption.

CHAPTER 28

Supplement: Foreclosure and mortgage law

28.1 Judicial Foreclosure, the Fair Foreclosure Act and Redemption

New Jersey is a judicial foreclosure state; mortgage foreclosures are filed in the Superior Court, Chancery Division, and the property is sold by the county sheriff after final judgment. The Fair Foreclosure Act (N.J.S.A. 2A:50-53 et seq.) requires the lender on a residential mortgage to serve a written Notice of Intention to Foreclose at least 30 days before filing the complaint, and gives the debtor the right to cure the default and reinstate the loan at any time up to entry of final judgment (limited to once every 18 months). The debtor is entitled to two statutory adjournments of the sheriff sale of up to 30 days each, and 2019 amendments require the sheriff to conduct the sale within 150 days of receiving the writ (verify current time frames). After the sheriff sale, the mortgagor has a 10-day period to object and redeem before the deed is delivered; there is no longer post-sale statutory redemption period once the deed is delivered. A deficiency action must be commenced within 3 months after the sale, and a debtor sued for deficiency may seek fair market value credit. Source: N.J.S.A. 2A:50-53 et seq.; N.J.S.A. 2A:50-2; N.J. Court Rule 4:65-5

- ✓ NJ foreclosures are judicial, filed in Superior Court, Chancery Division, with sale by the county sheriff.
- ✓ A Notice of Intention to Foreclose must be served at least 30 days before the complaint is filed.
- ✓ The borrower may cure and reinstate up to entry of final judgment, once in any 18-month period.
- ✓ Borrower may redeem within 10 days after the sheriff sale before the deed is delivered.
- ✓ Deficiency suits must be filed within 3 months after the foreclosure sale.

28.2 Residential Mortgage Prepayment Without Penalty and New Jersey Usury Limits

N.J.S.A. 46:10B-2 provides that a mortgage loan secured by a dwelling of six or fewer family units occupied or to be occupied by the borrower may be prepaid in whole or in part at any time without penalty. When a mortgage is paid off, the lender must deliver a discharge or cancellation for recording within 30 days (verify current statutory period). New Jersey's general usury statute (N.J.S.A. 31:1-1) caps interest at 6 percent unless agreed in writing, and at 16 percent for written contracts, but first-lien residential mortgage loans are exempt from that cap and instead governed by the Commissioner of Banking; criminal usury under N.J.S.A. 2C:21-19 is interest above 30 percent for individuals and 50 percent for corporations. Mortgage lenders, brokers and originators are licensed by the Department of Banking and Insurance under the Residential Mortgage Lending Act. Source: N.J.S.A. 46:10B-2; N.J.S.A. 31:1-1; N.J.S.A. 2C:21-19; N.J.S.A. 17:11C-51 et seq.

- ✓ Owner-occupied residential mortgages on 1- to 6-family dwellings may be prepaid at any time without penalty.
- ✓ Civil usury cap is 6 percent oral and 16 percent written, but first-lien residential mortgages are exempt.
- ✓ Criminal usury is more than 30 percent for individuals and 50 percent for corporations.
- ✓ Mortgage lenders and originators are licensed by the NJ Department of Banking and Insurance, not the Real Estate Commission.

CHAPTER 29

Supplement: License law additions

29.1 New Jersey Real Estate Timeshare Act

The New Jersey Real Estate Timeshare Act (N.J.S.A. 45:15-16.50 et seq., P.L. 2006, c.63) is administered by the Real Estate Commission and requires developers to register each timeshare plan and deliver a public offering statement to every purchaser before the contract is signed. A purchaser may cancel the purchase contract without penalty within 7 calendar days after signing the contract or receiving the public offering statement, whichever is later, and all deposits must be held in escrow until the rescission period expires. Timeshare interests may be marketed in New Jersey only by New Jersey-licensed brokers and salespersons, and resale of timeshare interests is subject to specific advertising and fee restrictions. Violations are subject to Commission penalties and civil remedies. Source: N.J.S.A. 45:15-16.50 et seq.; N.J.A.C. 11:5-9A

- ✓ Timeshare plans must be registered with the NJ Real Estate Commission before being offered.
- ✓ Purchasers have a 7-calendar-day right to cancel after signing or receiving the public offering statement.
- ✓ Deposits must be escrowed until the rescission period ends.
- ✓ Only NJ-licensed brokers and salespersons may sell timeshare interests in New Jersey.