

**THE NEW JERSEY
REAL ESTATE LICENSE ACT**

**STATUTE
AND
RULES**

Phil Murphy, Governor

Sheila Oliver, Lt. Governor

Marlene Caride, Commissioner
Department of Banking and Insurance

Aurelio Romero, Executive Director
NJ Real Estate Commission



REVISED 11/2019

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STATE OF NEW JERSEY

REAL ESTATE COMMISSION MANUAL

FOREWORD

This Reference Manual contains the entire New Jersey Real Estate License Law, N.J.S.A. 45:15-1 et seq., as amended through P.L. 2019 Chapter 266 and J.R. 22 of the Second Annual Session of the New Jersey 218th Legislature, and all rules issued under the statute through the New Jersey Register, Vol. 51, No. 21, November 4, 2019. The text of the statute is an exact duplication of the official text of the law. The text of the rules is an exact duplication of the official text found in Title 11, Chapter 5 of the New Jersey Administrative Code.

Please direct any questions regarding this manual to: New Jersey Real Estate Commission, P.O. Box 328, Trenton, New Jersey 08625-0328.

Please direct any questions regarding the New Jersey Administrative Code and/or New Jersey Register to: Office of Administrative Law, P.O. Box 049, Trenton, New Jersey 08625.

PREFACE

This reference manual is being furnished to real estate licensees. It is being provided so that licensees may have the benefit of a current publication of the New Jersey License Law and the Rules promulgated thereunder.

The Real Estate Commission urges all brokers to make this manual part of their office library, conveniently available to all licensees.

This reference manual project was authorized pursuant to N.J.S.A. 45:15-16.2 as an educational and informational project. The Commission gratefully acknowledges the cooperation of the Commissioner of Banking and Insurance in releasing earnings from the New Jersey Guaranty Fund to enable this project to be accomplished at no cost to New Jersey taxpayers. Thus, all licensees can see tangible evidence of the benefits which accrue to them by their contributions to the Real Estate Guaranty Fund.

The New Jersey Real Estate Commission was created in 1921 by an act of the Legislature, N.J.S.A. 45:15-1 et. seq., entitled "An Act to define, regulate and license real estate brokers and salesmen, to create a State Real Estate Commission and to provide penalties for the violation of the provisions hereof." Five members of the Commission must be real estate brokers, licensed for a period of at least ten years; two members are public members and one member is a representative of an appropriate department of state government. All members of the Commission serve for a term of three years except the government representative who serves at the pleasure of the Governor.

CURRENT COMMISSIONERS – 2019

Linda Stefanik, President, Broker Member, since 2010 (Seaside Park)

Eugenia K. Bonilla, Vice-President, Broker Member, since 2012
(Mount Laurel)

Denise Illes, Department Representative, since 2015 (Trenton)

Christina Banasiak, Broker Member, since 2017 (Manalapan)

Darlene Bandazian, Broker Member, since 2018 (Ramsey)

Jacob Elkes, Public Member, since 2016 (Freehold)

Kathryn Godby Oram, Broker Member, since 2016 (Morristown)

Carlos Lejnieks, Public Member, since 2018 (Newark)

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Administration (609) 292-7272

Fax Number (609) 292-0944

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(Licensing) relic@dobi.nj.gov

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Licensing and Education Bureau (609) 292-7272
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Jaqueline Ferri

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CONTENTS

PROFESSIONS AND OCCUPATIONS TITLE 45, CHAPTER 15 REAL ESTATE BROKERS, BROKER-SALESPERSONS, AND SALESPERSONS

Section		Page
ARTICLE 1. GENERAL PROVISIONS		
45:15-1.	License required	1
45:15-1.1.	Role of housing referral aide	1
45:15-1.2.	License required for acceptance of compensation for providing assistance in locating rental housing	1
45:15-2.	"Engaging in business" defined	1
45:15-3.	Terms defined, license required for bringing action for compensation	1
45:15-3.1.	Payment of referral fee, commission to person licensed in another jurisdiction	2
45:15-3.2.	Written agreement	2
45:15-4.	Application of provisions of article limited	2
45:15-5.	New Jersey Real Estate Commission continued	3
45:15-6.	Commission salaries	3
45:15-7.	Provision, duties of personnel	3
45:15-8.	Seal; certified copies of records as evidence; public inspection of records	3
45:15-9.	Real estate licenses	3
45:15-10.	Examination required for initial licensure; term, renewal	5
45:15-10.1.	Educational requirements	5
45:15-10.2.	Waiver of educational requirements for licensure	6
45:15-10.3.	Bureau of Real Estate Education	6
45:15-10.4.	Licensure of real estate school	6
45:15-10.5.	Licensure as real estate instructor	6
45:15-10.6.	Application for, issuance of license as real estate school, fees	6
45:15-10.7.	Application for, issuance of license as real estate instructor; fees	7
45:15-10.8.	Director of real estate school	7
45:15-10.9.	Director of public adult education program	7
45:15-10.10.	Real estate school, instructor license	8
45:15-10.11.	Grounds for suspension, revocation of real estate school instructor license	8
45:15-10.12.	Restrictions on persons with revoked license	8
45:15-10.13.	Revocation of license of school; exceptions	8
45:15-10.14.	Power, authority of commission	8
45:15-11.	Disabled war veterans; granting of licenses	9
45:15-11.1,		
45:15-11.2.	Repealed by L. 1970, c. 255, § 2, eff. Nov. 2, 1970	9
45:15-11.3.	Issuance of temporary broker's license	9
45:15-12.	Broker to maintain office	9
45:15-12.1.	Bars to issuance of license	9
45:15-12.2.	Repeal	9
45:15-12.3.	Revoked license, disability to act	10
45:15-12.4.	Revocation of partnership, corporate license	10

Section	Page
45:15-12.5.	Maintenance of special account required 10
45:15-12.6.	Approval of depository institution 10
45:15-12.7.	Agent, custodian may not use interest on escrow funds 10
45:15-12.8.	Acceptance of monies 10
45:15-13.	Form of license; change of broker's address 10
45:15-14.	License kept by employing broker 11
45:15-15.	License fees 11
45:15-16.	Acceptance of commission, valuable consideration 12
45:15-16a.	Rebate paid by broker to purchaser 12
45:15-16b.	Advertisement for rebate 12
45:15-16c.	Regulations 12
45:15-16.1.	Repealed by L. 1975, c. 235, § 25, eff. Dec. 23, 1975 12
45:15-16.2.	Educational and information programs 12
45:15-16.2a.	Continuing education required; exceptions 12
45:15-16.2b.	Delivery of continuing education courses 13
45:15-16.2c.	Completion of continuing education requirements 13
45:15-16.2d.	Fulfillment of continuing education requirement 14
45:15-16.2e.	Core topics for continuing education courses 14
45:15-16.2f.	Maintenance of records by course providers 14
45:15-16.2g.	Rules, regulations 14
45:15-16.3 to 45:15-16.26.	Repealed by L. 1989, c. 239, § 24, eff. Jan. 2, 1990 14
45:15-16.27.	Short title [Real Estate Sales Full Disclosure Act] 14
45:15-16.28.	Definitions 14
45:15-16.29.	Bureau of Subdivided Land Sales Control continued 15
45:15-16.30.	Conditions for disposition of subdivided lands 15
45:15-16.30a.	Registration as secondary registration subdivider 15
45:15-16.31.	Subdivisions, subdivided lands subject to this act 17
45:15-16.32.	Inapplicability to offers, dispositions of an interest in a subdivision 17
45:15-16.33.	Notice of filing; registration; rejection 17
45:15-16.34.	Initial registration fee; inspection fee; consolidated filing fee 18
45:15-16.35.	Examination by commission 18
45:15-16.36.	Contents of statement of record 18
45:15-16.37.	Information available to public 19
45:15-16.38.	Public offering statement; not to be used for promotional purposes; amendments to; right to cancel 19
45:15-16.39.	Consolidated filing 20
45:15-16.40.	Report by subdivider 20
45:15-16.41.	Powers of commission 20
45:15-16.42.	Commission empowered to issue cease and desist orders 21
45:15-16.43.	Conditions for revocation of registration 21
45:15-16.44.	Commission empowered to bring action in Superior Court; intervene in suits 22
45:15-16.45.	Submission of applicant to the courts; methods of service 22
45:15-16.46.	Violations by brokers, salespeople; fines, penalties 22

Section	Page	
45:15-16.47.	Actions, counterclaims permitted against non-compliers	22
45:15-16.48.	Existing registrations deemed in force and effect	23
45:15-16.49.	Rules and regulations	23
45:15-16.50.	Short title [New Jersey Real Estate Timeshare Act]	23
45:15-16.51.	Definitions relative to timeshares	23
45:15-16.52.	Applicability of act	25
45:15-16.53.	Inapplicability of act	25
45:15-16.54.	Administration by Real Estate Commission	26
45:15-16.55.	Nonpreemption of local codes; supersedure of other regulation of timeshares	26
45:15-16.56.	Creation of timeshare plan	26
45:15-16.57.	Requirements for developers of timeshares, application, registration	26
45:15-16.58.	Responsibilities of timeshare developer for offering, marketing violations	29
45:15-16.59.	Public offering, disclosure statements; requirements	29
45:15-16.60.	Filing of annual reports by developer of timeshare	33
45:15-16.61.	Issuance of notice of filing of registration	33
45:15-16.62.	Review of registration; orders, schedule	34
45:15-16.63.	Deficiency notice, appeal	34
45:15-16.64.	Fee for initial registration	34
45:15-16.65.	Registrations required for sale	34
45:15-16.66.	Creation of provision for managing entity, duties	34
45:15-16.67.	Voidability of purchase contract	35
45:15-16.68.	Conditions for release of escrow funds to the developer	35
45:15-16.69.	Compliance by sales agents; non-monetary compensation	36
45:15-16.70.	Prohibitions relative to developers of timeshares	36
45:15-16.71.	Detailed financial records	37
45:15-16.72.	Maintenance of employee records	37
45:15-16.73.	Permitted action for partition	37
45:15-16.74.	Refusal to issue, renew; revocation, suspension of registration, penalties	37
45:15-16.75.	Powers of commission	38
45:15-16.76.	Determinations by commission; cease and desist order	38
45:15-16.77.	Violations	38
45:15-16.78.	Application for registration deemed submission to jurisdiction of courts	39
45:15-16.79.	Additional penalties	39
45:15-16.80.	Actions, counterclaims, remedies	39
45:15-16.81.	Valid registration required for action	39
45:15-16.82.	Rules	40
45:15-16.83.	Forms, procedures	40
45:15-16.84.	Investigation of matters relative to application for registration	40
45:15-16.85.	Existing timeshare plans remain in full force and effect	40
45:15-17.	Investigation of actions of licensees; suspension or revocation of licenses and causes therefor	40
45:15-17.1.	Temporary suspension of license	42
45:15-17.2.	Freezing accounts during suspension of broker's license	42
45:15-17.3.	Sanctions for noncomplying sales of mobile homes	42

Section		Page
45:15-17.4.	Rules, regulations	43
45:15-18.	Notification to licensee of charges made in license suspension, revocation	43
45:15-19.	Cause for revocation of license	43
45:15-19.1.	License revoked upon conviction	43
45:15-19.2.	License suspended when licensee is indicted	43
45:15-19.3.	No supercedure	43
45:15-20.	Nonresident licenses	43
45:15-21.	Filing of irrevocable consent to service	44
45:15-22.	Repealed by L. 1993, c. 51, § 58, eff. May 20, 1993	44
45:15-23.	Repealed by L. 1989, c. 126, § 7, eff. July 3, 1989	44
45:15-24.	Commitment for nonpayment of judgment	44
45:15-25, 45:15-26.	Repealed by L. 1953, c. 43, §§ 76, 77	44
45:15-27.	Disposition of penalties	44
45:15-28.	Repealed by L. 1953, c. 43, § 79	44
45:15-29.	Payment of fines, penalties; funding of commission's expenses	44
45:15-29.1.	Employees transferred	44
45:15-29.2.	Rights under Title 11 and under pension laws not affected	45
45:15-29.3.	Orders, rules, regulations continued	45
45:15-29.4.	"New Jersey Real Estate Commission," reference	45
45:15-29.5.	Actions, proceedings not affected	45

ARTICLE 2. REAL ESTATE AUCTIONEERS [REPEALED]

45:15-30 to 45:15-33.	Repealed by L. 1953, c. 229, § 9	45
--------------------------	--	----

ARTICLE 3. REAL ESTATE GUARANTY FUND

45:15-34.	Real estate guaranty fund established	45
45:15-35.	Additional amount payable upon initial issuance of license	45
45:15-36.	Management and investment of funds	45
45:15-37.	Payments from real estate guaranty fund	45
45:15-38.	Civil action which may result in court order for payment; limitations of action; joinder of commission	46
45:15-39.	Secretary of commission constituted as agent	46
45:15-40.	Insufficiency of funds; replenishment; excess amounts	46
45:15-41.	Revocation of license upon issuance of court order for payment from fund	46
45:15-42.	Rules and regulations	46

**REAL ESTATE BROKERS,
BROKER-SALESPERSONS,
AND SALESPERSONS**

N.J.S.A. 45:15-1 ET SEQ.

TITLE 45. PROFESSIONS AND OCCUPATIONS

**SUBTITLE 1. PROFESSIONS AND OCCUPATIONS
SUBJECT TO STATE BOARDS OF REGISTRATION
AND EXAMINATION**

CHAPTER 15.



Phil Murphy, Governor
State of New Jersey

Sheila Oliver, Lt. Governor
State of New Jersey

Marlene Caride, Commissioner
Department of Banking and Insurance

Aurelio Romero, Executive Director
NJ Real Estate Commission

TITLE 45. PROFESSIONS AND OCCUPATIONS

SUBTITLE 1. PROFESSIONS AND OCCUPATIONS
SUBJECT TO STATE BOARDS OF REGISTRATION AND
EXAMINATIONCHAPTER 15. REAL ESTATE BROKERS, BROKER-
SALESPERSONS, AND SALESPERSONS

ARTICLE 1. GENERAL PROVISIONS

45:15-1. License required

No person shall engage either directly or indirectly in the business of a real estate broker, broker-salesperson, or salesperson, temporarily or otherwise, and no person shall advertise or represent himself as being authorized to act as a real estate broker, broker-salesperson, or salesperson, or to engage in any of the activities described in R.S.45:15-3, without being licensed so to do as hereinafter provided.

Amended 1953, c. 229, § 1; 1993, c. 51, § 1, 2009, c. 238, § 1, eff. July 1, 2011, 2018, c. 71, § 1, eff. Jan. 1, 2018.

45:15-1.1. Role of housing referral aide

A person employed in a participant position as a housing referral aide under any program established and funded pursuant to the Comprehensive Employment and Training Act of 1973, Pub.L. 93-203, 29 U.S.C. 801 et seq., while performing his duties in such position, shall not be deemed to be engaged in the business of a real estate broker, broker-salesperson or salesperson under the provisions of chapter 15 of Title 45 of the Revised Statutes.

L. 1978, c. 5, § 1; amended 1993, c. 51, § 2.

45:15-1.2. License required for acceptance of compensation for providing assistance in locating rental housing

Any person who, before a lease has been fully executed or, where no lease is drawn, before possession is taken by the tenant, charges or accepts any fee, commission or compensation in exchange for providing assistance in locating rental housing, including providing written lists or telephone information on purportedly available rental units, without being licensed pursuant to this act shall be a disorderly person and shall be subject to a fine of not less than \$200 or to imprisonment for not more than 30 days or both.

The provisions of this section shall not be construed to prohibit a licensed real estate broker, or an owner of rental properties or his agents and employees, from requiring the payment of a deposit to reserve a particular unit or from charging and accepting a fee for processing an application to rent an apartment or for performing a credit check or other investigation upon prospective tenants prior to the execution of a lease or the taking of possession of a rental unit by a prospective tenant.

L. 1993, c. 51, § 41.

45:15-2. "Engaging in business" defined

Any single act, transaction or sale shall constitute engaging in business within the meaning of this article.

45:15-3. Terms defined, license required for bringing action for compensation

A real estate broker, for the purposes of R.S.45:15-1 et seq., is defined to be a person, firm or corporation who, for a fee, commission or other valuable consideration, or by reason of a promise or reasonable expectation thereof, lists for sale, sells, exchanges, buys or rents, or offers or attempts to negotiate a sale, exchange, purchase or rental of real estate or an interest therein, or collects or offers or attempts to collect rent for the use of real estate or solicits for prospective purchasers or assists or directs in the procuring of prospects or the negotiation or closing of any transaction which does or is contemplated to result in the sale, exchange, leasing, renting or auctioning of any real estate or negotiates, or offers or attempts or agrees to negotiate a loan secured or to be secured by mortgage or other encumbrance upon or transfer of any real estate for others, or any person who, for pecuniary gain or expectation of pecuniary gain conducts a public or private competitive sale of lands or any interest in lands. In the sale of lots pursuant to the provisions of R.S.45:15-1 et seq., the term "real estate broker" shall also include any person, partnership, association or corporation employed or contracted by or on behalf of the owner or owners of lots or other parcels of real estate, at a stated salary, or upon a commission, or upon a salary and commission, or otherwise, to sell such real estate, or any parts thereof, in lots or other parcels, and who shall sell or exchange, or offer or attempt or agree to negotiate the sale or exchange, of any such lot or parcel of real estate. A real estate broker shall also include any person, firm, or corporation who supervises a real estate referral company.

A real estate salesperson, for the purposes of R.S.45:15-1 et seq., is defined to be any natural person who, for compensation, valuable consideration or commission, or other thing of value, or by reason of a promise or reasonable expectation thereof, is employed or contracted by and operates under the supervision of a licensed real estate broker to sell or offer to sell, buy or offer to buy or negotiate the purchase, sale or exchange of real estate, or offers or attempts to negotiate a loan secured or to be secured by a mortgage or other encumbrance upon or transfer of real estate, or to lease or rent, or offer to lease or rent any real estate for others, or to collect rents for the use of real estate, or to solicit for prospective purchasers or lessees of real estate, or who is employed or contracted by a licensed real estate broker to sell or offer to sell lots or other parcels of real estate, at a stated salary, or upon a commission, or upon a salary and commission, or otherwise to sell real estate, or any parts thereof, in lots or other parcels, or in the case of a salesperson licensed with a real estate referral company refers prospective consumers of real estate brokerage services to a particular broker. For the purposes of R.S.45:15-1 et seq., the definition of real estate salesperson

shall include a salesperson licensed with a real estate referral company unless otherwise indicated.

A real estate broker-salesperson, for the purposes of R.S.45:15-1 et seq., is defined to be any natural person who is qualified to be licensed as a real estate broker but who, for compensation, valuable consideration or commission, or other thing of value, or by reason of a promise or reasonable expectation thereof, is employed or contracted by and operates under the supervision of a licensed real estate broker to perform the functions of a real estate salesperson as defined herein.

A real estate salesperson licensed with a real estate referral company, for the purposes of R.S.45:15-1 et seq., is defined to be any natural person employed or contracted by and operating under the supervision of a licensed real estate broker through a real estate referral company whose real estate brokerage-related activities are limited to referring prospects for the sale, purchase, exchange, leasing or rental of real estate or an interest therein. Salespersons licensed with a real estate referral company shall only refer such prospects to the real estate broker who supervises the real estate referral company through whom they are licensed and shall only accept compensation for their activity from that broker. A salesperson licensed with a real estate referral company shall not be employed or contracted by or licensed with more than one real estate broker or real estate referral company at any given time. No salesperson licensed with a real estate referral company may simultaneously be licensed as a real estate broker or broker-salesperson and no salesperson licensed with a real estate referral company may engage in the business of a real estate broker or broker-salesperson to an extent beyond that authorized by their status as a licensed salesperson.

A real estate referral company, for the purposes of R.S.45:15-1 et seq., is defined to be a business entity established and supervised by a licensed real estate broker, separate and apart from any business entity maintained by the licensed real estate broker to conduct real estate brokerage-related activities other than the referral of prospective consumers of real estate brokerage services to that broker, for the purpose of employing or contracting licensed salespersons who strictly engage in the referral of prospects for the sale, purchase, exchange, leasing or rental of real estate or an interest therein solely on behalf of the supervising real estate broker.

No person, firm, partnership, association or corporation shall bring or maintain any action in the courts of this State for the collection of compensation for the performance of any of the acts mentioned in R.S.45:15-1 et seq. without alleging and proving that he was a duly licensed real estate broker at the time the alleged cause of action arose.

No person claiming to be entitled to compensation as a salesperson or broker-salesperson for the performance of any of the acts mentioned in R.S.45:15-1 et seq. shall bring or maintain any action in the courts of this State for the collection of compensation against any person, firm, partnership or corporation other

than the licensed broker with whom the salesperson or broker-salesperson was employed or contracted at the time the alleged cause of action arose and no action shall be brought or maintained without the claimant alleging and proving that he was a duly licensed real estate salesperson or broker-salesperson at the time the alleged cause of action arose.

Amended 1953, c. 229, § 2; 1993, c. 51, § 3; 2009, c. 238, § 2, eff. July 1, 2011; 2018, c. 71, § 2, eff. Jan. 1, 2018.

45:15-3.1. Payment of referral fee, commission to person licensed in another jurisdiction

A duly licensed real estate broker of this State may pay a referral fee or referral commission to a person not licensed if the person is a licensed real estate broker of another jurisdiction in which the licensed broker maintains a bona fide office. A licensed real estate broker of another jurisdiction may make a referral, receive a referral fee or referral commission, and bring or maintain an action in the courts of this State against a duly licensed real estate broker of this State for the collection of the fee or commission.

For the purposes of this section, "referral" means the introduction, assisting, or directing of a person by one broker to another broker for real estate brokerage services, aid, or information; "referral fee" or "referral commission" means the compensation paid or received for the referral.

L. 1979, c. 322, § 1; amended 1993, c. 51, § 4.

45:15-3.2. Written agreement

a. No broker-salesperson or salesperson shall commence business activity for a broker and no broker shall authorize a broker-salesperson or salesperson to act on the broker's behalf until a written agreement, as provided in this subsection, has been signed by the broker and broker-salesperson or salesperson. Prior to an individual's commencement of business activity as a broker-salesperson or salesperson under the authority of a broker, the broker and broker-salesperson or salesperson shall both sign a written agreement which recites the terms under which the services of the broker-salesperson or salesperson have been retained by the broker.

b. Notwithstanding any provision of R.S.45:15-1 et seq. or any other law, rule, or regulation to the contrary, a business affiliation between a broker and a broker-salesperson or salesperson may be that of an employment relationship or the provision of services by an independent contractor. The nature of the business affiliation shall be defined in the written agreement required pursuant to subsection a. of this section.

L. 2018, c. 71, § 3, eff. Aug. 10, 2018.

45:15-4. Application of provisions of article limited

The provisions of this article shall not apply to any person, firm, partnership, association or corporation who, as a bona fide owner or lessor, shall perform any of the aforesaid acts with ref-

erence to property owned by him, nor shall they apply to or be construed to include attorneys at law, receivers, trustees in bankruptcy, executors, administrators or persons selling real estate under the order of any court or the terms of a deed of trust, state banks, federal banks, savings banks and trust companies located within the state, or to insurance companies incorporated under the insurance laws of this state.

45:15-5. New Jersey Real Estate Commission continued

The New Jersey Real Estate Commission, hereinafter in this article designated as the "commission," created and established by an act entitled "An act to define, regulate and license real estate brokers and salesmen, to create a State real estate commission and to provide penalties for the violation of the provisions hereof," approved April 5, 1921 (P.L. 1921, c. 141, s. 370), as amended by an act approved April 23, 1929 (P.L. 1929, c. 168, s. 310), is continued. The commission shall constitute the division of the New Jersey Real Estate Commission in the Department of Insurance. The commission shall consist of eight members, appointed by the Governor pursuant to the provisions of P.L. 1971, c. 60 (C. 45:1-2.1 et seq.), each of whom shall have been a resident of this State for a period of at least 10 years. Five members shall have been real estate brokers for a period of at least 10 years; two members shall be public members, and one member shall be a representative of an appropriate department. The department representative shall serve at the pleasure of the Governor. Upon the expiration of the term of office of any other member, his successor shall be appointed by the Governor for a term of three years. A majority of the voting members of the commission shall constitute a quorum thereof. Each member shall hold his office until his successor has qualified. Members to fill vacancies shall be appointed by the Governor for the unexpired term. The Governor may remove any commissioner for cause, upon notice and opportunity to be heard.

Amended 1948, c. 88, § 4; 1977, c. 331, § 1; 1993, c. 51, § 5.

45:15-6. Commission salaries

The commission shall select from its members a president, and may do all things necessary and convenient for carrying into effect the provisions of this article, and may promulgate necessary rules and regulations pursuant to the "Administrative Procedure Act," P.L. 1968, c. 410 (C. 52:14B-1 et seq.) The president shall receive a salary of \$15,000.00 per year and each other member of the commission shall receive a salary of \$10,000.00 per year, except the department representative who serves without compensation pursuant to section 2 of P.L. 1971, c. 60 (C. 45:1-2.2). No commissioner shall receive any other compensation, either directly or indirectly, for his services.

Amended by L. 1954, c. 193, p. 724, 1; L. 1985, c. 137, 1, eff. April 12, 1985.

45:15-7. Provision, duties of personnel

The Commissioner of Insurance shall provide the commission with such personnel as he shall deem necessary, after consulta-

tion with the commission, for the proper discharge of the duties imposed by the provisions of this article. The Commissioner of Insurance shall prescribe the duties of persons thus assigned to the commission, and shall fix their compensation, within the limits of available appropriations therefor. The Commissioner of Insurance shall provide the commission with such office space, furniture and stationery as he shall determine, after consultation with the commission, to be reasonably necessary for carrying out the provisions of this article.

Amended 1948, c. 88, § 5, 1993, c. 51, § 6.

45:15-8. Seal; certified copies of records as evidence; public inspection of records

The commission shall adopt a common seal by which it shall authenticate its proceedings. Copies of all records and papers in the office of the commission, duly certified and authenticated by its seal, shall be received in evidence in all courts with like effect as the original. All records kept in the office of the commission under the authority of this article shall be open to public inspection under regulations prescribed by the commission.

45:15-9. Real estate licenses

a. All persons desiring to become real estate brokers, broker-salespersons, or salespersons shall apply to the commission for a license under the provisions of R.S.45:15-1 et seq. Every applicant for a license as a broker, broker-salesperson, or salesperson shall be of the age of 18 years or over, and in the case of an association or a corporation the directors thereof shall be of the age of 18 years or over. Application for a license, whether as a real estate broker, broker-salesperson, or salesperson, shall be made to the commission upon forms prescribed by it and shall be accompanied by an application fee of \$50 which fee shall not be refundable. Every applicant for a license whether as a real estate broker, broker-salesperson, or salesperson shall have the equivalent of a high school education. The issuance of a license to an applicant who is a nonresident of this State shall be deemed to be his irrevocable consent that service of process upon him as a licensee in any action or proceeding may be made upon him by service upon the secretary of the commission or the person in charge of the office of the commission. The applicant shall furnish evidence of good moral character, and in the case of an association, partnership or corporation, the members, officers or directors thereof shall furnish evidence of good moral character. The commission may make such investigation and require such proof as it deems proper and in the public interest as to the honesty, trustworthiness, character and integrity of an applicant. Any applicant for licensure pursuant to this section and any officer, director, partner or owner of a controlling interest of a corporation or partnership filing for licensure pursuant to this section shall submit to the commission the applicant's name, address, fingerprints and written consent for a criminal history record background check to be performed. The commission is hereby authorized to exchange fingerprint data with and receive criminal history record information from the State Bureau of Identification in the Division of State Police and

the Federal Bureau of Investigation consistent with applicable State and federal laws, rules and regulations, for the purposes of facilitating determinations concerning licensure eligibility. The applicant shall bear the cost for the criminal history record background check, including all costs of administering and processing the check. The Division of State Police shall promptly notify the commissioner in the event a current holder of a license or prospective applicant, who was the subject of a criminal history record background check pursuant to this section, is arrested for a crime or offense in this State after the date the background check was performed. Every applicant for a license as a broker or broker-salesperson shall have first been the holder of a New Jersey real estate salesperson's license and have been actively engaged on a full-time basis in the real estate brokerage business in this State as a real estate salesperson for three years immediately preceding the date of application, which requirement may be waived by the commission where the applicant has been the holder of a broker's license in another state and actively engaged in the real estate brokerage business for at least three years immediately preceding the date of his application, meets the educational requirements and qualifies by examination. No license as a broker shall be granted to a general partnership or corporation unless at least one of the partners or officers of said general partnership or corporation qualifies as and holds a license as a broker to transact business in the name and on behalf of said general partnership or corporation as its authorized broker and no such authorized broker shall act as a broker on his own individual account unless he is also licensed as a broker in his individual name; the license of said general partnership or corporation shall cease if at least one partner or officer does not hold a license as its authorized broker at all times. A change in the status of the license of an authorized broker to an individual capacity or vice versa shall be effected by application to the commission accompanied by a fee of \$50. No license as a broker shall be granted to a limited partnership unless its general partner qualifies as and holds a license as a broker to transact business in the name of and on behalf of the limited partnership. In the event that a corporation is a general partner of a limited partnership, no license as a broker shall be granted to the limited partnership unless the corporation is licensed as a broker and one of the officers of the corporation qualifies as and holds a license as the corporation's authorized broker.

b. An application for licensure as a salesperson licensed with a real estate referral company and for any renewal thereof shall include a certification signed by the licensed real estate broker by whom the applicant is or will be employed or contracted, on a form and in a manner prescribed by the commission, which certification shall confirm that: the broker and the applicant or renewing salesperson licensed with a real estate referral company have reviewed the restrictions imposed by law upon the activities of a salesperson licensed with a real estate referral company; and the applicant or salesperson licensed with a real estate referral company has acknowledged that he is aware that such activity is limited to referring prospective consumers of real estate brokerage services to that broker.

c. In the event that a person who held a broker, broker-salesperson or salesperson license fails to renew that license and then, in the two years immediately following the expiration date of the last license held, seeks to reinstate such license, the commission shall require, as a condition to such reinstatement during that two-year period, that the applicant submit proof of having completed the continuing education requirement applicable to that license type in the preceding license term.

d. In the event that any person to whom a broker's or broker-salesperson's license has been or shall have been issued shall fail to renew such license or obtain a new license for a period of more than two but less than five consecutive years after the expiration of the last license held, prior to issuing another broker or broker-salesperson license to the person, the commission shall require such person to complete the continuing education requirements applicable to salesperson licensees in the preceding license term, to work as a licensed salesperson on a full-time basis for one full year, to pass the broker's license examination, and to successfully complete a 90-hour general broker's pre-licensure course at a licensed real estate school, as the commission shall prescribe by regulation. In the event that any person to whom a broker's or broker-salesperson's license has been or shall have been issued fails to maintain or renew the license or obtain a new license for a period of more than five consecutive years after the expiration of the last license held, prior to issuing another broker or broker-salesperson license to the person the commission shall require the person to pass the salesperson's license examination and then to work as a licensed salesperson on a full-time basis for three years, to fulfill all of the educational requirements applicable to first time applicants for a broker or broker-salesperson license and to pass the broker's license examination. The commission may, in its discretion, approve for relicensure the former holder of a broker or broker-salesperson license who has not renewed the license or obtained a new license for two or more consecutive years upon a sufficient showing that the applicant was medically unable to do so. All applicants so approved shall pass the broker's license examination and complete the continuing education requirements applicable to broker licensees in the preceding licensure term prior to being relicensed. This subsection shall not apply to a person reapplying for a broker's or broker-salesperson's license who was licensed as a broker or broker-salesperson and who allowed his license to expire due to subsequent employment in a public agency in this State with responsibility for dealing with matters relating to real estate if the person reapplying does so within one year of termination of that employment.

e. In the event that any person to whom a salesperson's license, including a salesperson's license with a real estate referral company, has been or shall have been issued shall fail to maintain or renew such license or obtain a new license for a period of two consecutive years or more after the expiration of the last license held, the commission shall require such person to attend a licensed school and pass the State examination prior to issuance of a further license. The commission may, in its discretion, approve for relicensure a salesperson applicant, including

a salesperson applicant licensed with a real estate referral company, who has not renewed his license or obtained a new license for two or more consecutive years upon a sufficient showing that the applicant was medically unable to do so. All salesperson applicants, including salesperson applicants licensed with a real estate referral company, so approved shall pass the salesperson's license examination and, with respect to salespersons, except those salespersons licensed with a real estate referral company, complete the continuing education requirements applicable to salesperson licensees in the preceding licensure term prior to being relicensed. Nothing in this section shall be construed to require a salesperson licensed with a real estate referral company to complete the continuing education requirements applicable to salesperson licensees as a condition of license renewal under this section or section 23 of P.L.2009, c.238 (C.45:15-16 2a). This subsection shall not apply to a person reapplying for a salesperson's license, including a salesperson reapplying for licensure with a real estate referral company, who was a licensed salesperson, including a salesperson licensed with a real estate referral company, and who allowed his license to expire due to subsequent employment in a public agency in this State with responsibility for dealing with matters relating to real estate if the person reapplying does so within one year of termination of that employment.

f. A salesperson licensed with a real estate referral company who was not previously licensed as a broker, broker-salesperson, or salesperson and who has been a salesperson licensed with a real estate referral company for the six immediately preceding years or any lesser period of time shall, in order to qualify for licensure as a salesperson, complete up to 30 hours of continuing education as prescribed by commission rule.

g. A salesperson licensed with a real estate referral company who was not previously licensed as a broker, broker-salesperson or salesperson and who has been a salesperson licensed with a real estate referral company for more than the six immediately preceding years shall, in order to qualify for licensure as a salesperson, be required to complete the pre-licensure education requirement applicable to candidates for licensure as a salesperson and pass the State license examination. A person who was previously licensed as a broker, broker-salesperson or salesperson and who has been a salesperson licensed with a real estate referral company shall, in order to qualify for relicensure as a broker, broker-salesperson or salesperson, as applicable, complete up to 30 hours of continuing education as prescribed by commission rule.

h. Any salesperson licensed with a real estate referral company seeking licensure as a real estate broker, broker-salesperson or salesperson shall make application for such license on a form as prescribed by the commission, pay all application and licensure fees as set forth herein, furnish to the commission evidence of the salesperson's good moral character, and be subject to investigation by and required to produce to the commission such proof of the salesperson's honesty, trustworthiness and integrity as the commission deems proper and in the public interest.

i. Upon the effective date of P.L.2018, c.71 (C.45:15-3.2 et al.), any person licensed as a referral agent through a real estate referral company shall be deemed to be a salesperson licensed with a real estate referral company until the next renewal of licenses by the commission. All requirements set forth in subsections f., g., and h. of this section with respect to licensure and length of experience as a salesperson licensed with a real estate referral company shall include licensure and length of experience as a referral agent licensed with a real estate referral company.

Amended 1938, c. 227, § 1, 1953, c. 77, § 1, 1953, c. 229, § 3, 1966, c. 10, 1977, c. 331, § 2, 1983, c. 456, § 1, 1989, c. 126, § 1, 1993, c. 51, § 7, 2003, c. 117, § 31, eff. July 1, 2003; 2003, c. 199, § 26, eff. Dec. 24, 2003; 2009, c. 238, § 3, eff. July 1, 2011, 2018, c. 71, § 4, eff. Jan. 1, 2018.

45:15-10. Examination required for initial licensure; term, renewal

Before any such license shall be granted, the applicant, and in the case of a partnership, association or corporation, the partners, directors or officers thereof actually engaged in the real estate business as a broker, broker-salesperson, or salesperson, shall submit to an examination to be conducted under the supervision of the commission which examination shall test the applicant's general knowledge of the statutes of New Jersey concerning real property, conveyancing, mortgages, agreements of sale, leases and of the provisions of R.S.45:15-1 et seq., the rules and regulations of the commission and such other subjects as the commission may direct. The commission may make rules and regulations for the conduct of such examinations. Upon satisfactorily passing such examination and fulfilling all other qualifications a license shall be granted by the commission to the successful applicant therefor as a real estate broker, broker-salesperson, or salesperson, and the applicant upon receiving the license is authorized to conduct in this State the business of a real estate broker, broker-salesperson, or salesperson, as the case may be. Such license shall expire on the last day of a two-year license term as established by the commission; such license shall be renewed, without examination, biennially thereafter, upon the payment of the fee fixed by R.S.45:15-15, and in the case of a broker, broker-salesperson or salesperson license, upon completion of the continuing education requirements applicable to the holders of such licenses, except that a salesperson licensed with a real estate referral company shall not be required to complete the continuing education requirements as a condition of license renewal under this section or section 23 of P.L.2009, c.238 (C.45:15-16 2a).

Amended 1972, c. 94, § 1; 1977, c. 331, § 3, 1993, c. 51, § 8, 1996, c. 38, § 1, eff. Dec. 18, 1996; 2009, c. 238, § 4, eff. July 1, 2011; 2018, c. 71, § 5, eff. Jan. 1, 2018.

45:15-10.1. Educational requirements

a. As a prerequisite to admission to an examination, every individual applicant for licensure as a real estate salesperson shall give evidence of satisfactory completion of 75 hours in the aggregate of such courses of education in real estate subjects at

a school licensed by the commission as the commission shall by regulation prescribe. At least three hours of that course of study shall be on the subject of ethics and ethical conduct in the profession of a real estate salesperson, and at least one hour of that course of study shall be on the subject of fair housing and housing discrimination.

b. As a prerequisite to admission to an examination, every individual applicant for licensure as a real estate broker or broker-salesperson shall give evidence of satisfactory completion of 150 hours in the aggregate of such courses of education in real estate and related subjects at a school licensed by the commission as the commission shall by regulation prescribe. Thirty hours of that course of study shall be on the subject of ethics and ethical conduct in the profession of a real estate broker, and at least one hour of that course of study shall be on the subject of fair housing and housing discrimination.

The commission may approve courses in specialized aspects of the real estate brokerage business offered by providers who are not the holders of a real estate school license pursuant to section 47 of P.L.1993, c.51 (C.45:15-10.4), the completion of which may be recognized as fulfilling a portion of the total broker pre-licensure education requirements.

L. 1966, c. 227, § 1, amended 1977, c. 331, § 4; 1983, c. 456, § 2, 1989, c. 126, § 2; 1993, c. 51, § 9; 2009, c. 238, § 5, eff. July 1, 2011; 2018, c. 71, § 6, eff. Jan. 1, 2018; 2019, c. 177, § 1, eff. Oct. 17, 2019.

45:15-10.2. Waiver of educational requirements for licensure

The commission may waive some or all of the educational requirements for licensure established pursuant to subsection a. of section 1 of P.L.1966, c. 227 (C. 45:15-10.1) in the case of an applicant whose education or experience is in the judgment of the commission substantially equivalent to those educational requirements. The commission shall prescribe by regulation the requirements which an applicant shall meet in order to qualify for the waiver of educational requirements pursuant to this section.

L. 1966, c. 227, § 2; amended 1993, c. 51, § 10.

45:15-10.3. Bureau of Real Estate Education

There is established within the Division of the New Jersey Real Estate Commission in the Department of Insurance a Bureau of Real Estate Education which shall be responsible for the licensure of real estate pre-licensure schools and instructors.

L. 1993, c. 51, § 46.

45:15-10.4. Licensure of real estate school

a. No school shall conduct real estate education courses, the attendance and successful completion of which shall constitute the fulfillment of the educational prerequisites for licensure established pursuant to section 1 of P.L.1966, c. 227 (C.

45:15-10.1) unless licensed as a real estate school pursuant to P.L.1993, c. 51 (C. 45:15-12.3 et al.).

b. A school shall not be licensed as a real estate school unless its owners, management and facilities meet all of the qualifications for licensure established pursuant to this amendatory and supplementary act and which the commission may by regulation prescribe. An applicant for a license to operate a real estate school, and in the case of a partnership or corporation the members, officers, directors and owners of a controlling interest thereof, shall affirmatively demonstrate their good moral character to the commission. The commission may make such investigation and require such proof as it deems proper and in the public interest as to the honesty, trustworthiness, character and integrity of an applicant.

L. 1993, c. 51, § 47.

45:15-10.5. Licensure as real estate instructor

a. No person, with the exception of a guest lecturer, may teach real estate education courses, the attendance and successful completion of which shall constitute the fulfillment of the educational prerequisites for licensure established pursuant to section 1 of P.L.1966, c. 227 (C. 45:15-10.1) unless licensed as a real estate instructor pursuant to this amendatory and supplementary act.

b. A person shall not be licensed as a real estate instructor unless the person affirmatively demonstrates to the commission his good moral character, successfully completes a real estate instructor course approved by the commission, successfully completes a written examination conducted under the auspices of the commission, and meets all other qualifications as the commission may prescribe by regulation.

L. 1993, c. 51, § 48.

45:15-10.6. Application for, issuance of license as real estate school, fees

a. Every application for licensure as a real estate school shall be accompanied by an application fee of \$100 and a criminal history record check fee for all individual owners, members of a partnership, or officers, directors and owners of a controlling interest in a corporation, which fees shall be non-refundable. Any applicant filing for licensure pursuant to this section and any officer, director, partner or owner of a controlling interest of a corporation or partnership filing for licensure pursuant to this section shall submit to the commission, the applicant's name, address, fingerprints and written consent for a criminal history record background check to be performed. The commission is hereby authorized to exchange fingerprint data with and receive criminal history record information from the State Bureau of Identification in the Division of State Police and the Federal Bureau of Investigation consistent with applicable State and federal laws, rules and regulations, for the purposes of facilitating determinations concerning licensure eligibility. The applicant

shall bear the cost for the criminal history record background check, including all costs of administering and processing the check. The Division of State Police shall promptly notify the commissioner in the event a current holder of a license or prospective applicant, who was the subject of a criminal history record background check pursuant to this section, is arrested for a crime or offense in this State after the date the background was performed.

b. All licenses issued to real estate schools shall expire on a date fixed by the commission which date shall not be more than two years from the date of issuance of the license. The license fee for each real estate school license issued in the first 12 months of any two-year real estate school license term established by the commission shall be \$400 for the first location and \$200 for each additional location licensed. The license fee for each real estate school license issued in the second 12 months of any two-year real estate school license term established by the commission shall be \$200 for the first location and \$100 for each additional location licensed. The fee for the renewal of each real estate school license for an additional two-year license term shall be \$400 for the first location and \$200 for each additional location.

c. Any accredited college or university located in this State or any public adult education program conducted by a board of education in this State which otherwise qualifies for licensure as a real estate school shall be issued a license without the payment of any license or license renewal fee.

L. 1993, c. 51, § 49; amended 2003, c. 117, § 32, eff. July 1, 2003; 2003, c. 199, § 27, eff. Dec. 24, 2003.

45:15-10.7. Application for, issuance of license as real estate instructor; fees

Every application for licensure as a real estate instructor shall be accompanied by an application fee of \$50 and a criminal history record check fee, which fees shall be non-refundable. Any applicant filing for licensure pursuant to this section and any officer, director, partner or owner of a controlling interest of a corporation or partnership filing for licensure pursuant to this section shall submit to the commission the applicant's name, address, fingerprints and written consent for a criminal history record background check to be performed. The commission is hereby authorized to exchange fingerprint data with and receive criminal history record information from the State Bureau of Identification in the Division of State Police and the Federal Bureau of Investigation consistent with applicable State and federal laws, rules and regulations, for the purposes of facilitating determinations concerning licensure eligibility. The applicant shall bear the cost for the criminal history record background check, including all costs of administering and processing the check. The Division of State Police shall promptly notify the commissioner in the event a current holder of a license or prospective applicant, who was the subject of a criminal history record background check pursuant to this section, is arrested for a crime or offense in this State after the date the background was performed. All licenses issued to real estate instructors

shall expire on a date fixed by the commission which shall be no more than two years from the date of issuance of the license. The license fee for each real estate instructor license issued in the first 12 months of any two-year real estate instructor license term established by the commission shall be \$200 and the fee for an instructor license issued in the second 12 months of the cycle shall be \$100. The fee for the renewal of each real estate instructor license for an additional two-year license term shall be \$100. Upon payment of the renewal fee and the submission of evidence of satisfactory completion of any continuing education requirements which the commission may by regulation prescribe, the commission shall renew the license of a real estate instructor for a two-year period.

L. 1993, c. 51, § 50; amended 2003, c. 117, § 33, eff. July 1, 2003; 2003, c. 199, § 28, eff. Dec. 24, 2003.

45:15-10.8. Director of real estate school

A school shall not be licensed as a real estate school unless it is under the management and supervision of a director who is approved by the commission and who is licensed as a real estate instructor in accordance with the provisions of this act. In the event of the death or mental or physical incapacity of the director of a licensed real estate school, which leaves no other owner or employee of the school licensed as a real estate instructor and willing to assume the responsibilities of the director on an interim or permanent basis, the commission may issue temporary authorization to another person to enable that person to carry on the duties of the director until such time as either another licensed instructor is designated by the school and approved by the commission as the director, or until such time as the real estate courses in progress at the time of the former director's death or incapacity are completed. A school shall not commence any new real estate courses until a qualified licensee is designated and approved as the school's director.

The provisions of this section shall not apply to any public adult education program conducted under the auspices of a board of education in this State or any accredited college or university licensed as real estate schools.

L. 1993, c. 51, § 51.

45:15-10.9. Director of public adult education program

No public adult education program conducted under the auspices of a board of education in this State and no accredited college or university in this State shall be licensed as a real estate school unless its real estate pre-licensure education program is under the supervision of a director who is a licensed real estate instructor or an individual who has affirmatively demonstrated to the commission his good moral character and has attended a real estate instructor course approved by the commission within two years of applying to the commission for approval as the director of the real estate program. In the event of the death or physical or mental incapacity of the director of a public adult education program or the director of a college or university licensed as a

real estate school, which leaves no other employee licensed as a real estate instructor or otherwise qualified to be the director of the program and willing to assume the responsibilities of the director on an interim or permanent basis, the commission may issue a temporary authorization to another person to enable that person to carry on the duties of the director until such time as either another licensed instructor or qualified person is designated by the school and approved by the commission as the director, or until such time as the real estate courses in progress at the time of the former director's death or incapacity are completed. New courses shall not be commenced by the school until a qualified person is designated and approved as the director of the school.

L. 1993, c. 51, § 52.

45:15-10.10. Real estate school, instructor license

Upon application to the commission and payment of the prescribed license fee no later than January 1, 1994, any school and instructor then designated by the commission as an approved school or instructor shall, subject to the results of the commission's investigation into the good moral character of the applicant, be issued a real estate school or instructor license.

L. 1993, c. 51, § 53.

45:15-10.11. Grounds for suspension, revocation of real estate school instructor license

The commission may suspend or revoke the license of any real estate school or instructor or impose fines as provided in R.S.45:15-17 upon satisfactory proof that the licensee is guilty of:

- a. Making any false promise or substantial misrepresentation;
- b. Pursuing a flagrant and continued course of misrepresentation or making false promises through agents, advertisements or otherwise;
- c. Engaging in any conduct which demonstrates unworthiness, incompetency, bad faith or dishonesty;
- d. Failing to provide a student with a copy of a written agreement which designates the total tuition charges for attendance at a real estate pre-licensure or continuing education course offered by a licensed school, or other charges imposed upon students who enroll in the course, and the refund policy of the school in regard to tuition and other charges;
- e. Using any plan, scheme or method of attracting students to enroll in a real estate pre-licensure or continuing education course which involves a lottery, contest, game, prize or drawing;
- f. Being convicted of a crime, knowledge of which the commission did not have at the time of last issuing a license to the licensee;
- g. Procuring a real estate license for himself or anyone else by fraud, misrepresentation or deceit;

h. Making any verbal or written statement which falsely indicates that a person attended or successfully completed any real estate pre-licensure or continuing education course conducted by the licensee, or

i. Any other conduct whether of the same or of a different character than specified in this section which constitutes fraud or dishonest dealing.

L. 1993, c. 51, § 54; amended 2009, c. 238, § 6, eff. July 1, 2011.

45:15-10.12. Restrictions on persons with revoked license

A person whose license has been revoked pursuant to section 54 of P.L.1993, c. 51 (C. 45:15-10.11) shall not be a general partner, officer, director or owner, either directly or indirectly, of a controlling interest in any licensed school, nor shall the person be retained or employed in any capacity, or compensated in any manner by a licensed school, nor shall the person occupy or share office space in a licensed school location for any purpose during the period of revocation.

L. 1993, c. 51, § 55.

45:15-10.13. Revocation of license of school; exceptions

Upon the revocation of the instructor license issued to any partner, officer, director or owner of a controlling interest in any licensed school, the commission shall revoke the license of the school unless, within a period of time fixed by the commission, the following conditions are fulfilled: a. in the case of a licensed school owned by a partnership, the connection of the partner whose instructor license has been revoked to the school shall be severed and his interest in the school shall be divested; or b. in the case of a licensed school owned by a corporation, the officer, director or owner of a controlling interest whose instructor license has been revoked shall be terminated from the position and, where an owner of a controlling interest, his ownership of the interest shall be divested; or c. in the case of a limited partnership, if the person whose instructor license has been revoked was a general partner, his interest in the school shall be divested or, if the person whose instructor license was revoked was a limited partner, his interest in the school shall be divested if it constituted a controlling interest as defined herein. For the purposes of this section, the term "controlling interest" means 5% or more of the equity of a licensed corporation or of the ownership of a partnership.

L. 1993, c. 51, § 56.

45:15-10.14. Power, authority of commission

The commission is expressly vested with the power and authority to promulgate and enforce all necessary rules and regulations for the conduct of the business of real estate schools offering pre-licensure and continuing education courses consistent with the provisions of this amendatory and supplementary act.

L. 1993, c. 51, § 57.

45:15-11. Disabled war veterans; granting of licenses

Any citizen of New Jersey who has served in the armed forces of the United States or who served as a member of the American Merchant Marine during World War II and is declared by the United States Department of Defense to be eligible for federal veterans' benefits, who has been honorably discharged, and who, having been wounded or disabled in the line of duty, has completed a program of courses in real estate approved by the New Jersey Real Estate Commission, and who has successfully passed an examination conducted by said commission qualifying him to operate as a real estate broker, broker-salesperson, or salesperson, may, upon presentation of a certificate certifying that he has completed such program of courses as aforesaid, obtain without cost from the commission and without qualification through experience as a salesperson, a license to operate as a real estate broker, broker-salesperson, or a real estate salesperson, as the case may be, which licenses shall be the same as other licenses issued under R.S.45:15-1 et seq. Renewal of licenses may be granted under this section for each ensuing license term, upon request, without fees therefor.

Amended 1953, c. 77, § 2, 1977, c. 331, § 6; 1991, c. 389, § 33; 1993, c. 51, § 11, 1996, c. 38, § 2, eff. Dec. 18, 1996, 2009, c. 238, § 7, eff. July 1, 2011; 2018, c. 71, § 7, eff. Jan. 1, 2018.

45:15-11.1, 45:15-11.2. Repealed by L. 1970, c. 255, § 2, eff. Nov. 2, 1970**45:15-11.3. Issuance of temporary broker's license**

In the event of the death or mental or physical incapacity of a licensed real estate broker where no other member or officer in the agency, copartnership, association or corporation of which he was a member or officer is the holder of a broker-salesperson's license or where an individual broker operating as a sole proprietor dies or is mentally or physically incapacitated leaving no employee holding a real estate broker-salesperson's license, then the Real Estate Commission may issue a temporary broker's license on a special form to another person for the purpose of enabling such other person to continue the real estate activities on behalf of and under the same designation of said agency, copartnership, association, corporation or individual, as the case may be, upon the filing of an application and a certified copy of the death certificate or a certification of mental or physical incapacity executed by a duly licensed physician or officer of a medical institution, together with payment of the regular license fee; provided such other person has been the holder of a real estate salesperson's license for at least three years immediately preceding the date of the application and provided that said application shall have been made within 30 days from date of the demise or incapacity of said broker.

Such temporary license shall continue only until the licensee is afforded an opportunity of pursuing the approved broker's course in accordance with the provisions of subsection b. of section 1 of P.L. 1966, c. 227 (C. 45:15-10.1) and qualifying by examination. Such license may be issued and effective for a period

of one year from the date of issuance. Such temporary license shall not be extended or renewed.

L. 1970, c. 255, § 1, amended 1993, c. 51, § 12.

45:15-12. Broker to maintain office

Every real estate broker shall maintain a designated main office open to the public. A real estate broker's main office shall have prominently displayed therein the license certificate of the broker and all licensed persons in his employ and shall be deemed the business address of all licensed persons for all purposes under chapter 15 of Title 45 of the Revised Statutes. In case a real estate broker maintains more than one place of business, a branch office license shall be issued to such broker for each branch office so maintained in this State, provided, however, that the said branch office or offices are under the direct supervision of a broker-salesperson. The branch office license or licenses shall be issued upon the payment of a fee of \$50 for each license so issued. Every place of business maintained by a real estate broker shall have conspicuously displayed on the exterior thereof the name in which the broker is authorized to operate and, in the case of a corporation or partnership, the name of the individual licensed as its authorized broker, and the words Licensed Real Estate Broker. A real estate broker whose main office is located in another state shall maintain a valid real estate broker's license in good standing in the state where the office is located.

The provisions of this section shall apply to any real estate broker who supervises a real estate referral company as defined under R.S. 45:15-3.

Amended 1953, c. 229, § 4; 1966, c. 11, § 1; 1993, c. 51, § 13; 2003, c. 117, § 34, eff. July 1, 2003; 2018, c. 71, § 8, eff. Jan. 1, 2018.

45:15-12.1. Bars to issuance of license

No license shall be issued by the commission to any person known by it to have been, within five years theretofore, convicted of forgery, burglary, robbery, any theft offense other than shoplifting, criminal conspiracy to defraud, or other like offense or offenses, or to any copartnership of which such person is a member, or to any association or corporation of which said person is an officer, director, or employee, or in which as a stockholder such person has or exercises a controlling interest either directly or indirectly. No license shall be issued or renewed by the commission to any person known by it to have been convicted of any sex offense that would qualify the person for registration pursuant to section 2 of P.L. 1994, c. 133 (C.2C:7-2) or under an equivalent statute of another state or jurisdiction.

L. 1953, c. 229, § 8, amended 1989, c. 126, § 6, 1993, c. 51, § 14; 2018, c. 71, § 9, eff. Jan. 1, 2018.

45:15-12.2. Repeal

Sections 45:15-30 to 45:15-33, inclusive, of the Revised Statutes are repealed.

L. 1953, c. 229, p. 1693, 9.

45:15-12.3. Revoked license, disability to act

A person whose license has been revoked pursuant to R.S. 45:15-17 or section 6 of P.L. 1953, c. 229 (C. 45:15-19.1) shall not be a general partner, officer, director or owner, either directly or indirectly, of a controlling interest in a licensed partnership, limited partnership or corporation, nor shall the person be retained or employed in any capacity, or compensated in any manner by a licensee, nor shall the person occupy or share office space in a licensed office location for any purpose during the period of revocation.

L. 1993, c. 51, § 21.

45:15-12.4. Revocation of partnership, corporate license

Upon the revocation of the license issued to any partner, officer, director or owner of a controlling interest in any licensed partnership, limited partnership or corporation, the commission shall revoke the license of the partnership or corporation unless, within a period fixed by the commission, the following conditions are fulfilled: a. in the case of a partnership, the connection of the partner whose license has been revoked to the licensee shall be severed and his interest in the licensee shall be divested; b. in the case of a corporation, the officer, director or owner of a controlling interest whose license has been revoked shall be terminated from the position and, where an owner of a controlling interest, his ownership of the interest shall be divested; or c. in the case of a limited partnership, if the person whose license has been revoked is the general partner, the connection of that person to the licensee shall be severed and his interest in the licensee shall be divested or, if the person whose license was revoked is a limited partner, his interest in the licensee shall be divested if it constituted a controlling interest as defined herein. For the purposes of this section, the term "controlling interest" means 5% or more of the equity of a licensed corporation or of the ownership of a partnership.

L. 1993, c. 51, § 22.

45:15-12.5. Maintenance of special account required

a. Every individual, partnership or corporation licensed as a real estate broker shall maintain in a State or federally chartered bank, savings bank, savings and loan association or other depository institution physically located and authorized to transact business in this State and approved by the commission a special account into which the broker shall deposit and maintain all monies received while acting in the capacity of a real estate broker, or as escrow agent, or as the temporary custodian of funds of others in real estate transactions in this State. The account shall be maintained in the name in which the individual, partnership or corporation is licensed to do business as a broker and shall be designated as either the broker's "trust account" or "escrow account" and shall be maintained separate and apart from all other personal and business accounts. All checks and deposit slips produced as a result of the establishment of the

account shall contain the words "trust account" or "escrow account." The provisions of this subsection shall not apply to an individual licensed as a broker-salesperson.

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

L. 1993, c. 51, § 42.

45:15-12.6. Approval of depository institution

The commission shall approve a depository institution as required pursuant to section 42 [C.45:15-12.5] of this amendatory and supplementary act upon the institution providing written confirmation to the commission that it shall immediately notify the commission of any issuance of a notice to a licensed broker that a check or other instrument written upon the broker's escrow or trust account has been dishonored or returned for insufficient funds.

L. 1993, c. 51, § 43.

45:15-12.7. Agent, custodian may not use interest on escrow funds

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

L. 1993, c. 51, § 44.

45:15-12.8. Acceptance of monies

Every real estate licensee who, in the performance of any of the activities described in R.S. 45:15-3, receives any monies of others as a representative of a broker acting as an escrow agent or as the temporary custodian of the funds of others in a real estate transaction, shall only accept the monies if they are in the form of cash or a negotiable instrument payable to the broker through whom the individual is licensed, or such other form as the commission may prescribe by rule. The licensee shall, immediately upon receipt of the funds, account for and deliver the funds to the broker for deposit into the escrow or trust account maintained by the broker, or for such other disposition as is required by the escrow agreement under the terms of which the funds were provided to the licensee.

L. 1993, c. 51, § 45, amended 1999, c. 78, eff. April 30, 1999.

45:15-13. Form of license; change of broker's address

All licenses shall be issued by the commission in such form as it shall prescribe. Each license shall show the name and ad-

dress of the licensee and shall have imprinted thereon the seal of the commission. Notice in writing shall be given to the commission by each licensed broker of any change of business address, whereupon the commission shall issue new licenses to the broker and to all persons licensed through the broker for the unexpired period, upon the payment of a fee of \$50 for the issuance of the new broker license and a fee of \$10 for each additional new license certificate so issued. A change of business address without notification to the commission, and without the issuance of a new broker's license, shall automatically cancel the license theretofore issued.

Amended 1961, c. 88, § 1; 1966, c. 11, § 2, 1993, c. 51, § 15, 2003, c. 117, § 35, eff. July 1, 2003.

45:15-14. License kept by employing broker

All licenses issued to real estate brokers, broker-salespersons, and salespersons shall be kept by the broker by whom such real estate licensee is employed or contracted, and the pocket card accompanying the same shall be delivered by the broker to the licensee who shall have the card in his possession at all times when engaged in the business of a real estate broker, broker-salesperson, or salesperson. When any real estate licensee is terminated or resigns his employment with the real estate broker by whom he was employed or contracted at the time of the issuing of such license to him, notice of the termination shall be given in writing by the broker to the terminated licensee with the effective date of the termination reflected thereon, or notice of the resignation shall be given in writing by the resigning licensee to the broker with the effective date of the resignation reflected thereon. Upon the issuance of a written notice of termination by a broker or his authorized representative, or upon receipt of a written resignation by a broker or his authorized representative, such employer or contracting broker shall within five business days of the effective date of the termination or resignation, either: a. deliver, or send by registered mail, to the commission, such real estate licensee's license and, at the same time, send a written communication to such real estate licensee at his last known residence, advising him that his license has been delivered or mailed to the commission. A copy of such communication to the licensee shall accompany the license when mailed or delivered to the commission; or, b. deliver to the departing licensee and to the commission any other materials as the commission may prescribe by regulation to accomplish the transfer of the licensee to another employing or contracting broker. No real estate licensee shall perform any of the acts contemplated by R.S.45:15-1 et seq., either directly or indirectly, under the authority of such license, from and after the effective date of the licensee's termination or resignation until authorized to do so by the commission. A new license may be issued to such licensee, upon the payment of a fee of \$25, and upon the submission of satisfactory proof that he has obtained employment or contracted with another licensed broker. A broker-salesperson or salesperson shall be licensed under a broker; he cannot be licensed with more than one broker at the same time.

Amended 1961, c. 88, § 2, 1966, c. 11, § 3; 1993, c. 51, § 16; 2009, c. 238, § 8, eff. July 1, 2011; 2018, c. 71, § 10, eff. Jan. 1, 2018.

45:15-15. License fees

The biennial fee for each real estate broker's license shall be \$200, the biennial fee for each real estate broker-salesperson's license shall be \$200 and the biennial fee for each real estate salesperson's license shall be \$100. The biennial fee for a branch office license shall be \$100. Each license granted under R.S.45:15-1 et seq. shall entitle the licensee to perform all of the acts contemplated herein during the period for which the license is issued, as prescribed by R.S.45:15-1 et seq. If a licensee fails to apply for a renewal of his license prior to the date of expiration of such license, the commission may refuse to issue a renewal license except upon the payment of a late renewal fee in the amount of \$20 for a salesperson or broker-salesperson and \$40 for a broker; provided, however, the commission may, in its discretion, refuse to renew any license upon sufficient cause being shown. The commission shall refuse to renew the license of any licensee convicted of any offense enumerated in section 6 of P.L. 1953, c.229 (C.45:15-19.1) during the term of the last license issued by the commission unless the conviction was previously the subject of a revocation proceeding. Renewed licenses may be granted for each ensuing two years upon request of licensees and the payment of the full fee therefor as herein required. Upon application and payment of the fees provided herein, initial licenses and licenses reinstated pursuant to R.S.45:15-9 may be issued, but the commission may, in its discretion, refuse to grant or reinstate any license upon sufficient cause being shown. The license fees for initial or reinstated licenses shall be determined based upon the biennial fees established herein, with a full biennial fee payable for the license term in which application is received. The revocation or suspension of a broker's license shall automatically suspend every real estate broker-salesperson's and salesperson's license granted to employees or contractors of the broker whose license has been revoked or suspended, pending a change of employer or contracting broker and the issuance of a new license. The new license shall be issued without additional charge, if the same is granted during the license term in which the original license was granted. Any renewal fee in this section shall be billed by the commission at or before the time of the submission of a renewal application by a licensee.

A real estate broker who maintains a main office or branch office licensed by the commission which is located in another state shall maintain a valid real estate broker's license in good standing in the state where the office is located and shall maintain a real estate license in that other state for each office licensed by the commission. Upon request, the real estate broker shall provide a certification of his license status in the other state to the commission. Any license issued by the commission to a real estate broker for a main or branch office located outside this State shall be automatically suspended upon the revocation, suspension or refusal to renew the real estate broker's license issued by the state where the office is located. The licenses issued by the commission to every broker-salesperson and salesperson

employed or contracted by the broker shall be automatically suspended pending a change of employer or contracting broker and the issuance of a new license. The new license shall be issued without additional charge if granted during the license term in which the original license was granted.

Amended 1953, c. 77, § 3; 1966, c. 11, § 4; 1983, c. 532, § 5; 1993, c. 51, § 17; 1996, c. 38, § 3, eff. Dec. 18, 1996; 2003, c. 117, § 36, eff. July 1, 2003; 2009, c. 238, § 9, eff. July 1, 2011; 2018, c. 71, § 11, eff. Jan. 1, 2018.

45:15-16. Acceptance of commission, valuable consideration

No real estate salesperson or broker-salesperson shall accept a commission or valuable consideration for the performance of any of the acts herein specified, from any person except his employer or contracting broker, who must be a licensed real estate broker.

Amended 1993, c. 51, § 18; 2009, c. 238, § 10, eff. July 1, 2011; 2018, c. 71, § 12, eff. Jan. 1, 2018.

45:15-16a. Rebate paid by broker to purchaser

a. Any rebate paid by a broker to a purchaser of residential real property pursuant to paragraph (2) of subsection k. of R.S. 45:15-17 shall be:

(1) Calculated after the purchaser negotiates the rebate commission rate;

(2) Memorialized in a written document, electronic document or a buyer agency agreement provided by the broker to the purchaser at the outset of the broker relationship, which document or agreement shall provide the terms of any rebate credited or paid by the broker to the purchaser; and

(3) Disclosed to all parties involved in the transaction, including, but not limited to, any mortgage lender.

b. A rebate shall not be:

(1) Paid to a person not licensed as a real estate broker for any act that requires licensure;

(2) Contingent upon the use of other services or products being offered by a broker or an affiliate of a broker; or

(3) Based on the use of a lottery, contest or game.

L. 2009, c. 273, § 2, eff. Jan. 17, 2010.

45:15-16b. Advertisement for rebate

a. Any advertisement for a rebate allowed pursuant to paragraph (2) of subsection k. of R.S. 45:15-17 shall include:

(1) A disclosure concerning the purchaser's obligation to pay any applicable taxes for receipt of the rebate; and

(2) A notice that the purchaser should contact a tax professional concerning the tax implications of receiving the rebate.

b. The disclosure and notice required pursuant to subsection a. of this section shall be clearly and conspicuously displayed in the advertisement and the size of the text in the notice and disclosure shall be equal to or larger than the size of the text used for the advertisement.

L. 2009, c. 273, § 3, eff. Jan. 17, 2010.

45:15-16c. Regulations

The New Jersey Real Estate Commission may promulgate regulations pursuant to the "Administrative Procedure Act," P.L. 1968, c. 410 (C. 52:14B-1 et seq.), necessary to effectuate the provisions of this act [C. 45:15-16a et al.].

L. 2009, c. 273, § 4, eff. Jan. 17, 2010.

45:15-16.1. Repealed by L. 1975, c. 235, § 25, eff. Dec. 23, 1975

45:15-16.2. Educational and information programs

The Division of the New Jersey Real Estate Commission in the State Department of Insurance, within the limits of appropriations available or to be made available to it for the purpose, may conduct educational and information programs relating to the real estate brokerage business and real estate brokers, broker-salespersons and salespersons for the information, education, guidance and protection of the general public, licensees, and applicants for licensure. The educational and information programs may include preparation, printing and distribution of publications and articles and the conduct of conferences, forums, lectures, and a public information service.

L. 1955, c. 238, § 1; amended 1993, c. 51, § 19.

45:15-16.2a. Continuing education required; exceptions

a. The New Jersey Real Estate Commission shall require each natural person licensed as a real estate broker, broker-salesperson or salesperson, as a condition of biennial license renewal pursuant to R.S. 45:15-10, to complete not more than 16 hours of continuing education requirements imposed by the commission pursuant to this section and sections 24 through 28 of P.L. 2009, c. 238 (C. 45:15-16.2a through 45:15-16.2f), except that a salesperson licensed with a real estate referral company shall not be required to complete the continuing education requirements as a condition of biennial license renewal. This subsection shall not apply to any real estate broker or broker-salesperson who has been a real estate broker or broker-salesperson for 40 years or more, which shall include any equivalent experience in any other jurisdiction as determined by the commission.

b. The commission shall:

(1) (a) Approve continuing education courses, course providers, and instructors recommended to the commission by the Volunteer Advisory Committee created pursuant to subparagraph (b) of this paragraph. Schools licensed by the commission as real estate schools pursuant to section 47 of P.L. 1993, c. 51

(C.45:15-10.4) shall be deemed approved providers of continuing education courses. Persons licensed by the commission as real estate instructors pursuant to section 48 of P.L.1993, c.51 (C.45:15-10.5) shall be deemed approved instructors of continuing education courses in core topics as set forth in section 27 of P.L.2009, c.238 (C.45:15-16.2e). Real estate trade associations that qualify under the standards to be established by commission rule as approved providers may offer approved continuing education courses.

(b) There is hereby created a Volunteer Advisory Committee which shall consist of 14 members to be comprised of real estate licensees and other subject matter experts, whose members shall be appointed by and serve at the pleasure of the Commissioner of Banking and Insurance. One real estate licensee shall be selected upon the recommendation of the President of the Senate and one real estate licensee shall be selected upon the recommendation of the Speaker of the General Assembly. Three members of the advisory committee shall be members of the commission or their designees, and not less than eight of the members, other than the commission members, shall be real estate licensees. Members shall be appointed to effect balanced geographic representation from the central, northern and southern areas of the State, with not less than three members serving from each of these areas at any time on the advisory committee.

Members shall be appointed by the Commissioner of Banking and Insurance no later than 60 days following the enactment date of this act. The first meeting of the advisory committee shall be held no later than 30 days from the date the commission adopts initial regulations for the effectuation of this act.

(2) Confer continuing education credits for courses completed in other states on topics approved by the commission as appropriate for elective courses, provided that such courses have been approved as continuing education courses by the agency exercising regulatory authority over the real estate licensees of another state and that satisfactory evidence of licensees' attendance at and completion of such courses is provided to the commission by the course provider.

(3) Confer continuing education credits for courses completed and offered in this State on topics deemed of a timely nature which have not been granted prior approval by the advisory committee, provided that such courses are advertised prior to the time of offering as not having been approved; that the course provider shall submit such course offering for approval and the course is subsequently approved as provided in subparagraph (a) of paragraph (1) of this subsection; and that satisfactory evidence of licensees' attendance at and completion of such courses is provided to the commission by the course provider.

(4) Set parameters for the auditing and monitoring of course providers.

(5) Establish, by regulation, the amounts of application fees payable by persons seeking approval as continuing education course providers, persons seeking approval of continuing educa-

tion courses, and persons other than instructors of pre-licensure real estate education courses licensed by the commission pursuant to section 48 of P.L.1993, c.51 (C.45:15-10.5), seeking approval as instructors of continuing education courses. These fees shall be non-refundable and shall be in amounts which do not exceed the costs incurred by the commission to review these applications.

(6) Have the authority to waive continuing education requirements, in whole or in part, on the grounds of illness, emergency, hardship or active duty military service.

(7) Confer continuing education credits upon a person who is licensed by the commission as a real estate instructor or as a broker, broker-salesperson or salesperson for teaching an approved continuing education course offered by an approved provider. Regardless of the number of times during a biennial license term that the same approved course is taught by that person, the person shall receive credit toward the continuing education requirement for the renewal of the person's broker, broker-salesperson or salesperson license, as applicable, only in the number of credit hours conferred upon licensees who attend and complete that course one time during that biennial license term.

L. 2009, c. 238, § 23, eff. July 1, 2011; amended 2017, c. 200, § 1, eff. Aug. 7, 2017; 2018, c. 71, § 13, eff. Jan. 1, 2018.

45:15-16.2b. Delivery of continuing education courses

Continuing education courses may be delivered in a classroom setting or via the Internet or video modalities, subject to the approval by the New Jersey Real Estate Commission of the providers and the content of such courses and of the measures utilized to ensure the security and integrity of the course delivery process. The commission may approve continuing education courses which include periodic progress assessments and the achievement of a satisfactory level of performance by the licensee on such progress assessments as a condition to continuing to a succeeding segment of the course. The commission shall not require, as a condition of the receipt of credit for attendance at any continuing education course, that a licensee pass a comprehensive examination testing the licensee's knowledge of the entire course content.

L. 2009, c. 238, § 24, eff. July 1, 2011; amended 2018, c. 71, § 14, eff. Jan. 1, 2018.

45:15-16.2c. Completion of continuing education requirements

Continuing education requirements, as set forth by the New Jersey Real Estate Commission, shall be completed on or before April 30 of the year in which the biennial license expires. Any licensee required to complete continuing education requirements who fails to do so prior to May 1 of the second year of a biennial license term shall be subject to a reasonable processing fee, as determined by the commission, of not more than \$200.

L. 2009, c. 238, § 25, eff. July 1, 2011.

45:15-16.2d. Fulfillment of continuing education requirement

A person who, during a biennial licensing term, successfully completes one or more broker pre-licensure education courses as prescribed by the New Jersey Real Estate Commission shall be deemed to have fulfilled the continuing education requirement applicable to the license that such a person may seek to renew upon the conclusion of that license term. A person who is initially licensed as a salesperson during the first year of a two-year license term shall complete all applicable continuing education requirements in order to renew that license upon the conclusion of that license term. A person who is initially licensed as a salesperson in the second year of the two-year license term shall not be required to fulfill any continuing education requirements in order to renew that license at the conclusion of that license term.

L. 2009, c. 238, § 26, eff. July 1, 2011.

45:15-16.2e. Core topics for continuing education courses

a. Not less than 50 percent of the continuing education courses of study that a broker, broker-salesperson or salesperson are required to complete as a condition for license renewal shall be comprised of one or more of the following core topics:

- (1) Agency;
- (2) Disclosure;
- (3) Legal issues;
- (4) Ethics, which shall not be less than two hours;
- (5) Fair housing;
- (6) Rules and regulations;
- (7) Real estate licensee safety;
- (8) Financial literacy and planning; and
- (9) Any other core topics that the New Jersey Real Estate Commission may prescribe by rule.

In no event shall the commission require that courses in these core topics comprise more than 60 percent of the total continuing education hours required for the renewal of any license.

b. In the case of continuing education courses and programs, each hour of instruction shall be equivalent to one credit.

c. Notwithstanding the provisions of subsection a. of this section, the commission shall require that the continuing education courses of study that a broker, broker-salesperson or salesperson are required to complete as a condition for license renewal shall be comprised of at least one hour on the core topic of fair housing and housing discrimination during each biennial license term.

L. 2009, c. 238, § 27, eff. July 1, 2011; amended 2018, c. 71, § 15, eff. Jan. 1, 2018; 2019, c. 177, § 2, eff. Oct. 17, 2019.

45:15-16.2f. Maintenance of records by course providers

Course providers shall maintain records of the successful completion of continuing education courses by licensees and shall transmit this data to the New Jersey Real Estate Commission or its designee in a manner as directed by the commission.

L. 2009, c. 238, § 28, eff. July 1, 2011.

45:15-16.2g. Rules, regulations

The New Jersey Real Estate Commission shall adopt rules and regulations pursuant to the "Administrative Procedure Act," P.L. 1968, c.410 (C.52:14B-1 et seq.), necessary to effectuate the purposes of this act.

L. 2009, c. 238, § 29, eff. July 1, 2011.

45:15-16.3 to 45:15-16.26. Repealed by L. 1989, c. 239, § 24, eff. Jan. 2, 1990**45:15-16.27. Short title [Real Estate Sales Full Disclosure Act]**

This act shall be known and may be cited as the "Real Estate Sales Full Disclosure Act."

L. 1989, c. 239, § 1.

45:15-16.28. Definitions

As used in this act [C.45:15-16.27 et seq.]:

"Advertising" means the publication, or causing to be published, of any information offering for sale, or for the purpose of causing or inducing any other person to purchase or acquire, an interest in the title to subdivided lands, including the land sales contract to be used and any photographs or drawings or artist's representation of physical conditions or facilities on the property existing or to exist by means of any:

- (1) Newspaper or periodical;
- (2) Radio or television broadcast;
- (3) Written or printed or photographic matter produced by any duplicating process producing 10 copies or more;
- (4) Billboards or signs;
- (5) Display of model homes or units;
- (6) Material used in connection with the disposition or offer of subdivided lands by radio, television, telephone or any other electronic means; or
- (7) Material used by subdividers or their agents to induce prospective purchasers to visit the subdivision; particularly va-

cation certificates which require the holders of those certificates to attend or submit to a sales presentation by a subdivider or its agents.

“Advertising” does not mean: stockholder communications such as annual reports and interim financial reports, proxy materials, registration statements, securities prospectuses, applications for listing securities on stock exchanges, or similar documents; prospectuses, property reports, offering statements, or other documents required to be delivered to a prospective purchaser by an agency of any other state or the federal government; all communications addressed to and relating to the account of any person who has previously executed a contract for the purchase of the subdivider’s lands except when directed to the sale of additional lands.

“Blanket encumbrance” means a trust deed, mortgage, judgment, or any other lien or encumbrance, including an option or contract to sell or a trust agreement, affecting a subdivision or affecting more than one lot offered within a subdivision, except that term shall not include any lien or other encumbrance arising as the result of the imposition of any tax assessment by any public authority.

“Broker” or “salesperson” means any person who performs within this State as an agent or employee of a subdivider any one or more of the services or acts as set forth in this act, and includes any real estate broker or salesperson licensed pursuant to R.S.45:15-1 et seq. or any person who purports to act in any such capacity.

“Commission” means the New Jersey Real Estate Commission.

“Common promotional plan” means any offer for the disposition of lots, parcels, units or interests of real property by a single person or group of persons acting in concert, where those lots, parcels, units or interests are contiguous, or are known, designated or advertised as a common entity or by a common name regardless of the number of lots, parcels, units or interests covered by each individual offering.

“Disposition” means the sale, lease, assignment, award by lottery, or any other transaction concerning a subdivision if undertaken for gain or profit.

“Notice” means a communication by mail from the commission executed by its secretary or other duly authorized officer. Notice to subdividers shall be deemed complete when mailed to the subdivider’s address currently on file with the commission.

“Offer” means every inducement, solicitation or attempt to encourage a person to acquire an interest in a subdivision if undertaken for gain or profit.

“Person” means an individual, corporation, government or governmental subdivision or agency, business trust, estate, trust, partnership, unincorporated association, two or more of any of

the foregoing having a joint or common interest, or any other legal or commercial entity.

“Purchaser” means a person who acquires or attempts to acquire or succeeds to an interest in a subdivision.

“Subdivider” or “developer” means any owner of subdivided lands or the agent of that owner who offers the subdivided lands for disposition.

“Subdivision” and “subdivided lands” mean any land situated outside the State of New Jersey whether contiguous or not, if one or more lots, parcels, units or interests are offered as a part of a common promotional plan of advertising and sale and expressly means and includes such units or interests commonly referred to as a “condominium,” defined in the “Condominium Act,” P.L.1969, c.257 (C.46:8B-1 et seq.). In addition to condominiums, this definition shall also specifically include, but shall not be limited to, any form of homeowners association, any housing cooperative and any community trust or other trust device.

L. 1989, c. 239, § 2; amended 2006, c. 63, § 37, eff. Oct. 31, 2006.

45:15-16.29. Bureau of Subdivided Land Sales Control continued

The Bureau of Subdivided Land Sales Control within the Division of the New Jersey Real Estate Commission in the Department of Insurance, established pursuant to section 3 of P.L. 1975, c. 235 (C. 45:15-16.5), shall continue.

L. 1989, c. 239, § 3.

45:15-16.30. Conditions for disposition of subdivided lands

Unless the subdivided lands or the transaction is exempt pursuant to section 6 [C.45:15-16.32] of this act:

a. No person may offer, dispose or participate in this State in the disposition of subdivided lands or of any interest in subdivided lands unless in accordance with the provisions of this act.

b. No person may dispose or participate in the disposition of any interest in subdivided lands unless a current public offering statement, disclosing fully all information required in section 12 [C.45:15-16.38] of this act, is delivered to the purchaser and the purchaser is afforded a reasonable opportunity to examine the public offering statement prior to the disposition.

L. 1989, c. 239, § 4.

45:15-16.30a. Registration as secondary registration subdivider

a. A subdivider or developer who owns subdivided land upon which there is a completed residential unit, or for which there is a contract to construct and deliver a completed residential unit by the subdivider or developer or an affiliated or related entity

within two years from the date of the offer or disposition, may register as a secondary registration subdivider under this section provided that:

(1) the registration is made prior to execution of a contract with, or acceptance of any deposit from, a purchaser of an interest in those lands who is a New Jersey resident;

(2) the subdivider is not already registered pursuant to P.L. 1989, c.239 (C.45:15-16.27 et seq.); and

(3) the subdivision does not qualify for an exemption pursuant to subsection a. of section 6 of P.L. 1989, c.239 (C.45:15-16.32).

b. The commission shall establish the format and forms for registration pursuant to this section. The application form shall require at a minimum:

(1) the name and address of the property;

(2) the name and address of the secondary registration subdivider;

(3) a description of the particulars of the offering, and a certification by the secondary registration subdivider that: (a) the offering is in compliance with all applicable requirements of governmental agencies having jurisdiction over the offering; (b) the deposit moneys of purchasers who are New Jersey residents will be held in an escrow account, or protected in some other manner acceptable to the commission, until closing of title and delivery of the residential unit; and (c) the secondary registration subdivider can convey, or cause to be conveyed, title to the interest in the offering;

(4) copies of all forms of conveyance to be used in selling the property to the purchaser, which forms shall include a seven day right of rescission as required by subsection g. of this section;

(5) unless included as part of the forms of conveyance provided pursuant to paragraph (4) of this subsection, a disclosure statement detailing the common property, if any, of the community, obligations of the owners and the assessments of a homeowners' association formed to manage common property, if any, mandatory club membership, and special taxing district affecting the property being offered. The commission may accept disclosure statements approved for use in the jurisdiction where the property is located;

(6) a certification that the secondary registration subdivider has not, or if a corporation, its officers, directors, and principals have not, been convicted of a crime or civil offense involving land dispositions or any aspect of the land sales business in this State, the United States, or any other state or foreign country, and that the secondary registration subdivider has not been subject to any permanent injunction or final administrative order restraining a false and misleading promotional plan involving real property dispositions, the seriousness of which in the opinion of the commission warrants the denial of secondary registration;

(7) a consent to service of process and jurisdiction of the Courts of the State of New Jersey as provided in section 19 of P.L. 1989, c.239 (C.45:15-16.45), and

(8) a filing fee as prescribed in section 8 of P.L. 1989, c.239 (C.45:15-16.34).

c. The commission shall, within 30 days of receipt of a substantially completed application, including all filing fees, provide the secondary registration subdivider with a notice of completion of the secondary registration or a notice of deficiency. If the commission does not provide a notice of completion or deficiency within 30 days, the secondary registration shall be deemed complete.

d. A secondary registration subdivider who files an application for secondary registration under this section shall immediately report any material changes in the application or the offering, but shall be exempt from the annual reporting requirements under section 14 of P.L. 1989, c.239 (C.45:15-16.40).

e. Prior to filing an application for secondary registration under this section and up to the time of the issuance of a notice of completion or the secondary registration is deemed complete pursuant to subsection c. of this section, a secondary registration subdivider with an interest in subdivided lands described in subsection a. of this section, may respond to inquiries initiated by New Jersey residents in response to the secondary registration subdivider's website or multi-state advertising by providing general information about the subdivided lands being offered, including sales prices, and by forwarding advertising materials. However, until a notice of completion for the subdivided land is issued, or the secondary registration is deemed complete pursuant to subsection c. of this section, a secondary registration subdivider shall not engage in the following acts in this State concerning the subdivided lands: (1) offer a contract, (2) collect deposit moneys; or (3) subsidize travel to the subdivided property. Except as permitted by this section, a secondary registration subdivider shall not otherwise offer, dispose, or participate in this State in the disposition, of subdivided land or of any interest in subdivided land and shall not direct such an offer or disposition into the State.

f. Prior to the execution of a contract for sale of subdivided lands described in subsection a. of this section, a secondary registration subdivider shall, unless included as part of the forms of conveyance provided pursuant to paragraph (4) of subsection b. of this section, provide to a purchaser a copy of the disclosure statement described in paragraph (5) of subsection b. of this section, and obtain a signed receipt from the purchaser stating that the disclosure statement has been received.

g. A contract for the purchase of subdivided lands described in subsection a. of this section may be rescinded by the purchaser without cause of any kind by sending or delivering written notice of cancellation by midnight of the seventh calendar day following the day on which the purchaser has executed the contract, or the day the purchaser receives notification from the

secondary registration subdivider that the secondary registration subdivider has completed secondary registration in accordance with this section, whichever is later.

h. Any person who violates any provision of this section or who, in the application for secondary registration, makes any untrue statement of a material fact or omits to state a material fact, shall be fined as provided in section 20 of P.L. 1989, c. 239 (C.45:15-16.46).

i. The provisions of this section shall not apply to the offering of subdivided lands in situations in which registration is required by the "Interstate Land Sales Full Disclosure Act," Pub L. 90-448 (15 U.S.C. § 1701 et seq.) with the Office of Interstate Land Sales Registration, in the Department of Housing and Urban Development.

L. 2007, c. 292, § 2, eff. Jan. 13, 2008.

45:15-16.31. Subdivisions, subdivided lands subject to this act

Disposition of subdivision or subdivided lands are subject to this act if:

a. Any offer or disposition of subdivided lands is made in this State, or

b. Any offer of subdivided land originating outside this State is directed by the subdivider or his agent to a person or resident within this State.

L. 1989, c. 239, § 5.

45:15-16.32. Inapplicability to offers, dispositions of an interest in a subdivision

a. Unless the method of disposition is adopted for the purpose of evasion of this act [C.45:15-16.27 et seq.], the provisions of this act are not applicable to offers or dispositions of an interest in a subdivision:

(1) By an owner for his own account in a single or isolated transaction;

(2) Wholly for industrial or commercial purposes;

(3) Pursuant to court order;

(4) By any governmental agency;

(5) As cemetery lots or interests;

(6) Of less than 100 lots, parcels, units or interests;

(7) Where the common elements or interests, which would otherwise subject the offering to this act, are limited to the provision of unimproved, unencumbered open space, except where registration is required by the "Interstate Land Sales Full Disclosure Act," Pub.L.90-448 (15 U.S.C. § 1701 et seq.)

with the Office of Interstate Land Sales Registration, in the Department of Housing and Urban Development, or

(8) In a development comprised wholly of rental units, where the relationship created is one of landlord and tenant.

b. Unless the method of disposition is adopted for the purpose of evasion of this act, the provisions of this act are not applicable to:

(1) Offers or dispositions of evidences of indebtedness secured by a mortgage or deed of trust of real estate;

(2) Offers or dispositions of securities or units of interest issued by a real estate investment trust regulated under any State or federal statute;

(3) Offers or dispositions of securities currently registered with the Bureau of Securities in the Department of Law and Public Safety; or

(4) Offers or dispositions of any interest in oil, gas or other minerals or any royalty interest therein if the offers or dispositions of such interests are regulated as securities by federal law or by the State Bureau of Securities.

c. The commission may, from time to time, pursuant to any rules and regulations promulgated pursuant to this act, exempt from any of the provisions of this act any subdivision or any lots in a subdivision, if it finds that the enforcement of this act with respect to that subdivision or the lots therein, is not necessary in the public interest, or required for the protection of purchasers, by reason of the small amount involved or the limited character of the offering.

d. A subdivider or developer who qualifies for and completes secondary registration pursuant to section 2 of P.L.2007, c.292 (C.45:15-16.30a) shall be exempt from the registration requirements of section 4 of P.L.1989, c.239 (C.45:15-16.30).

L. 1989, c. 239, § 6, amended 2006, c. 63, § 38, eff. Oct. 31, 2006, 2007, c. 292, § 1, eff. Jan. 13, 2008.

45:15-16.33. Notice of filing; registration; rejection

a. Upon the filing of an application for registration at the offices of the commission, naming the brokers licensed as real estate brokers pursuant to R.S. 45:15-1 et seq. who are the authorized representatives of the subdivider, and accompanied by the proper registration fee in the proper form, and a statement of record as provided for in section 10 [C.45:15-16.36] of this act, and the proposed public offering statement, the commission shall issue a notice of filing to the applicant. Within 90 days from the date of the notice of filing, the commission shall enter an order registering the subdivision or subdivided lands or rejecting the registration. If no order of rejection is entered within 90 days from the date of notice of filing, the subdivisions or subdivided lands shall be deemed registered unless the applicant has consented in writing to a delay.

b. If the commission affirmatively determines upon inquiry and examination that the requirements of section 9 [C.45:15-16.35] of this act have been met, it shall enter an order registering the subdivision or subdivided lands and shall designate the form of the public offering statement.

c. If the commission determines upon inquiry and examination that any of the requirements of section 9 of this act have not been met, the commission shall notify the applicant that the application for registration must be corrected in the particulars specified within 30 days from the date the notice is received by the applicant. These findings shall be the result of the commission's preliminary inquiry and examination and no hearing shall be required as the basis for those findings. The receipt of a written request for a hearing shall stay the order of rejection until a hearing has been held and a determination has been made.

L. 1989, c. 239, § 7.

45:15-16.34. Initial registration fee; inspection fee; consolidated filing fee

a. (1) The fee for an initial registration shall be \$500.00 plus \$35.00 for each lot, parcel, unit or interest which fee shall not exceed \$3,000.00. The initial registration shall be valid for a period of one year from the date of approval of the registration. If the fees are insufficient to defray the cost of rendering services required by the provisions of this act, the commission may, by regulation, establish a revised fee schedule. Any revised fee schedule shall assure that the fees collected reasonably cover, but do not exceed, the expenses of administering the provisions of this act.

(2) Annual renewal of registration shall be made in accordance with the provisions of section 14 [C.45:15-16.40] of this act.

(3) Any current registration filed with and approved by the commission pursuant to the provisions of P.L. 1975, c. 235 (C. 45:15-16.3 et seq.) prior to the date of enactment of this act shall be exempt from initial registration under this act.

b. The application for registration shall be made on forms prescribed by the commission and shall be accompanied by the appropriate filing fee. As provided in subsection f. of section 15 [C.45:15-16.41] of this act, the commission may determine, at its discretion, that an onsite investigation or inspection is required. The commission shall advise the registrant of the amount of the cost of travel from New Jersey to the location of the subdivided lands and return and any additional expenses of an inspection, which shall be the amount of the inspection fee. All inspection fees shall be accounted for to the applicant.

c. The fee for a consolidated filing, filed pursuant to section 13 [C.45:15-16.39] of this act, shall be the same as set forth in subsection a. of this section.

L. 1989, c. 239, § 8.

45:15-16.35. Examination by commission

Upon receipt of an application for registration in proper form, accompanied by a statement of record, the commission shall initiate an examination to determine that:

a. The subdivider can convey or cause to be conveyed the interest in subdivided lands offered for disposition if the purchaser complies with the terms of the offer, and when appropriate, that release clauses, conveyances in trust or other safeguards have been provided;

b. There is reasonable assurance that all proposed improvements will be completed as represented;

c. The advertising material and the general promotional plan are not false, misleading, or discriminatory and comply with the standards prescribed by the commission in its rules and regulations and afford full and fair disclosure;

d. The subdivider has not, or if a corporation, its officers, directors, and principals have not, been convicted of a crime or civil offense involving land dispositions or any aspect of the land sales business in this State, the United States, or any other state or foreign country; and that the developer has not been subject to any permanent injunction or final administrative order restraining a false or misleading promotional plan involving real property dispositions, the seriousness of which in the opinion of the commission warrants the denial of registration; and

e. The public offering statement requirements of section 12 [C.45:15-16.38] of this act have been satisfied.

L. 1989, c. 239, § 9.

45:15-16.36. Contents of statement of record

The statement of record shall contain the information and be accompanied by the documents specified as follows:

a. The name and address of each person having an interest in the lots in the subdivision to be covered by the statement of record and the extent of that interest;

b. A legal description of, and a statement of the total area included in, the subdivision and a statement of the topography, together with a map showing the subdivision proposed and the dimensions of the lots, parcels, units, or interests to be covered by the statement of record and their relation to existing streets, roads and other improvements. The map shall be drawn to scale, signed and sealed, by a licensed professional engineer or land surveyor;

c. A statement of the condition of the title to the land comprising the subdivision, including all encumbrances and deed restrictions and covenants applicable thereto;

d. A statement of the general terms and conditions proposed to dispose of the lots in the subdivision;

e. A statement of the present condition of access to the subdivision, the existence of any unusual conditions relating to noise or safety, which affect the subdivision and are known or should reasonably be known to the developer, the availability of sewage disposal facilities and other public utilities, including water, electricity, gas, and telephone facilities, in the subdivision to nearby municipalities, and the nature of any improvements to be installed by the developer and his estimated schedule for completion;

f. A statement as to whether the property or any portion thereof is regularly or periodically subject to natural forces that would tend to adversely affect the use or enjoyment of the property and whether the property or any portion thereof is located in a federally designated flood hazard area;

g. In the case of any subdivision or portion thereof against which there exists a blanket encumbrance, a statement of the consequences for an individual purchaser of a failure, by the persons bound, to fulfill obligations under the instruments creating such encumbrances and the steps, if any, taken to protect the purchaser in such eventuality;

h. (1) Copy of its articles of incorporation, with all amendments thereto, if the developer is a corporation; (2) copies of all instruments by which the trust is created or declared, if the developer is a trust; (3) copies of its articles of partnership or association and all other papers pertaining to its organization, if the developer is a partnership, unincorporated association, joint stock company, or any other form of organization; and (4) if the purported holder of legal title is a person other than the developer, copies of the appropriate documents required pursuant to this subsection for that person;

i. Copies of the deed or other instrument establishing title to the subdivision in the developer or other person and copies of any instrument creating a lien or encumbrance upon the title of developer or other person or copies of the opinion of counsel in respect to the title to the subdivision in the developer or other person or companies of the title insurance policy guaranteeing that title;

j. Copies of all forms of conveyance to be used in selling or leasing lots to purchasers;

k. Copies of instruments creating easements or other restrictions;

l. Certified and uncertified financial statements of the developer as required by the commission;

m. Copies of any management contract, lease of recreational areas, or similar contract or agreement affecting the use, maintenance, or access of all or any part of the subdivision;

n. A statement of the status of compliance with the requirements of all laws, ordinances, regulations, and other require-

ments of governmental agencies, including the federal government, having jurisdiction over the premises;

o. The developer shall immediately report any material changes in the information contained in an application for registration. The term "material changes" shall be further defined by the commission in its regulations; and

p. Any other information and any other documents and certification as the commission may require as being reasonably necessary for the protection of purchasers.

L. 1989, c. 239, § 10.

45:15-16.37. Information available to public

The information contained in any statement of record and any additions or corrections required by section 10 [C.45:15-16.36] of this act shall be made available to the public under regulations promulgated by the commission pursuant to this act and copies shall be furnished to every applicant at a reasonable charge prescribed by the commission.

L. 1989, c. 239, § 11.

45:15-16.38. Public offering statement; not to be used for promotional purposes; amendments to; right to cancel

a. A public offering statement shall disclose fully and accurately the physical characteristics of the subdivided lands offered and shall make known to prospective purchasers all unusual and material circumstances or features affecting those lands. The proposed public offering statement submitted to the commission shall be in a form prescribed by the rules and regulations promulgated pursuant to this act and shall include the following:

(1) The name and principal address of the developer and his authorized New Jersey representative who shall be a licensed real estate broker licensed to maintain offices within this State;

(2) A general description of the subdivision or subdivided lands stating the total number of lots, parcels, units or interests in the offering;

(3) A summary of the terms and conditions of any management contract, lease of recreational areas, or similar contract or agreement affecting the use, maintenance, or access of all or any part of the subdivision or subdivided lands, the effect of each agreement upon a purchaser, and a statement of the relationship, if any, between the developer or subdivider and the managing agent or firm;

(4) The significant terms of any encumbrances, easements, liens and restrictions, including zoning and other regulations affecting the lands and each unit or lot, and a statement of all existing taxes and existing or proposed special taxes or assessments which affect the lands;

(5) A statement of the use for which the property is offered, including, but not limited to:

(a) Information concerning improvements, including hospitals, health and recreational facilities of any kind, streets, water supply, levees, drainage control systems, irrigation systems, sewage disposal facilities and customary utilities; and

(b) The estimated cost, date of completion and responsibility for construction and maintenance of existing and proposed improvements which are referred to in connection with the offering or disposition of any interest in the subdivision or subdivided lands;

(6) The notice, as required in subsection d. of this section, shall, in addition to being contained in all contracts or agreements, be conspicuously located and simply stated in the public offering statement; and

(7) Additional information required by the commission to assure full and fair disclosure to prospective purchasers.

b. The public offering statement shall not be used for any promotional purposes before registration of the subdivided lands and afterwards only if it is used in its entirety. No person may advertise or represent that the commission approves or recommends the subdivided lands or the disposition thereof. No portion of the public offering statement may be underscored, italicized, or printed in larger or heavier or different color type than the remainder of the statement unless the commission requires or permits it.

c. The commission may require the subdivider to alter or amend the proposed public offering statement in order to assure full and fair disclosure to prospective purchasers, and no change in the substance of the promotional plan or plan of disposition or development of the subdivision may be made after registration without notifying the commission and without making an appropriate amendment to the public offering statement. A public offering statement is not current unless all amendments or consolidations are incorporated.

d. Any contract or agreement for the purchase or the leasing of a lot may be rescinded by the purchaser or lessee without cause of any kind by sending or delivering written notice of cancellation by midnight of the seventh calendar day following the day on which the purchaser has executed the contract or agreement. Every contract or agreement shall be in writing and shall contain the following notice in 10-point bold type or larger, directly above the space provided for the signature of the purchaser or lessee:

NOTICE to PURCHASER or LESSEE: You are entitled to the right to cancel this contract by midnight of the seventh calendar day following the day on which you have executed this contract or agreement.

e. The subdivider shall make copies of the public offering statement available to prospective purchasers prior to their signing any contract or agreement.

L. 1989, c. 239, § 12.

45:15-16.39. Consolidated filing

A subdivider may register additional subdivided lands pursuant to the same common promotional plan as those previously registered by submitting an additional filing providing the additional information necessary to register the additional lots, parcels, units or interests which shall be designated as "a consolidated filing"

L. 1989, c. 239, § 13.

45:15-16.40. Report by subdivider

a. Within 30 days after each annual anniversary date of an order registering the subdivided lands, or on or before a date set by the commission, and while the subdivider retains any interest therein, the subdivider of these lands shall file a report in the form prescribed by the rules and regulations promulgated by the commission. The report shall reflect any material changes in the information contained in the original application for registration, except that, with respect to any registration filed with and approved by the commission prior to the date of enactment of this act, no additional information shall be required on the subdivided land covered by such registration other than that necessary to indicate any material changes in information contained in the original application for registration.

b. The commission shall process and review requests for amendments to a registration in accordance with the standards and procedures established in this act for review of applications for registration. Requests for amendment, other than price changes and advertising, shall be accompanied by a fee as the commission may prescribe by rule.

c. Upon a determination by the commission that an annual report is no longer necessary for the protection of the public interest or that the developer no longer retains any interest and no longer has any contractual, bond or other obligations in the subdivision, the commission shall issue an order terminating the responsibilities of the developer under this act.

L. 1989, c. 239, § 14.

45:15-16.41. Powers of commission

The commission may:

a. Accept registrations filed in this State, in other states or with the federal government;

b. Contract with similar agencies in this State or other jurisdictions to perform investigative functions;

c. Accept grants in aid from any governmental or other source;

d. Cooperate with similar agencies or commissions in this State or other jurisdictions to establish uniform filing procedures and forms, uniform public offering statements, advertising standards, rules and common administrative practices;

e. Grant exemptions pursuant to the rules and regulations adopted pursuant to section 23 [C.45:15-16.49] of this act;

f. Make any necessary public or private investigations within or outside of this State to determine whether any person has violated or is about to violate any provision of this act, or to aid in the enforcement of this act or in the prescribing of rules and regulations and forms hereunder;

g. Require or permit any person to file a statement in writing, under oath or otherwise, as the commission determines, as to all the facts and circumstances concerning the matter to be investigated;

h. For the purpose of any investigation or proceeding under this act, the commission or any officer designated by rule, may administer oaths, or affirmations, and upon its own motion or upon request of any party may subpoena witnesses and compel their attendance, take evidence, and require the production of any matter which is relevant to the investigation, including the existence, description, nature, custody, condition and location of any books, documents, or other tangible things and the identity and location of persons having knowledge of relevant facts or any other matter reasonably calculated to lead to the discovery of material evidence; and

i. Upon failure to obey a subpoena or to answer questions propounded by the investigating officer and upon reasonable notice to all persons affected thereby, the commission may apply to the Superior Court for an order compelling compliance.

L. 1989, c. 239, § 15

45:15-16.42. Commission empowered to issue cease and desist orders

a. If the commission determines after notice and hearing that a person has:

(1) Violated any provision of this act;

(2) Directly or through an agent or employee engaged in any false, deceptive, or misleading advertising, promotional or sales methods in the State of New Jersey to offer or dispose of an interest in the subdivision or subdivided lands;

(3) Made any material change in the plan of disposition and development of the subdivision or subdivided lands subsequent to the order of registration without first complying with the provisions of subsection o. of section 10 [C.45:15-16.36] of this act,

(4) Disposed of any subdivision or subdivided lands which have not been registered with the commission; or

(5) Violated any lawful order or rule or regulation of the commission;

the commission may issue an order requiring the person to cease and desist from the unlawful practice and to take such affirmative action as in the judgment of the commission will carry out the purposes of this act.

b. If the commission makes a finding of fact in writing that the public interest will be irreparably harmed by delay in issuing an order, it may issue a temporary cease and desist order. Every temporary cease and desist order shall include in its terms a provision that upon request a hearing will be held within 15 days of the receipt of the request.

L. 1989, c. 239, § 16.

45:15-16.43. Conditions for revocation of registration

a. A registration may be revoked after notice and hearing upon a written finding of fact that the subdivider has

(1) Failed to comply with the terms of a cease and desist order issued pursuant to subsection a. of section 16 [C.45:15-16.42] of this act;

(2) Been convicted in any court for a crime or civil offense involving fraud, deception, false pretenses, misrepresentation, false advertising, dishonest dealing, or other like offense subsequent to the filing of the application for registration;

(3) Disposed of, concealed, or diverted any funds or assets of any person so as to defeat the rights of subdivision purchasers;

(4) Failed faithfully to perform any stipulation or agreement made with the commission as an inducement to grant any registration, to reinstate any registration, or to approve any promotional plan or public offering statement;

(5) Advertised his subdivision or responded to applications for his subdivision in a manner which was discriminatory on the basis of marital status, sex, race, creed, color, religion or national origin;

(6) Willfully violated any provision of this act or of a rule or regulation promulgated pursuant to section 23 [C.45:15-16.49] of this act; or

(7) Made intentional misrepresentation or concealed material facts in the documents and information submitted in the application filed for registration. Findings of fact, if set forth in statutory language, shall be accompanied by a concise and explicit statement of the underlying facts supporting the findings.

b. If the commission finds, after notice and hearing, that the subdivider has been guilty of a violation for which revocation could be ordered, it may, in lieu thereof, issue a cease and desist

order pursuant to subsection a. of section 16 [C.45:15-16.42] of this act.

L. 1989, c. 239, § 17.

45:15-16.44. Commission empowered to bring action in Superior Court; intervene in suits

a. If it appears that a person has engaged, or is about to engage, in an act or practice constituting a violation of a provision of this act, the commission, with or without prior administrative proceedings, may bring an action in the Superior Court to enjoin the acts or practices and to enforce compliance with this act or any rule, regulation or order hereunder. Upon proper showing, injunctive relief or temporary restraining orders shall be granted, and a receiver may be appointed. The commission shall not be required to post a bond in any court proceeding.

b. The commission may intervene in a suit involving any subdivision. In any such suit, by or against the developer or subdivider, the developer or subdivider shall promptly furnish the commission with notice of the suit and copies of all pleadings.

L. 1989, c. 239, § 18.

45:15-16.45. Submission of applicant to the courts; methods of service

a. For purposes of this act, an applicant for registration submitted to the commission shall be deemed as submission, by the applicant, to the jurisdiction of the Courts of the State of New Jersey.

b. In addition to the methods of service provided for in the Rules Governing the Courts of the State of New Jersey, service may be made by delivering a copy of the process to the person in charge of the office of the commission at its office, but that service shall not be effective unless the plaintiff, which may be the commission in a proceeding instituted by it:

(1) Sends a copy of the process and the pleading by certified mail to the defendant or respondent at his last known address, and

(2) The plaintiff's affidavit of compliance with this section is filed in the case on or before the return day of the process, if any, or within the time as the court allows.

c. If any person, including any nonresident of this State, engaged in conduct prohibited by this act and has not filed a consent of service of process and personal jurisdiction over him cannot otherwise be obtained in this State, that conduct authorizes the commission to receive service of process in any non-criminal proceedings against him or his successor which grows out of that conduct and which is brought under this act with the same force and validity as if served on him personally. Notice shall be given as provided in subsection a. of this section.

L. 1989, c. 239, § 19.

45:15-16.46. Violations by brokers, salespeople; fines, penalties

a. Any broker or salesperson who violates any of the provisions of this act shall, in addition to the penalties set forth herein, be subject to the penalties as set forth in R.S. 45:15-17.

b. Any person who violates any provision of this act or any person who, in an application for registration filed with the commission, makes any untrue statement of a material fact or omits to state a material fact shall be fined not less than \$250, nor more than \$50,000, per violation.

c. The commission may levy and collect the penalties set forth in subsection b. of this section after affording the person alleged to be in violation of this act an opportunity to appear before the commission and to be heard personally or through counsel on the alleged violations and a finding by the commission that said person is guilty of the violation. When a penalty levied by the commission has not been satisfied within 30 days of the levy, the penalty may be sued for and recovered by, and in the name of, the commission in a summary proceeding pursuant to "the penalty enforcement law" (N.J.S. 2A:58-1 et seq.).

d. The commission may, in the interest of justice, compromise any civil penalty, if in its determination the gravity of the offense or offenses does not warrant the assessment of the full fine.

L. 1989, c. 239, § 20.

45:15-16.47. Actions, counterclaims permitted against non-compliers

a. Any person who suffers any ascertainable loss of moneys as a result of the failure of another to comply fully with the provisions of this act may bring an action or assert a counterclaim in any court of competent jurisdiction. In any action filed under this section in which a defendant is found to have knowingly engaged in any false, deceptive, misleading promotional or sales methods or discriminatory advertising on the basis of race, sex, creed, color, marital status, national origin or religion, concealed or fraudulently diverted any funds or assets so as to defeat the rights of subdivision purchasers, made an intentional misrepresentation or concealed a material fact in an application for registration, or disposed of any subdivision or subdivided lands required to be registered under section 7 [C.45:15-16.33] of this act which are not so registered, the court shall, in addition to any other appropriate legal or equitable remedy, award double the damages suffered, and court costs expended, including reasonable attorney's fees. In the case of an untruth, omission, or misleading statement the developer sustains the burden of proving that the purchaser knew of the untruth, omission or misleading statement, or that he did not rely on such information, or that the developer did not know, and in the exercise of reasonable care could not have known, of the untruth, omission, or misleading statement.

b. The court may, in addition to the remedies provided in this act, frame any other relief that may be appropriate under the circumstances including, in the court's discretion, restitution of all monies paid and, where a subdivider has failed to provide to a purchaser a copy of the current public offering statement approved by the commission prior to execution of the contract or agreement, rescission of the contract. If the purchaser fails to establish a cause of action, and the court further determines that the action was wholly without merit, the court may award attorney's fees to the developer or subdivider.

c. Every person who directly or indirectly controls a subdivision or developer and violates the provisions of subsection a. of this section, every general partner, officer, or director of a developer, and every person occupying a similar status or performing a similar function, shall be jointly and severally liable with and to the same extent as the developer. The person otherwise liable pursuant to this subsection sustains the burden of proof that he did not know, and in the exercise of reasonable care could not have known, of the existence of the facts by reason of which the liability is alleged to exist. There is a right to contribution among persons found liable.

d. Any stipulation or provision purporting to bind any purchaser acquiring a parcel, lot, unit, or interest in any development subject to the provisions of this act to a waiver of compliance with the provisions of this act, shall be void.

e. Any party to an action asserting a claim, counterclaim or defense based upon any violation of this act shall mail a copy of the initial or responsive pleading containing the claim, counterclaim or defense to the commission within 10 days of the filing of the pleading with court. Upon application to the court where the matter is pending, the commission shall be permitted to intervene or to appear in any status appropriate to the matter.

L. 1989, c. 239, § 21.

45:15-16.48. Existing registrations deemed in force and effect

Any registration of a subdivision or amendment thereto, or consolidation, or renewal thereof approved by the commission prior to August 2, 1989, under the "Land Sales Full Disclosure Act," P.L.1975, c. 235 (C. 45:15-16.3 et seq.) shall, upon the enactment of this act, be deemed in force and effect for the remainder of the 12-month period for which it was issued.

L. 1989, c. 239, § 22.

45:15-16.49. Rules and regulations

The commission shall, pursuant to the provisions of the "Administrative Procedure Act," P.L.1968, c. 410 (C. 52:14B-1 et seq.), promulgate rules and regulations necessary to effectuate the provisions of this act. The rules may include, but shall not be limited to: a. provisions for advertising standards to insure full and fair disclosure; b. provisions for adequate bondings or access to some escrow or trust fund not otherwise required by

the municipal governing body to be located within this State, or the state or country where the property is located, so as to insure compliance with the provisions of this act, and to compensate purchasers for failure of the registrant to perform in accordance with the terms of any contract or public statement; c. provisions that require a registrant to deposit purchaser down payments, security deposits or other funds in an escrow account, or with an attorney licensed to practice law in this State, or the state or country where the property is located, until such time as the commission by its rules and regulations deems it appropriate to permit such funds to be released; d. provisions to insure that all contracts between developer and purchaser are fair and reasonable; e. provisions that the developer must give a fair and reasonable warranty on construction of any improvements; f. provisions that the budget for the operation and maintenance of the common or shared elements or interest shall provide for adequate reserves for depreciation and replacement of the improvements; g. provisions for operating procedures; and h. other rules and regulations necessary to effectuate the purposes of this act, and taking into account and providing for, the broad range of development plans and devises, management mechanisms, and methods of ownership, permitted under the provisions of this act.

L. 1989, c. 239, § 23.

45:15-16.50. Short title [New Jersey Real Estate Timeshare Act]

Sections 1 through 36 [C.45:15-16.50 through C.45:15-16.85] of this act shall be known and may be cited as the "New Jersey Real Estate Timeshare Act."

L. 2006, c. 63, § 1, eff. Oct. 31, 2006.

45:15-16.51. Definitions relative to timeshares

As used in sections 1 through 36 [C.45:15-16.50 through C.45:15-16.85] of this act:

"Accommodation" means any apartment, condominium or cooperative unit, cabin, lodge, hotel or motel room, or other private or commercial structure containing toilet facilities therein that is designed and available, pursuant to applicable law, for use and occupancy as a residence by one or more individuals which is a part of the timeshare property.

"Advertisement" means any written, oral or electronic communication that is directed to or targeted to persons within the State and contains a promotion, inducement or offer to sell a timeshare plan, including but not limited to brochures, pamphlets, radio and television scripts, electronic media, telephone and direct mail solicitations and other means of promotion.

"Advertisement" does not mean:

(1) Any stockholder communication such as an annual report or interim financial report, proxy material, a registration statement, a securities prospectus, a registration, a property report

or other material required to be delivered to a prospective purchaser by an agency of any state or federal government;

(2) Any oral or written statement disseminated by a developer to broadcast or print media, other than paid advertising or promotional material, regarding plans for the acquisition or development of timeshare property. However, any rebroadcast or any other dissemination of such oral statements to prospective purchasers by a seller in any manner, or any distribution of copies of newspaper magazine articles or press releases, or any other dissemination of such written statement to a prospective purchaser by a seller in any manner, shall constitute an advertisement; or

(3) Any communication addressed to and relating to the account of any person who has previously executed a contract for the sale or purchase of a timeshare period in a timeshare plan to which the communication relates shall not be considered advertising under this act, provided they are delivered to any person who has previously executed a contract for the purchase of a timeshare interest or is an existing owner of a timeshare interest in a timeshare plan.

“Assessment” means the share of funds required for the payment of common expenses which is assessed from time to time against each timeshare interest by the association.

“Association” means the organized body consisting of the purchasers of interests in a timeshare property.

“Commission” means the New Jersey Real Estate Commission.

“Common expense” means casualty and liability insurance, and those expenses properly incurred for the maintenance, operation, and repair of all accommodations constituting the timeshare plan and any other expenses designated as common expenses by the timeshare instrument.

“Component site” means a specific geographic location where accommodations which are part of a multi-site timeshare plan are located. Separate phases of a single timeshare property in a specific geographic location and under common management shall be deemed a single component site.

“Department” means the Department of Banking and Insurance.

“Developer” means and includes any person or entity, who creates a timeshare plan or is in the business of selling timeshare interests, or employs agents or brokers to do the same, or any person or entity who succeeds to the interest of a developer by sale, lease, assignment, mortgage or other transfer, except that the term shall include only those persons who offer timeshare interests for disposition in the ordinary course of business.

“Dispose” or “disposition” means a voluntary transfer or assignment of any legal or equitable interest in a timeshare plan,

other than the transfer, assignment or release of a security interest.

“Escrow agent” means an independent person, including an independent bonded escrow company, an independent financial institution whose accounts are insured by a governmental agency or instrumentality, or an independent licensed title insurance agent who is responsible for the receipt and disbursement of funds in accordance with this act. If the escrow agent is not located in the State of New Jersey, then this person shall subject themselves to the jurisdiction of the commission with respect to disputes that arise out of the provisions of this act.

“Incidental benefit” means an accommodation, product, service, discount, or other benefit which is offered to a prospective purchaser of a timeshare plan or to a purchaser of a timeshare plan prior to the expiration of his or her rescission period pursuant to section 18 [C.45:15-16.67] of this act and which is not an exchange program, provided that:

(1) use or participation in the incidental benefit is completely voluntary;

(2) no costs of the incidental benefit are included as common expenses of the timeshare plan;

(3) the good faith represented aggregate value of all incidental benefits offered by a developer to a purchaser may not exceed 20 percent of the actual price paid by the purchaser for his or her timeshare interest; and

(4) the purchaser is provided a disclosure that fairly describes the material terms of the incidental benefit. The term shall not include an offer of the use of the accommodations of the timeshare plan on a free or discounted one-time basis.

“Managing entity” means the person who undertakes the duties, responsibilities and obligations of the management of the timeshare property.

“Offer” means any inducement, solicitation, or other attempt, whether by marketing, advertisement, oral or written presentation or any other means, to encourage a person to acquire a timeshare interest in a timeshare plan, for gain or profit.

“Person” means a natural person, corporation, limited liability company, partnership, joint venture, association, estate, trust, government, governmental subdivision or agency, or other legal entity or any combination thereof.

“Promotion” means a plan or device, including one involving the possibility of a prospective purchaser receiving a vacation, discount vacation, gift, or prize, used by a developer, or an agent, independent contractor, or employee of a developer, agent or independent contractor on behalf of the developer, in connection with the offering and sale of timeshare interests in a timeshare plan.

“Purchaser” means any person, other than a developer, who by means of a voluntary transfer acquires a legal or equitable interest in a timeshare plan other than as security for an obligation.

“Purchase contract” means a document pursuant to which a person becomes legally obligated to sell, and a purchaser becomes legally obligated to buy, a timeshare interest.

“Reservation system” means the method, arrangement or procedure by which a purchaser, in order to reserve the use or occupancy of any accommodation of a multi-site timeshare plan for one or more timeshare periods, is required to compete with other purchasers in the same multi-site timeshare plan, regardless of whether the reservation system is operated and maintained by the multi-site timeshare plan managing entity or any other person.

“Sales agent” means any person who performs within this State as an agent or employee of a developer any one or more of the services or acts as set forth in this act, and includes any real estate broker, broker salesperson or salesperson licensed pursuant to R.S. 45:15-1 et seq., or any person who purports to act in any such capacity.

“Timeshare instrument” means one or more documents, by whatever name denominated, creating or governing the operation of a timeshare plan.

“Timeshare interest” means and includes either:

(1) A “timeshare estate,” which is the right to occupy a timeshare property, coupled with a freehold estate or an estate for years with a future interest in a timeshare property or a specified portion thereof; or

(2) A “timeshare use,” which is the right to occupy a timeshare property, which right is neither coupled with a freehold interest, nor coupled with an estate for years with a future interest, in a timeshare property.

“Timeshare period” means the period or periods of time when the purchaser of a timeshare plan is afforded the opportunity to use the accommodations of a timeshare plan.

“Timeshare plan” means any arrangement, plan, scheme, or similar device, whether by membership agreement, sale, lease, deed, license, or right to use agreement or by any other means, whereby a purchaser, in exchange for consideration, receives ownership rights in or the right to use accommodations for a period of time less than a full year during any given year on a recurring basis, but not necessarily for consecutive years. A timeshare plan may be:

(1) A “single-site timeshare plan,” which is the right to use accommodations at a single timeshare property; or

(2) A “multi-site timeshare plan,” which includes:

(a) A “specific timeshare interest,” which means an interest wherein a purchaser has, only through a reservation system:

(i) a priority right to reserve accommodations at a specific timeshare property without competing with owners of timeshare interests at other component sites that are part of the multi-site timeshare plan, which priority right extends for at least 60 days; and

(ii) the right to reserve accommodations on a non-priority basis at other component sites that are part of the multi-site timeshare plan; or

(b) A “non-specific timeshare interest”, which means an interest wherein a purchaser has, only through a reservation system, the right to reserve accommodations at any component site of the multi-site timeshare plan, with no priority right to reserve accommodations at any specific component site.

“Timeshare property” means one or more accommodations subject to the same timeshare instrument, together with any other property or rights to property appurtenant to those accommodations.

L. 2006, c. 63, § 2, eff. Oct. 31, 2006.

45:15-16.52. Applicability of act

This act shall apply to the following:

a. Timeshare plans with an accommodation or component site in the State; and

b. Timeshare plans without an accommodation or component site in this State if those timeshare plans are offered to be sold within this State, regardless of whether the offer originates from within or outside of this State.

L. 2006, c. 63, § 3, eff. Oct. 31, 2006.

45:15-16.53. Inapplicability of act

a. This act shall not apply to any of the following:

(1) Timeshare plans, whether or not an accommodation or component site is located in the State, consisting of 10 or fewer timeshare interests;

(2) Timeshare plans, whether or not an accommodation or component site is located in this State, the use of which extends over any period of three years or less. For purposes of determining the term of a timeshare plan, the period of any automatic renewal shall be included, unless a purchaser has the right to terminate the purchaser’s participation in the timeshare plan at any time and receive a pro rata refund, or the purchaser receives a notice, not less than 30 days, but not more than 60 days, prior to the date of renewal, informing the purchaser of the right to terminate at any time prior to the date of automatic renewal,

(3) Timeshare plans, whether or not an accommodation or component site is located in the State, under which the prospective purchaser's total financial obligation will be equal to or less than \$3,000 during the entire term of the timeshare plan;

(4) Component sites of specific timeshare interest multi-site timeshare plans that are neither located in nor offered for sale in this State, except that these component sites are still subject to the disclosure requirements of section 10 [C.45:15-16.59] of this act;

(5) Offers or dispositions of securities or units of interest issued by a real estate investment trust regulated under any State or federal statute;

(6) Offers or dispositions of securities currently registered with the Bureau of Securities within the Division of Consumer Affairs in the Department of Law and Public Safety.

b. A person shall not be required to register as a developer under this act if:

(1) The person is an owner of a timeshare interest who has acquired the timeshare interest for the person's own use and occupancy and who later offers it for resale in a single or isolated transaction; or

(2) The person is a managing entity or an association that is not otherwise a developer of a timeshare plan in its own right, solely while acting as an association or under a contract with an association to offer or sell a timeshare interest transferred to the association through foreclosure, deed in lieu of foreclosure, or gratuitous transfer, if such acts are performed in the regular course of, or as an incident to, the management of the association for its own account in the timeshare plan.

c. If a developer has already registered a timeshare plan under this act, the developer may offer or dispose of an interest in a timeshare plan that is not registered under this act if the developer is offering a timeshare interest in the additional timeshare plan to a current timeshare interest owner of a timeshare interest in a timeshare plan created or operated by that same developer subject to the rules and regulations adopted by the commission.

d. The commission may, from time to time, pursuant to any rules and regulations adopted pursuant to this act, exempt from any of the provisions of this act any timeshare plan, if it finds that the enforcement of this act with respect to that plan is not necessary in the public interest, or required for the protection of purchasers, by reason of the small amount of the purchase price or the limited character of the offering.

L. 2006, c. 63, § 4, eff. Oct. 31, 2006

45:15-16.54. Administration by Real Estate Commission

This act shall be administered by the New Jersey Real Estate Commission in the Department of Banking and Insurance.

L. 2006, c. 63, § 5, eff. Oct. 31, 2006

45:15-16.55. Nonpreemption of local codes; supersedure of other regulation of timeshares

Except as provided in this section, no provision of this act shall invalidate or modify any provision of any zoning, subdivision, or building code, law, ordinance or regulation. In case of conflict between the provisions of this act and the provisions of any other law, ordinance or regulation governing or purporting to govern the creation, registration, disclosure requirements or sale of timeshare interests in a component site, the provisions of this act shall control.

L. 2006, c. 63, § 6, eff. Oct. 31, 2006

45:15-16.56. Creation of timeshare plan

A timeshare plan may be created in any accommodation unless otherwise prohibited. A timeshare plan shall maintain a one-to-one purchaser-to-accommodation ratio, which means the ratio of the number of purchasers eligible to use the accommodations of a timeshare plan on a given day to the number of accommodations available for use within the plan on that day, such that the total number of purchasers eligible to use the accommodations of the timeshare plan during a given consecutive 12-month period never exceeds the total number of accommodations available for use in the timeshare plan during that consecutive 12-month period. For purposes of the calculation under this section, each purchaser shall be counted at least once, and an individual accommodation shall not be counted more than one time per day per year. An owner of a timeshare interest who is delinquent in the payment of a timeshare plan assessment shall continue to be considered eligible to use the accommodations of the timeshare plan for purposes of calculating the one-to-one purchaser-to-accommodation ratio.

L. 2006, c. 63, § 7, eff. Oct. 31, 2006

45:15-16.57. Requirements for developers of timeshares; application, registration

a. A developer who sells, offers to sell, or attempts to solicit prospective purchasers in this State to purchase a timeshare interest, or any person who creates a timeshare plan with an accommodation in the State, shall register with the commission, on forms provided by the commission or in electronic formats authorized by the commission, all timeshare plans which have accommodations located in the State or which are sold or offered for sale to any individual located in the State.

b. Upon the submission of an application approved by the commission, the commission may grant a 90-day preliminary registration to allow the developer to begin offering and selling timeshare interests in a timeshare plan regardless of whether the accommodations of the timeshare plan are located within or outside of the State. Upon submission of a substantially complete application for an abbreviated or comprehensive registration under this act, including all appropriate fees, to the commission

prior to the expiration date of the preliminary registration, the preliminary registration will be automatically extended during the registration review period provided that the developer is actively and diligently pursuing registration under this act. The preliminary registration shall automatically terminate with respect to those timeshare interests covered by a final public offering statement that is issued before the scheduled termination date of the preliminary registration. The preliminary registration shall also terminate upon the issuance of any notice of rejection due to the developer's failure to comply with the provisions of this act.

To obtain a preliminary registration, the developer shall provide all of the following:

(1) Submit the reservation instrument to be used in a form previously approved by the department with at least the following provisions:

(a) The right of both the developer and the potential purchaser to unilaterally cancel the reservation at any time;

(b) The payment to the potential purchaser of his or her total deposit following cancellation of the reservation by either party;

(c) The placing of the deposit into an escrow account; and

(d) A statement to the effect that the offering has not yet received final approval from the commission, and that no offering can be made until an offering plan has been filed with, and accepted by, the commission;

(2) Agree to provide each potential purchaser with a copy of the preliminary public offering statement and an executed receipt for a copy before any money or other thing of value has been accepted by or on behalf of the developer in connection with the reservation;

(3) Agree to provide a copy of the reservation instrument signed by the potential purchaser and by or on behalf of the developer to the potential purchaser;

(4) Provide evidence acceptable to the commission that all funds received by the developer will be placed into an independent escrow account with instructions that no funds will be released until a final order of registration has been granted;

(5) Submit the filing fee for a preliminary registration as provided for by regulation. The filing fee shall be in addition to the filing fees for an abbreviated or comprehensive registration as established by this act;

(6) File all advertisements to be utilized by the developer under the preliminary registration with the commission before use.

All advertisements and advertising literature shall contain the following, or substantially similar, disclaimer:

"This advertising material is being used for the purpose of soliciting sales of timeshare interests.";

(7) Such other information as the commission may require in order to further the provisions of this act, to assure full and fair disclosure and for the protection of purchaser interests.

c. Prior to the issuance of an order of registration for an abbreviated or comprehensive registration, the commission may issue a conditional registration approval for a timeshare plan if the filing is deemed to be substantially complete by the commission and the commission determines that the deficiencies are likely to be corrected by the applicant in a reasonable time and manner. Once the commission issues a conditional registration approval, the applicant may begin entering into purchase contracts with the purchaser and provide the purchaser with the most current version of the public offering statement; however, no rescission period may begin to run until the final approved public offering statement is delivered to the purchaser. If there is no material difference between the documents provided to the purchaser pursuant to the conditional registration and the documents approved as part of the final order of approval, then those documents need not be delivered again to the purchaser. All purchase contracts that are executed under the authority of a conditional registration approval shall contain the following provisions:

(1) No escrow will close, funds will not be released from escrow, and the interest contracted for will not be conveyed until a final approved public offering statement for the timeshare plan is furnished to the purchaser.

(2) The contract may be rescinded, in which event the entire sum of money paid or advanced by the purchaser shall be returned if the purchaser or lessee is dissatisfied with the final public offering statement.

(3) The term for a conditional registration approval shall be six months from the date of approval by the commission, and may be extended upon application to the commission for an additional six month period.

d. A developer shall include in its application for registration with the commission, the following information:

(1) The developer's legal name, any assumed names used by the developer, and the developer's principal office location, mailing address, primary contact person and telephone number;

(2) The name, location, mailing address, primary contact person and telephone number of the timeshare plan;

(3) The name and principal address of the developer's authorized New Jersey representative who shall be a licensed real estate broker licensed to maintain offices within this State;

(4) A declaration as to whether the timeshare plan is a single-site timeshare plan or a multi-site timeshare plan and, if a multi-

site timeshare plan, whether it consists of specific timeshare interests or non-specific timeshare interests;

(5) The name and principal address of all brokers within New Jersey who sell or offer to sell any timeshare interests in any timeshare plan offered by the developer to any person in this State, who shall be licensed as a real estate broker pursuant to R.S.45:15-1 et seq., and who are the authorized representatives of the developer;

(6) The name and principal address of all non-affiliated marketing entities who, by means of inducement, promotion or advertisement, attempt to encourage or procure prospective purchasers located in the State to attend a sales presentation for any timeshare plan offered by the developer or authorized broker;

(7) The name and principal address of all managing entities who manage the timeshare plan;

(8) A public offering statement which complies with the requirements of this act; and

(9) Any other information regarding the developer, timeshare plan, brokers, marketing entities or managing entities as required by the commission and established by the commission by regulation.

e. The developer shall comply with the following escrow requirements:

(1) A developer of a timeshare plan shall deposit with an escrow agent all funds which are received during the purchaser's cancellation period set forth in section 18 [C.45:15-16.67] of this act, into an escrow account in a federally insured depository or a depository acceptable to the commission. The deposit of such funds shall be evidenced by an executed escrow agreement between the escrow agent and the developer. The escrow agreement shall include provisions that funds may be disbursed to the developer by the escrow agent from the escrow account only after expiration of the purchaser's cancellation period and in accordance with the purchase contract, subject to paragraph (2) of this subsection.

(2) If a developer contracts to sell a timeshare interest and the construction of any property in which the timeshare interest is located has not been completed, the developer, upon expiration of the cancellation period set forth in section 18 [C.45:15-16.67] of this act, shall continue to maintain in an escrow account all funds received by or on behalf of the developer from the purchaser under the purchase contract. The commission shall establish by rule the type of documentation which shall be required for evidence of completion, including but not limited to a certificate of occupancy, a certificate of substantial completion, or equivalent certificate from a public safety inspection agency in the applicable jurisdiction. Funds shall be released from escrow as follows:

(a) If a purchaser properly cancels the purchase contract pursuant to its terms, the funds shall be paid to the purchaser or paid to the developer if the purchaser's funds have been previously refunded by the developer.

(b) If a purchaser defaults in the performance of the purchaser's obligations under the purchase contract, the funds shall be paid to the developer.

(c) If the funds of a purchaser have not been previously disbursed in accordance with the provisions of this paragraph, they may be disbursed to the developer by the escrow agent upon the issuance of acceptable evidence of completion of construction as provided herein.

(3) In lieu of the provisions in paragraphs (1) and (2) of this subsection, the commission may accept from the developer a surety bond, bond in lieu of escrow, irrevocable letter of credit or other financial assurance acceptable to the commission. Any acceptable financial assurance shall be in an amount equal to or in excess of the lesser of the funds which would otherwise be placed in escrow in accordance with the provisions of paragraph (1) of this subsection, or in an amount equal to the cost to complete the incomplete property in which the timeshare interest is located. However, in no event shall the amount be less than the amount of funds that would otherwise be placed in escrow pursuant to paragraph (1) of this subsection.

(4) The developer shall provide escrow account information to the commission and shall execute in writing an authorization consenting to an audit or examination of the account by the commission on forms provided by the commission. The developer shall comply with the reconciliation and records requirements established by rule by the commission. The developer shall make documents related to the escrow account or escrow obligation available to the commission upon the commission's request. The escrow agent shall maintain any disputed funds in the escrow account until either:

(a) Receipt of written direction agreed to by signature of all parties; or

(b) Deposit of the funds with a court of competent jurisdiction in which a civil action regarding the funds has been filed.

f. The commission may accept, as provided by regulation, an abbreviated registration application of a developer of a timeshare plan in which all accommodations are located outside of the State. The developer shall provide evidence that the timeshare plan is registered with the applicable regulatory agency in a state or jurisdiction where the timeshare plan is offered or sold, or that the timeshare plan is in compliance with the laws and regulations of the applicable state jurisdiction in which some or all of the accommodations are located, which state or jurisdiction shall have disclosure requirements that are substantially equivalent to or greater than the information required to be disclosed pursuant to subsections b. and c. of this section to

purchasers in this State. A developer filing an abbreviated registration application shall provide the following:

- (1) The developer's legal name, any assumed names used by the developer, and the developer's principal office location, mailing address, primary contact person and telephone number;
- (2) The name, location, mailing address, primary contact person and telephone number of the timeshare plan;
- (3) The name and principal address of the developer's authorized New Jersey representative who shall be a licensed real estate broker licensed to maintain offices within this State;
- (4) The name and principal address of all brokers within New Jersey who sell or offer to sell any timeshare interests in any timeshare plan offered by the developer to any person in this State, who shall be licensed as a real estate broker pursuant to R.S. 45:15-1 et seq., and who are the authorized representatives of the developer;
- (5) The name and principal address of all non-affiliated marketing entities who, by means of inducement, promotion or advertisement, attempt to encourage or procure prospective purchasers located in the State to attend a sales presentation for any timeshare plan offered by the developer or authorized broker;
- (6) The name and principal address of all managing entities who manage the timeshare plan;
- (7) Evidence of registration or compliance with the laws and regulations of the jurisdiction in which the timeshare plan is located, approved or accepted;
- (8) A declaration as to whether the timeshare plan is a single-site timeshare plan or a multi-site timeshare plan and, if a multi-site timeshare plan, whether it consists of specific timeshare interests or non-specific timeshare interests;
- (9) Disclosure of each jurisdiction in which the developer has applied for registration of the timeshare plan, and whether the timeshare plan or its developer were denied registration or were the subject of any disciplinary proceeding;
- (10) Copies of any disclosure documents required to be given to purchasers or required to be filed with the jurisdiction in which the timeshare plan is located, approved or accepted as may be requested by the commission;
- (11) The appropriate fee; and
- (12) Any other information regarding the developer, timeshare plan, brokers, marketing entities or managing entities as required by the commission and established by the commission by regulation.

A developer of a timeshare plan with any accommodation located in this State may not file an abbreviated filing with regard to such timeshare plan, with the exception of a succeeding

developer after a merger or acquisition when the developer's timeshare plan was registered in this State prior to the merger or acquisition.

L. 2006, c. 63, § 8, eff. Oct. 31, 2006.

45:15-16.58. Responsibilities of timeshare developer for offering, marketing violations

The developer shall have responsibility for each timeshare plan registered with the commission and for the actions of any sales agent, managing entity or marketing entity utilized by the developer in the offering or promotional selling of any registered timeshare plan. Any violation of this act which occurs during the offering activities shall be a violation by the developer as well as by the sales agent, marketing entity or managing entity who actually committed the violation. Notwithstanding anything to the contrary in this act, the developer shall be responsible for the actions of the association and managing entity only while they are subject to the developer's control.

L. 2006, c. 63, § 9, eff. Oct. 31, 2006.

45:15-16.59. Public offering, disclosure statements; requirements

a. A developer shall: (1) prepare a public offering statement; (2) provide the statement to each purchaser of a timeshare interest in any timeshare plan at the time of purchase; and (3) fully and accurately disclose those facts concerning the timeshare developer and timeshare plan that are required by this act or by regulations promulgated by the commission.

The public offering statement shall be in writing and dated and shall require the purchaser to certify in writing that the purchaser received the statement. Upon approval of the commission, the developer may offer to deliver the public offering statement and other documents on CD-ROM format, Internet website or other electronic media if the purchaser consents.

b. The public offering disclosure statement for a single-site timeshare plan shall include:

- (1) The name and address of the developer;
- (2) A description of the duration and operation of the timeshare plan;
- (3) A description of the existing or proposed accommodations, including the type and number of timeshare interests in the accommodations expressed in periods of seven-day use availability or other time increments applicable to the timeshare plan. The description of each type of accommodation included in the timeshare plan shall be categorized by the number of bedrooms, the number of bathrooms, and sleeping capacity, and shall include a statement indicating whether the accommodation contains a full kitchen, which means a kitchen that has a minimum of a dishwasher, range, sink, oven, and refrigerator. If the accommodations are proposed or incomplete, a schedule

for commencement, completion, and availability of the accommodations shall be provided;

(4) A description of any existing or proposed amenities of the timeshare plan and, if the amenities are proposed or incomplete, a schedule for commencement, completion, and availability of the amenities;

(5) The extent to which financial arrangements have been provided for the completion of all promised accommodations and amenities that are committed to be built;

(6) A description of the method and timing for performing maintenance of the accommodations;

(7) A statement indicating that, on an annual basis, the sum of the nights that purchasers are entitled to use the accommodations does not exceed the number of nights the accommodations are available for use by the purchasers;

(8) A description of the method by which purchasers' use of the accommodations is scheduled;

(9) A statement that an association exists or is expected to be created or that such an association does not exist and is not expected to be created and, if such an association exists or is reasonably contemplated, a description of its powers and responsibilities;

(10) A statement that within seven days after receipt of the public offering statement or after execution of the purchase contract, whichever is later, a purchaser may cancel any purchase contract for a timeshare interest from a developer together with a statement providing the name and street address to which the purchaser should mail any notice of cancellation. However, if by agreement of the parties by and through the purchase contract, the purchase contract allows for cancellation of the purchase contract for a period of time exceeding seven days, then the public offering statement shall include a statement that the cancellation of the purchase contract is allowed for that period of time exceeding seven days;

(11) Copies of the following documents, if applicable, including any amendments to the documents, unless separately provided to the purchaser simultaneously with the public offering statement:

(a) the timeshare instrument;

(b) the association articles of incorporation;

(c) the association bylaws;

(d) the association rules; and

(e) any lease or contract, excluding the purchase contract and other loan documents required to be signed by the purchaser at closing;

(12) The name and principal address of the managing entity and a description of the procedures, if any, for altering the powers and responsibilities of the managing entity and for removing or replacing it;

(13) The current annual budget, if available, or the projected annual budget for the timeshare plan. The budget shall include:

(a) a statement of the amount reserved or budgeted for repairs or replacements, if any;

(b) the projected common expense liability, if any, by category of expenditure for the timeshare plan; and

(c) a statement of any services or expenses not reflected in the budget that the developer provides or pays;

(14) The projected assessments and a description of the method for calculating and apportioning those assessments among purchasers;

(15) Any initial or special fee due from the purchaser at closing, together with a description of the purpose and method of calculating the fee;

(16) A description of any lien, defect, or encumbrance on or affecting title to the timeshare interest and, if applicable, a copy of each written warranty provided by the developer;

(17) A description of any bankruptcy that is pending or which has occurred within the past five years, pending civil or criminal proceeding, adjudication, or disciplinary action material to the timeshare plan of which the developer has knowledge;

(18) A description of any financing offered by or available through the developer;

(19) Any current or anticipated fees or charges to be paid by timeshare purchasers for the use of any accommodations or amenities related to the timeshare plan, and a statement that the fees or charges are subject to change;

(20) A description and amount of insurance coverage provided for the protection of the purchaser;

(21) The extent to which a timeshare interest may become subject to a tax lien or other lien arising out of claims against purchasers of different timeshare interests;

(22) A description of those matters required by section 18 [C.45:15-16.67] of this act;

(23) A statement disclosing any right of first refusal or other restraint on the transfer of all or any portion of a timeshare interest;

(24) A statement disclosing that any deposit made in connection with the purchase of a timeshare interest shall be held by an escrow agent until expiration of any right to cancel the contract and that any deposit shall be returned to the purchaser if the pur-

chaser elects to exercise the right of cancellation, or, if the commission accepts from the developer a surety bond, irrevocable letter of credit, or other form of financial assurance instead of an escrow deposit, a statement disclosing that the developer has provided a surety bond, irrevocable letter of credit, or other form of financial assurance in an amount equal to or in excess of the funds that would otherwise be held by an escrow agent and that the deposit shall be returned if the purchaser elects to exercise the right of cancellation;

(25) A description of the name and address of the exchange company and the method by which a purchaser accesses the exchange program, if the timeshare plan provides purchasers with the opportunity to participate in an exchange program; and

(26) Any other information the commission determines is necessary to protect prospective purchasers or to implement the purpose of this act.

The developer may also include any other information in the timeshare disclosure statement following approval by the commission.

c. The disclosure statement for a specific timeshare interest multi-site timeshare plan shall include:

(1) With regard to the timeshare property in which the purchaser will receive a specific timeshare interest that includes a reservation priority right, all of the applicable information related to that timeshare property as required under subsection b. of this section;

(2) With regard to the component site in which the purchaser does not receive a specific timeshare interest, the following information:

(a) a description of each component site, including the name and address of each component site;

(b) a description of each type of accommodation in each component site, categorized by the number of bedrooms, the number of bathrooms, and sleeping capacity, and a statement indicating whether the accommodation contains a full kitchen, which means a kitchen that has a minimum of a dishwasher, range, sink, oven, and refrigerator;

(c) a description of the amenities at each component site available for use by the purchaser;

(d) a description of the reservation system, which shall include:

(i) the entity responsible for operating the reservation system, its relationship to the developer, and the duration of any agreement for operation of the reservation system;

(ii) a summary or the rules governing access to and use of the reservation system; and

(iii) the existence of and explanation regarding any priority reservation features that affect a purchaser's ability to make reservations for the use of a given accommodation on a first-come, first-served basis;

(e) The name and principal address of the managing entity for the multi-site timeshare plan and a description of the procedures, if any, for altering the powers and responsibilities of the managing entity and for removing or replacing it;

(f) A description of any right to make additions to, substitutions in, or deletions from accommodations, amenities, or component sites, and a description of the basis on which accommodations, amenities, or component sites may be added to, substituted in, or deleted from the multi-site timeshare plan;

(g) A description of the purchaser's liability for any fees associated with the multi-site timeshare plan;

(h) The location of each component site of the multi-site timeshare plan, as well as any periodic adjustment or amendment to the reservation system that may be needed in order to respond to actual purchaser use patterns and changes in purchaser use demand for the accommodations existing at the time within the multi-site timeshare plan, and

(i) Any other information the commission determines is necessary to protect prospective purchasers or to implement the purpose of this act.

d. The public offering statement for a non-specific timeshare interest multi-site timeshare plan shall include:

(1) The name and address of the developer;

(2) A description of the type of interest and usage rights the purchaser will receive;

(3) A description of the duration and operation of the timeshare plan;

(4) A description of the type of insurance coverage provided for each component site;

(5) An explanation of who holds title to the accommodations of each component site;

(6) A description of each component site, including the name and address of each component site;

(7) A description of the existing or proposed accommodations expressed in periods of seven-day use availability or other time increments applicable to the timeshare plan. The description of each type of accommodation included in the timeshare plan shall be categorized by the number of bedrooms, the number of bathrooms, and sleeping capacity, and shall include a statement indicating whether the accommodation contains a full kitchen, which means a kitchen that has a minimum of a dishwasher, range, sink, oven, and refrigerator. If the accommodations are

proposed or incomplete, a schedule for commencement, completion and availability of the accommodations shall be provided;

(8) A statement that an association for the multi-site timeshare plan exists or is expected to be created or that such an association does not exist and is not expected to be created and, if such an association exists or is reasonably contemplated, a description of its powers and responsibilities;

(9) If applicable, copies of the following documents applicable to the multi-site timeshare plan, including any amendments to such documents, unless separately provided to the purchaser simultaneously with the timeshare disclosure statement:

- (a) the timeshare instrument;
- (b) the association articles of incorporation;
- (c) the association bylaws; and
- (d) the association rules;

(10) A description of the method and timing for performing maintenance of the accommodations;

(11) A statement indicating that, on an annual basis, the total number of purchasers eligible to use the accommodations of the timeshare plan during a given consecutive 12-month period never exceeds the total number of accommodations available for use in the timeshare plan during that consecutive 12-month period;

(12) A description of amenities available for use by the purchaser at each component site;

(13) The location of each component site of the multi-site timeshare plan, as well as any periodic adjustment or amendment to the reservation system that may be needed in order to respond to actual purchaser use patterns and changes in purchaser use demand for the accommodations existing at the time within the multi-site timeshare plan;

(14) A description of any right to make any additions, substitutions, or deletions of accommodations, amenities, or component sites, and a description of the basis upon which accommodations, amenities, or component sites may be added to, substituted in, or deleted from the multi-site timeshare plan;

(15) A description of the reservation system that shall include all of the following:

- (a) the entity responsible for operating the reservation system, its relationship to the developer, and the duration of any agreement for operation of the reservation system;
- (b) a summary of the rules governing access to and use of the reservation system; and
- (c) the existence of and an explanation regarding any priority reservation features that affect a purchaser's ability to make res-

ervations for the use of a given accommodation on a first-come, first-served basis;

(16) The name and principal address of the managing entity for the multi-site timeshare plan and a description of the procedures, if any, for altering the powers and responsibilities of the managing entity and for removing or replacing it, and a description of the relationship between the multi-site timeshare plan managing entity and the managing entity of the component sites of the multi-site timeshare plan, if different from the multi-site timeshare plan managing entity;

(17) A statement that within seven days after receipt of the public offering statement or after execution of the purchase contract, whichever is later, a purchaser may cancel any purchase contract for a timeshare interest from a developer together with a statement providing the name and street address to which the purchaser should mail any notice of cancellation. However, if by agreement of the parties by and through the purchase contract, the purchase contract allows for cancellation of the purchase contract for a period of time exceeding seven days, then the public offering statement shall include a statement that the cancellation of the purchase contract is allowed for that period of time exceeding seven days;

(18) The current annual budget of the multi-site timeshare plan, if available, or the projected annual budget for the multi-site timeshare plan, which shall include:

- (a) a statement of the amount reserved or budgeted, if any, for repairs, replacements, and refurbishment;
- (b) the projected common expense liability, if any, by category of expenditure for the multi-site timeshare plan; and
- (c) a statement of any services or expenses not reflected in the budget that the developer provides or pays;

(19) The projected assessments and a description of the method for calculating and apportioning those assessments among purchasers of the multi-site timeshare plan;

(20) Any current fees or charges to be paid by purchasers for the use of any amenities related to the timeshare plan and a statement that the fees or charges are subject to change;

(21) Any initial or special fee due from the purchaser at closing, together with a description of the purpose and method of calculating the fee;

(22) A description of the purchaser's liability for any fees associated with the multi-site timeshare plan;

(23) A description of any lien, defect, or encumbrance on or affecting title to the timeshare interest and, if applicable, a copy of each written warranty provided by the developer;

(24) The extent to which a timeshare interest may become subject to a tax lien or other lien arising out of claims against purchasers of different timeshare interests;

(25) A description of those matters required by section 18 [C.45:15-16.67] of this act;

(26) A description of any financing offered by or available through the developer;

(27) A description of any bankruptcy that is pending or which has occurred within the past five years, pending civil or criminal proceeding, adjudication, or disciplinary action material to the timeshare plan of which the developer has knowledge;

(28) A statement disclosing any right of first refusal or other restraint on the transfer of all or a portion of a timeshare interest;

(29) A statement disclosing that any deposit made in connection with the purchase of a timeshare interest shall be held by an escrow agent until expiration of any right to cancel the contract and that any deposit shall be returned to the purchaser if the purchaser elects to exercise the right of cancellation; or, if the commission accepts from the developer a surety bond, irrevocable letter of credit, or other form of financial assurance instead of an escrow deposit, a statement disclosing that the developer has provided a surety bond, irrevocable letter of credit, or other form of financial assurance in an amount equal to or in excess of the funds that would otherwise be held by an escrow agent and that the deposit shall be returned if the purchaser elects to exercise the right of cancellation;

(30) A description of the name and address of the exchange company and the method by which a purchaser accesses the exchange program, if the timeshare plan provides purchasers with the opportunity to participate in an exchange program;

(31) Any other information the commission determines is necessary to protect prospective purchasers or to implement the purpose of this act. The developer may also include any other information in the timeshare disclosure statement following approval by the commission.

e. The developer shall also distribute to the purchaser any additional documents as the commission may require for accommodations in this State as provided by regulation, including such additional documentation as may be required under the "Condominium Act," P.L.1969, c.257 (C.46:8B-1 et seq.).

L. 2006, c. 63, § 10, eff. Oct. 31, 2006.

45:15-16.60. Filing of annual reports by developer of timeshare

a. Within 30 days after each annual anniversary date of an order registering the timeshare, or on or before a date set by the commission, and while the developer continues to offer any timeshare interests in the timeshare plan in this State, the developer shall file a report in the form prescribed by the rules and

regulations promulgated by the commission. The report shall reflect any material changes in the information contained in the original or subsequently submitted applications or documents.

b. (1) The developer shall file amendments to its registration to reflect any material change in any information set forth in the project and disclosure documents. The developer shall notify the commission of the material change prior to implementation of the change, unless the change is beyond the control of the developer; in which event, the developer shall provide written notice to the commission as soon as reasonably practicable after the occurrence of the event. All amendments, supplements, and facts relevant to the material change shall be filed with the commission within 20 calendar days of the material change.

(2) The developer may continue to sell timeshare interests in the timeshare plan so long as, prior to closing, the developer provides a notice to each purchaser that describes the material change and provides to each purchaser the previously approved public offering statement. If the change is material and adverse to the purchasers of the timeshare plan as a whole, as determined by the commission, no closing shall occur until the amendment relating to the material and adverse change has been approved by the commission. After the amendment relating to the material and adverse change has been approved and the amended public offering statement has been issued, the amended public offering statement shall be provided to the purchaser, and an additional seven-day rescission period shall commence. The developer shall be required to maintain evidence of the receipt by each purchaser of the amended public offering statement. If the commission refuses to approve the amendment relating to the material and adverse change, all sales made using the notice shall be subject to rescission and all funds returned.

(3) The developer shall update the public offering statement to reflect any changes to the timeshare plan that are not material and adverse, including the addition of any component sites, within a reasonable time as determined by the commission pursuant to regulation.

c. Upon a determination by the commission that an annual report is no longer necessary for the protection of the public interest or that the developer no longer retains any interest and no longer has any contractual, bond or other obligations in the subdivision, the commission shall issue an order terminating the responsibilities of the developer under this act.

L. 2006, c. 63, § 11, eff. Oct. 31, 2006.

45:15-16.61. Issuance of notice of filing of registration

Upon receipt of a substantially complete application for registration, in proper form and accompanied by the appropriate filing fees, the commission shall, within 10 business days of receipt of the registration, issue a notice of filing. The notice shall not be construed as an approval of the registration, or any portion thereof.

L. 2006, c. 63, § 12, eff. Oct. 31, 2006.

45:15-16.62. Review of registration; orders, schedule

Every registration required to be filed with the commission under this act shall be reviewed by the commission and the commission shall issue an order of registration in accordance with the following schedule:

a. As to comprehensive registrations, registrations shall be effective upon the issuance of an order of registration by the commission within 60 days after receipt and issuance of a notice of filing. The commission shall provide a list of deficiencies in the application, if any, within 60 days of the issuance of the notice of filing. If a list of deficiencies is not provided to the applicant within 60 days of issuance of the notice of filing, the timeshare plan shall be deemed registered unless the applicant has consented in writing to a delay.

b. As to abbreviated registrations, registration shall be effective upon the issuance of an order of registration by the commission 30 days after receipt and issuance of a notice of filing. The commission shall provide a list of deficiencies in the application, if any, within 30 days of the issuance of the notice of filing. If a list of deficiencies is not provided to the applicant within 30 days of the issuance of the notice of filing, the timeshare plan shall be deemed registered unless the applicant has consented in writing to a delay.

c. A preliminary registration shall be effective within 20 days of receipt, unless the commission provides to the applicant a written list of deficiencies in the application, if any, within 20 days of receipt of a completed application and fee. If a list of deficiencies is not provided to the applicant within 20 days of receipt of the application for a preliminary registration, the preliminary registration shall be deemed approved unless the applicant has consented in writing to a delay.

L. 2006, c. 63, § 13, eff. Oct. 31, 2006.

45:15-16.63. Deficiency notice, appeal

a. If the commission determines upon inquiry and examination that any of the requirements of this act have not been met, the commission shall notify the applicant that the application for registration shall be corrected as specified in writing within 30 days from the date the notice is received by the applicant. These findings shall be the result of the commission's preliminary inquiry and examination and no hearing shall be required as the basis for those findings.

b. In the event that the requirements of the deficiency notice are not met within the time frame provided in subsection a. of this section, and the applicant has not demonstrated a good faith effort to correct the deficiencies, the commission may enter an order rejecting the filing. The order shall include the factual and legal basis for the rejection and shall provide that, unless appealed as provided for in subsection c. of this section, the terms of the order shall become final after 45 days of delivery to the applicant.

c. Upon the applicant's receipt of an order of rejection, the applicant shall have the right to file an appeal with the commission and shall be entitled to a hearing thereon provided that the appeal is filed within 45 days of the applicant's receipt of the order of rejection. In the event that an appeal is filed by the applicant, the order of rejection shall not take effect until such time as a determination has been rendered on the appeal. While an appeal of an order of rejection remains pending, a timeshare plan which is the subject of the notice of filing referenced in the order of rejection shall not be considered registered.

L. 2006, c. 63, § 14, eff. Oct. 31, 2006.

45:15-16.64. Fee for initial registration

a. The fee for an initial registration shall be \$1,000 plus \$50 per timeshare interest, which fee shall not exceed \$7,500, unless otherwise provided by the commission pursuant to regulation to defray the cost of rendering the services required by the provisions of this act.

b. The commission may also provide, by regulation, for fees to cover the reasonable expenses of carrying out other responsibilities established under this act, including, but not limited to, fees for the processing of amendments, exemption applications and preliminary registrations.

L. 2006, c. 63, § 15, eff. Oct. 31, 2006.

45:15-16.65. Registrations required for sale

Unless otherwise provided by regulation, a developer, or any of its agents, shall not sell, offer, or dispose of a timeshare interest in this State unless all necessary registrations are filed and approved by the commission, or while an order revoking or suspending a registration is in effect.

L. 2006, c. 63, § 16, eff. Oct. 31, 2006.

45:15-16.66. Creation of provision for managing entity, duties

a. Before the first sale of a timeshare interest, the developer shall create or provide for a managing entity, which shall be either the developer, a separate manager or management firm, the board of directors of an owners' association, or some combination thereof.

b. The duties of the managing entity shall include, but not be limited to:

(1) Management and maintenance of all accommodations constituting the timeshare plan;

(2) Collection of all assessments as provided in the timeshare instrument;

(3) Providing to all purchasers each year an itemized annual budget, which shall include all estimated revenues and expenses;

(4) Maintenance of all books and records concerning the timeshare plan;

(5) Scheduling occupancy of accommodations, when purchasers are not entitled to use specific timeshare periods, so that all purchasers will be provided the opportunity to possess and use the accommodations of the timeshare plan which they have purchased, and

(6) Performing any other functions and duties that are necessary and proper to maintain the accommodations or that are required by the timeshare instrument.

c. In the event a developer, managing entity or association files a complaint in a foreclosure proceeding involving timeshare interests, the developer, managing entity or association may join in the same action multiple defendant obligors and junior interest holders of separate timeshare interests, provided:

(1) The foreclosure proceeding involves a single timeshare plan;

(2) The foreclosure proceeding is filed by a single plaintiff;

(3) The default and remedy provisions in the written instruments on which the foreclosure proceeding is based are substantially the same for each defendant; and

(4) The nature of the defaults alleged is the same for each defendant.

d. In any foreclosure proceeding involving multiple defendants filed under subsection c. of this section, the court shall, if appropriate, sever for separate trial any count of the complaint in which a defense or counterclaim is timely raised by a defendant.

L. 2006, c. 63, § 17, eff. Oct. 31, 2006

45:15-16.67. Voidability of purchase contract

Any purchase contract entered into by a purchaser of a timeshare interest under this act shall be voidable by the purchaser, without penalty, within seven calendar days after the receipt of the public offering statement or the execution of the purchase contract, whichever date is later. The purchase contract shall provide notice of the seven-day cancellation period, together with the name and mailing address to which any notice of cancellation shall be delivered. Notice of cancellation shall be timely if the notice is deposited with the United States Postal Service not later than midnight of the seventh day. Upon such cancellation, the developer shall refund to the purchaser all payments made by the purchaser, less the amount of any benefits actually received pursuant to the purchase contract. The refund shall be made within 30 days after the receipt of the notice of cancellation, or receipt of funds from the purchaser's cleared check, whichever occurs later. If a purchaser elects to cancel a purchase contract pursuant to this section, the purchaser may do so by hand delivering a written notice of cancellation or by mailing a notice of cancellation by certified mail, return receipt

requested, to the developer, as applicable, at an address set forth in the purchase contract.

L. 2006, c. 63, § 18, eff. Oct. 31, 2006.

45:15-16.68. Conditions for release of escrow funds to the developer

Excluding any encumbrance placed against the purchaser's timeshare interest securing the purchaser's payment of purchase money financing for the purchase, the developer shall not be entitled to the release of any funds escrowed with respect to each timeshare interest and any other property or rights to property appurtenant to the timeshare interest, including any amenities represented to the purchaser as being part of the timeshare plan, until the developer has provided satisfactory evidence to the commission of one of the following:

a. The timeshare interest together with any other property or rights to property appurtenant to the timeshare interest, including any amenities represented to the purchaser as being part of the timeshare plan, are free and clear of any of the claims of the developer, any owner of the underlying fee, a mortgagee, judgment creditor, or other lienor or any other person having an interest in or lien or encumbrance against the timeshare interest or appurtenant property or property rights,

b. The developer, any owner of the underlying fee, a mortgagee, judgment creditor, or other lienor, or any other person having an interest in or lien or encumbrance against the timeshare interest or appurtenant property or property rights, including any amenities represented to the purchaser as being part of the timeshare plan, has recorded a subordination and notice to creditors document in the jurisdiction in which the timeshare interest is located. The subordination document shall expressly and effectively provide that the interest holder's right, lien or encumbrance shall not adversely affect, and shall be subordinate to, the rights of the owners of the timeshare interests in the timeshare plan regardless of the date of purchase, from and after the effective date of the subordination document,

c. The developer, any owner of the underlying fee, a mortgagee, judgment creditor, or other lienor, or any other person having an interest in or lien or encumbrance against the timeshare interest or appurtenant property or property rights, including any amenities represented to the purchaser as being part of the timeshare plan, has transferred the subject accommodations or amenities or all use rights therein to a nonprofit organization or owners' association to be held for the use and benefit of the purchasers of the timeshare plan, which entity shall act as a fiduciary to the purchasers, provided that the developer has transferred control of that entity to the purchasers or does not exercise its voting rights in that entity with respect to the subject accommodations or amenities. Prior to the transfer, any lien or other encumbrance against the accommodation or facility shall be made subject to a subordination and notice to creditors instrument pursuant to subsection b. of this section; or

d. Alternative arrangements have been made which are adequate to protect the rights of the purchasers of the timeshare interests and are approved by the commission.

L. 2006, c. 63, § 19, eff. Oct. 31, 2006.

45:15-16.69. Compliance by sales agents; non-monetary compensation

a. A sales agent in New Jersey shall comply with the provisions of R.S.45:15-1 et seq., and the regulations adopted pursuant thereto, including licensure requirements, unless otherwise exempt by law.

b. A timeshare interest owner, who, for non-monetary compensation, as provided for in this act and by regulation, refers in a calendar year no more than 12 prospective purchasers of timeshare interests in the timeshare plan shall not be required to be licensed pursuant to R.S.45:15-1 et seq., provided the referring timeshare interest owner does not show, discuss terms or conditions of purchase or otherwise participate in negotiations with regard to the timeshare purchase. Examples of non-monetary compensation shall include, but shall not be limited to, the following:

- (1) Waiver of association maintenance fees,
- (2) Free meals at a restaurant or rounds of golf at a golf course;
- (3) Points or other non-monetary currency associated with hotel, timeshare or other loyalty programs, or
- (4) Other benefits specifically associated with the timeshare plan.

c. A person licensed under R.S.45:15-1 et seq., who also is a bona fide owner of a timeshare property, shall be entitled to receive non-monetary compensation as defined in subsection b. of this section on the same basis as any other owner of a timeshare property. The non-monetary compensation or referral pursuant to subsection b. of this section shall not fall within the scope of R.S.45:15-1 et seq. or the rules and regulations implementing R.S.45:15-1 et seq.

L. 2006, c. 63, § 20, eff. Oct. 31, 2006.

45:15-16.70. Prohibitions relative to developers of timeshares

a. A developer or other person offering a timeshare plan shall not:

- (1) Misrepresent a fact material to a purchaser's decision to buy a timeshare interest;
- (2) Predict any increase in the value of a timeshare interest represented over a period of time, excluding bona fide pending price increases by the developer;

(3) Materially misrepresent the qualities or characteristics of accommodations or the amenities available to the occupant of those accommodations;

(4) Misrepresent the length of time accommodations or amenities will be available to the purchaser of a timeshare interest; or

(5) Misrepresent the conditions under which a purchaser of a timeshare interest may exchange the right of the purchaser's occupancy for the right to occupy other accommodations.

b. A developer or other person using a promotion in connection with the offering of a timeshare interest shall clearly disclose all of the following:

(1) That the purpose of the promotion is to sell timeshare interests, which shall appear in bold face or other conspicuous type on all promotional materials;

(2) That any person whose name or address is obtained during the promotion may be solicited to purchase a timeshare interest,

(3) The name of each developer or other person trying to sell a timeshare interest through the promotion, and the name of each person paying for the promotion if different from the developer;

(4) The complete details of participation in the promotion;

(5) The method of awarding premiums or other benefits under the promotion;

(6) A complete and fully detailed description, including approximate retail value of each premium or benefit under the promotion if the retail value of the premium or benefit is over \$50,

(7) The quantity of each premium to be awarded or conferred;

(8) The date by which each premium or benefit will be awarded or conferred; and

(9) Any other disclosures required by the commission pursuant to regulation.

c. The required disclosures for an advertisement that contains a promotion in connection with the offering of a timeshare interest shall be provided or otherwise made available to prospective purchasers in writing or electronically at least once prior to any scheduled sales presentation and received by the prospective purchasers prior to their leaving to attend the sales presentation. The required disclosures need not be included in every written, oral or electronic communication to the prospective purchaser prior to the sales presentation.

d. If a person represents that a premium or benefit will be awarded in connection with a promotion, the premium or benefit shall be awarded or conferred in the manner represented, and on or before the date represented for awarding or conferring the premium or benefit.

L. 2006, c. 63, § 21, eff. Oct. 31, 2006.

45:15-16.71. Detailed financial records

The managing entity shall keep detailed financial records directly related to the operation of the timeshare plan. All financial and other records shall be made reasonably available for examination by any purchaser, or the authorized agent of the purchaser, and the commission. The managing entity may charge the purchaser a reasonable fee for copying any requested information.

L. 2006, c. 63, § 22, eff. Oct. 31, 2006.

45:15-16.72. Maintenance of employee records

Every developer shall maintain, for a period of two years, records of any real estate brokers, broker-salespersons or salespersons licensed in the State and employed by the developer, as well as all other managerial employees located in the State and employed by the developer, including the last known address of each of those individuals.

L. 2006, c. 63, § 23, eff. Oct. 31, 2006.

45:15-16.73. Permitted action for partition

No action for partition of a timeshare interest may be initiated except as permitted by the timeshare instrument.

L. 2006, c. 63, § 24, eff. Oct. 31, 2006.

45:15-16.74. Refusal to issue, renew; revocation, suspension of registration; penalties

The commission may refuse to issue or renew any registration, or revoke or suspend any registration or place on probation or administrative supervision, or reprimand any registrant, or impose an administrative penalty not to exceed \$50,000, in a summary proceeding pursuant to the "Penalty Enforcement Law of 1999," P.L. 1999, c.274 (C.2A:58-10 et seq.), after notice and an opportunity to be heard, for any of the following causes:

a. A registrant's violation of any provision of this act or of the regulations adopted by the commission to enforce this act.

b. A conviction of the registrant or any principal of the registrant of:

(1) A felony that is punishable by death or imprisonment for a term exceeding one year under the laws of any state or federal jurisdiction;

(2) A misdemeanor under the laws of any state or federal jurisdiction if an essential element of the offense is dishonesty; or

(3) Any crime under the laws of any state or federal jurisdiction if the crime relates directly to the practice of the profession regulated by this act.

c. A registrant's making any misrepresentation for the purpose of obtaining an order of registration or exemption.

d. A registrant's discipline in another state or federal jurisdiction, State agency, or foreign country regarding the practice of the profession regulated by this act, if at least one of the grounds for the discipline is the same as or substantially equivalent to one of those set forth in this act.

e. A finding by the commission that the registrant, after having his registration placed on probationary status, has violated the terms of probation.

f. A registrant's practicing or attempting to practice under a name other than the name as shown on his registration or any other legally authorized name.

g. A registrant's failure to file a return, or to pay the tax, penalty, or interest shown in a filed return, or to pay any final assessment of tax, penalty, or interest, as required by any tax law administered by the State Department of the Treasury or any local government entity, until the requirements of any tax are satisfied.

h. A registrant's engaging in any conduct likely to deceive, defraud or harm the public.

i. A registrant's aiding or abetting another person in violating any provision of this act or of the regulations adopted by the commission to enforce this act.

j. Any representation in any document or information filed with the commission that is materially false or misleading.

k. A registrant's disseminating or causing to be disseminated any materially false or misleading promotional materials or advertisements in connection with a timeshare plan.

l. A registrant's concealing, diverting, or disposing of any funds or assets of any person in a manner that impairs the rights of purchasers of timeshare interests in the timeshare plan.

m. A registrant's failure to perform any stipulation or agreement made to induce the commission to issue an order relating to the timeshare plan.

n. A registrant's, or its agents or brokers engaging in any act that constitutes a violation of the "Law Against Discrimination," P.L. 1945, c. 169 (C.10:5-1 et seq.).

o. A registrant's, or its agent's or broker's failure to provide information requested in writing by the commission, either as the result of a complaint to the commission or as a result of a random audit conducted by the commission, which would indicate a violation of this act.

p. A registrant's, or its agent's or broker's, failure to account for or remit any escrow funds coming into his possession which belonged to others.

q. A registrant's, or its agent's or broker's, failure to make available to commission personnel during normal business hours all escrow records and related documents maintained in connection therewith, within a reasonable period of time after a request from the commission personnel, but in no event later than five business days from the request.

L. 2006, c. 63, § 25, eff. Oct. 31, 2006.

45:15-16.75. Powers of commission

The commission may:

a. Accept registrations filed in this State, in other states, or with the federal government;

b. Contract with similar agencies in this State or other jurisdictions to perform investigative functions;

c. Accept grants-in-aid from any governmental or other source;

d. Cooperate with similar agencies or commissions in this State or other jurisdictions to establish uniform filing procedures and forms, uniform public offering statements, advertising standards, rules and common administrative practices;

e. Grant exemptions pursuant to the rules and regulations adopted pursuant to this act;

f. Make any necessary public or private investigations within or outside of this State to determine whether any person has violated or is about to violate any provision of this act, or to aid in the enforcement of this act or in the prescribing of rules and regulations and forms hereunder;

g. Require or permit any person to file a statement in writing, under oath or otherwise, as the commission determines, as to all the facts and circumstances concerning any matter to be investigated;

h. For the purpose of any investigation or proceeding under this act, the commission or any officer designated by regulation, may administer oaths, or affirmations, and upon its own motion or upon request of any party may subpoena witnesses and compel their attendance, take evidence, and require the production of any matter which is relevant to the investigation, including the existence, description, nature, custody, condition and location of any books, documents, or other tangible things and the identity and location of persons having knowledge of relevant facts or any other matter reasonably calculated to lead to the discovery of material evidence; and

i. Upon failure to obey a subpoena or to answer questions propounded by the investigating officer and upon reasonable notice to all persons affected thereby, the commission may apply to the Superior Court for an order compelling compliance with the subpoena.

L. 2006, c. 63, § 26, eff. Oct. 31, 2006.

45:15-16.76. Determinations by commission; cease and desist order

a. If the commission determines after notice and hearing that a person has:

(1) Violated any provision of this act;

(2) Directly or through an agent or employee engaged in any false, deceptive, or misleading advertising, promotional or sales methods in the State to offer or dispose of an interest in the timeshare plan;

(3) Made any material change in the plan of disposition and development of the timeshare plan subsequent to the order of registration without first complying with the provisions of section 11 [C.45:15-16.60] of this act;

(4) Disposed of any timeshare plan which have not been registered with the commission; or

(5) Violated any lawful order or rule or regulation of the commission;

The commission may issue an order requiring the person to cease and desist from the unlawful practice and to take such affirmative action as in the judgment of the commission will carry out the purposes of this act.

b. If the commission makes a finding of fact in writing that the public interest will be irreparably harmed by delay in issuing an order, the commission may issue a temporary cease and desist order. Every temporary cease and desist order shall include in its terms a provision that upon request a hearing will be held within 15 days of the receipt of the request.

L. 2006, c. 63, § 27, eff. Oct. 31, 2006.

45:15-16.77. Violations

a. If it appears that a person has engaged, or is about to engage, in an act or practice constituting a violation of a provision of this act, the commission, with or without prior administrative proceedings, may bring an action in the Superior Court to enjoin the acts or practices and to enforce compliance with this act or any rule, regulation or order hereunder. Upon proper showing, injunctive relief or a temporary restraining order shall be granted, and a receiver may be appointed. The commission shall not be required to post a bond in any court proceeding.

b. The commission may intervene in any suit relating to this act. Each developer registered pursuant to this act shall provide the commission with notice of any lawsuit that is filed against the developer or the registered timeshare plan that relates to rights, duties, or responsibilities of the developer or timeshare plan as set forth in this act.

L. 2006, c. 63, § 28, eff. Oct. 31, 2006.

45:15-16.78. Application for registration deemed submission to jurisdiction of courts

a. For purposes of this act, an application for registration submitted to the commission shall be deemed a submission, by the applicant, to the jurisdiction of the courts of the State of New Jersey.

b. In addition to the methods of service provided for in the Rules of Court, service may be made by delivering a copy of the process to a person designated by the commission to receive the process at its office, but that service shall not be effective unless the plaintiff, which may be the commission, in a proceeding instituted by it:

(1) Sends a copy of the process and the pleading by certified mail to the defendant or respondent at his last known address; and

(2) The plaintiff's affidavit of compliance with this section is filed in the case on or before the return day of the process, if any, or within the time as the court allows.

c. If any person, including any nonresident of this State, engages in conduct prohibited by this act and has not filed a consent to service of process, and personal jurisdiction over him cannot otherwise be obtained in this State, that conduct authorizes the commission to receive service of process, in any non-criminal proceedings against him or his successor which arises from that conduct and which is brought under this act with the same force as if served on him personally. Notice shall be given as provided in subsection b. of this section.

L. 2006, c. 63, § 29, eff. Oct. 31, 2006.

45:15-16.79. Additional penalties

a. Any broker, broker-salesperson or salesperson who violates the provisions of this act shall, in addition to the penalties set forth herein, be subject to the penalties as set forth in R.S.45:15-17.

b. Any person who violates any provision of this act or any person who, in an application for registration filed with the commission, makes any untrue statement of a material fact or omits to state a material fact shall be fined not less than \$250, nor more than \$50,000, per violation.

c. The commission may levy and collect the penalties set forth in subsection b. of this section after affording the person alleged to be in violation of this act an opportunity for a hearing in accordance with the "Administrative Procedure Act," P.L. 1968, c.410 (C.52:14B-1 et seq.) on the alleged violations and a finding by the commission that the person is guilty of the violation. When a penalty levied by the commission has not been satisfied within 30 days of the levy, the penalty may be sued for and recovered by, and in the name of, the commission in a summary proceeding pursuant to the "Penalty Enforcement Law of 1999," P.L. 1999, c.274 (C.2A:58-10 et seq.).

d. The commission may, in the interest of justice, compromise any civil penalty, if in its determination the gravity of the offense does not warrant the assessment of the full fine.

L. 2006, c. 63, § 30, eff. Oct. 31, 2006.

45:15-16.80. Actions, counterclaims, remedies

a. Any person who suffers any ascertainable loss of moneys as a result of the failure of another to comply fully with the provisions of this act may bring an action or assert a counterclaim in any court of competent jurisdiction. In any action filed under this section in which a defendant is found to have knowingly engaged in any false, deceptive, misleading promotional or sales methods or discriminatory advertising on the basis of race, sex, creed, color, marital status, national origin or religion, concealed or fraudulently diverted any funds or assets so as to defeat the rights of timeshare plan purchasers, made an intentional misrepresentation or concealed a material fact in an application for registration, or disposed of any timeshare plan required to be registered under this act, which are not so registered, the court shall, in addition to any other appropriate legal or equitable remedy, award double the damages suffered, and court costs, including reasonable attorney's fees. In the case of an untruth, omission, or misleading statement the developer sustains the burden of proving that the purchaser knew of the untruth, omission or misleading statement, or that he did not rely on such information, or that the developer did not know, and in the exercise of reasonable care could not have known of the untruth, omission, or misleading statement.

b. The court, in addition to the remedies provided in this act, may award any other relief appropriate under the circumstances including, in the court's discretion, restitution of all monies paid and, where a developer has failed to provide to a purchaser a copy of the current public offering statement approved by the commission prior to execution of the contract or agreement, rescission of the contract. If the purchaser fails to establish a cause of action, and the court further determines that the action was wholly without merit, the court shall award attorney's fees to the developer.

c. Any stipulation or provision purporting to bind a purchaser acquiring an interest in a timeshare plan subject to the provisions of this act to a waiver of compliance with the provisions of this act shall be void.

L. 2006, c. 63, § 31, eff. Oct. 31, 2006.

45:15-16.81. Valid registration required for action

a. An action shall not be maintained by any developer in any court in this State with respect to any agreement, contract, or services for which registration is required by this act, or to recover the agreed price or any consideration under any agreement, or to recover for services for which a registration is required by this act, without proving that the developer had a valid order of

registration at the time of making the agreement or performing the work.

b. A person licensed in this State as a real estate broker pursuant to R.S.45:15-1 et seq. shall not represent any unregistered timeshare plan and shall not accept or collect any commission or other form of consideration from any developer unless the timeshare plan is registered pursuant to the requirements of this act.

L. 2006, c. 63, § 32, eff. Oct. 31, 2006.

45:15-16.82. Rules

The commission shall adopt rules for the implementation and enforcement of this act in accordance with the "Administrative Procedure Act," P.L. 1968, c.410 (C.52:14B-1 et seq.).

L. 2006, c. 63, § 33, eff. Oct. 31, 2006.

45:15-16.83. Forms, procedures

The commission may prescribe forms and procedures for submitting information to the commission.

L. 2006, c. 63, § 34, eff. Oct. 31, 2006.

45:15-16.84. Investigation of matters relative to application for registration

The commission shall thoroughly investigate all matters relating to an application for registration under this act and may require a personal inspection of any timeshare plan, accommodation, and any offices where any of the foregoing may transact business. All reasonable expenses incurred by the commission in investigating such matters shall be paid by the registrant. The commission may require a deposit sufficient to cover the expenses prior to incurring the expenses.

L. 2006, c. 63, § 35, eff. Oct. 31, 2006.

45:15-16.85. Existing timeshare plans remain in full force and effect

All timeshare plans that were registered and approved pursuant to the provisions of the "Real Estate Sales Full Disclosure Act," P.L. 1989, c.239 (C.45:15-16.27 et seq.) and "The Planned Real Estate Development Full Disclosure Act," P.L.1977, c.419 (C.45:22A-21 et seq.) in effect on the effective date [Oct. 31, 2006] of this act shall remain in full force and effect after the effective date of this act and shall be considered registered under this act and shall not be required to file any further documentation under this act, except as to comply with the requirements of section 11 [C.45:15-16.60].

Developers who have filed timeshare plans that were exempt from the requirements of the "Real Estate Sales Full Disclosure Act," P.L. 1989, c.239 (C.45:15-16.27 et seq.) and "The Planned Real Estate Development Full Disclosure Act," P.L.1977, c.419 (C.45:22A-21 et seq.) shall be required to file a registration application with the commission within 90 days from the effective

date [Oct. 31, 2006] of this act unless they are otherwise exempt under this act. These developers and timeshare plans shall be allowed to continue operating as long as a registration application is filed with the commission within the timeframe stated above and as long as they, in good faith, continue to work with the commission to correct any and all deficiencies in the registration application.

Any existing injunction or temporary restraining order validly obtained under the "Real Estate Sales Full Disclosure Act," P.L. 1989, c.239 (C.45:15-16.27 et seq.) or "The Planned Real Estate Development Full Disclosure Act," P.L. 1977, c.419 (C.45:22A-21 et seq.) which prohibits unregistered practice of timeshare developers, timeshare plans, and their agents shall not be invalidated by the enactment of this act and shall continue to have full force and effect on and after the effective date of this act. Any existing disciplinary action or investigation pursuant to a violation under the "Real Estate Sales Full Disclosure Act," P.L. 1989, c.239 (C.45:15-16.27 et seq.) or "The Planned Real Estate Development Full Disclosure Act," P.L. 1977, c.419 (C.45:22A-21 et seq.) shall not be invalidated by the enactment of this act and shall continue to have full force and effect on and after the effective date of this act.

L. 2006, c. 63, § 36, eff. Oct. 31, 2006.

45:15-17. Investigation of actions of licensees; suspension or revocation of licenses and causes therefor

The commission may, upon its own motion, and shall, upon the verified complaint in writing of any person, investigate the actions of any real estate broker, broker-salesperson, or salesperson, or any person who assumes, advertises or represents himself as being authorized to act as a real estate broker, broker-salesperson, or salesperson or engages in any of the activities described in R.S.45:15-3 without being licensed so to do. The lapse or suspension of a license by operation of law or the voluntary surrender of a license by a licensee shall not deprive the commission of jurisdiction to proceed with any investigation as herein provided or prevent the commission from taking any regulatory action against such licensee, provided, however, that the alleged charges arose while said licensee was duly licensed. Each transaction shall be construed as a separate offense.

In conducting investigations, the commission may take testimony by deposition as provided in R.S.45:15-18, require or permit any person to file a statement in writing, under oath or otherwise as the commission determines, as to all the facts and circumstances concerning the matter under investigation, and, upon its own motion or upon the request of any party, subpoena witnesses, compel their attendance, take evidence, and require the production of any material which is relevant to the investigation, including any and all records of a licensee pertaining to his activities as a real estate broker, broker-salesperson, or salesperson. The commission may also require the provision of any information concerning the existence, description, nature,

custody, condition and location of any books, documents, or other tangible material and the identity and location of persons having knowledge of relevant facts of any other matter reasonably calculated to lead to the discovery of material evidence. Upon failure to obey a subpoena or to answer questions posed by an investigator or legal representative of the commission and upon reasonable notice to all affected persons, the commission may commence an administrative action as provided below or apply to the Superior Court for an order compelling compliance.

The commission may place on probation, suspend for a period less than the unexpired portion of the license period, or may revoke any license issued under the provisions of R.S.45:15-1 et seq., or the right of licensure when such person is no longer the holder of a license at the time of hearing, or may impose, in addition or as an alternative to such probation, revocation or suspension, a penalty of not more than \$5,000 for the first violation, and a penalty of not more than \$10,000 for any subsequent violation, which penalty shall be sued for and recovered by and in the name of the commission and shall be collected and enforced by summary proceedings pursuant to the "Penalty Enforcement Law of 1999," P.L. 1999, c. 274 (C.2A:58-10 et seq.), where the licensee or any person, in performing or attempting to perform any of the acts mentioned herein, is deemed to be guilty of:

- a. Making any false promises or any substantial misrepresentation; or
- b. Acting for more than one party in a transaction without the knowledge of all parties thereto; or
- c. Pursuing a flagrant and continued course of misrepresentation or making of false promises through agents, broker-salespersons, or salespersons, advertisements or otherwise; or
- d. Failure to account for or to pay over any moneys belonging to others, coming into the possession of the licensee; or
- e. Any conduct which demonstrates unworthiness, incompetency, bad faith or dishonesty. The failure of any person to cooperate with the commission in the performance of its duties or to comply with a subpoena issued by the commission compelling the production of materials in the course of an investigation, or the failure to give a verbal or written statement concerning a matter under investigation may be construed as conduct demonstrating unworthiness; or
- f. Failure to provide his client with a fully executed copy of any sale or exclusive sales or rental listing contract at the time of execution thereof, or failure to specify therein a definite terminal date which terminal date shall not be subject to any qualifying terms or conditions; or
- g. Using any plan, scheme or method for the sale or promotion of the sale of real estate which involves a lottery, a contest, a game, a prize, a drawing, or the offering of a lot or parcel or lots or parcels for advertising purposes, provided, however, that a promotion or offer of free, discounted or other services or

products which does not require that the recipient of any free, discounted or other services or products enter into a sale, listing or other real estate contract as a condition of the promotion or offer shall not constitute a violation of this subsection if that promotion or offering does not involve a lottery, a contest, a game, a drawing or the offering of a lot or parcel or lots or parcels for advertising purposes. A broker shall disclose in writing any compensation received for such promotion or offer in the form and substance as required by the federal "Real Estate Settlement Procedures Act of 1974," 12 U.S.C. ss. 2601 et seq., except that, notwithstanding the provisions of that federal act, written disclosure shall be provided no later than when the promotion or offer is extended by the broker to the consumer, or

- h. Being convicted of a crime, knowledge of which the commission did not have at the time of last issuing a real estate license to the licensee; or
- i. Collecting a commission as a real estate broker in a transaction, when at the same time representing either party in a transaction in a different capacity for a consideration; or
- j. Using any trade name or insignia of membership in any real estate organization of which the licensee is not a member; or
- k. Paying any rebate, profit, compensation or commission to anyone not possessed of a real estate license, except that: (1) free, discounted or other services or products provided for in subsection g. of this section shall not constitute a violation of this subsection; and (2) a real estate broker may provide a purchaser of residential real property, but no other third party a rebate of a portion of the commission paid to the broker in a transaction, so long as: the broker and the purchaser contract for such a rebate at the onset of the broker relationship in a written document, electronic document or a buyer agency agreement, the broker complies with any State or federal requirements with respect to the disclosure of the payment of the rebate; and the broker recommends to the purchaser that the purchaser contact a tax professional concerning the tax implications of receiving that rebate. The rebate paid to the purchaser shall be in the form of a credit, reducing the amount of the commission payable to the broker, or a check paid by the closing agent and shall be made at the time of closing; or
- l. Any other conduct, whether of the same or a different character than specified in this section, which constitutes fraud or dishonest dealing; or
- m. Accepting a commission or valuable consideration as a real estate broker-salesperson or salesperson for the performance of any of the acts specified in this act, from any person, except his employing or contracting broker, who must be a licensed broker; or
- n. Procuring a real estate license, for himself or anyone else, by fraud, misrepresentation or deceit; or

o. Commingling the money or other property of his principals with his own or failure to maintain and deposit in a special account, separate and apart from personal or other business accounts, all moneys received by a real estate broker, acting in said capacity, or as escrow agent, or the temporary custodian of the funds of others, in a real estate transaction, or

p. Selling property in the ownership of which he is interested in any manner whatsoever, unless he first discloses to the purchaser in the contract of sale his interest therein and his status as a real estate broker, broker-salesperson, or salesperson; or

q. Purchasing any property unless he first discloses to the seller in the contract of sale his status as a real estate broker, broker-salesperson, or salesperson; or

r. Charging or accepting any fee, commission or compensation in exchange for providing information on purportedly available rental housing, including lists of such units supplied verbally or in written form, before a lease has been executed or, where no lease is drawn, before the tenant has taken possession of the premises without complying with all applicable rules promulgated by the commission regulating these practices; or

s. Failing to notify the commission within 30 days of having been convicted of any crime, including any sex offense that would qualify the licensee for registration pursuant to section 2 of P.L. 1994, c. 133 (C.2C:7-2) or under an equivalent statute of another state or jurisdiction, misdemeanor or disorderly persons offense, or of having been indicted, or of the filing of any formal criminal charges, or of the suspension or revocation of any real estate license issued by another state, or of the initiation of formal disciplinary proceedings in another state affecting any real estate license held, or failing to supply any documentation available to the licensee that the commission may request in connection with such matter; or

t. The violation of any of the provisions of R.S. 45:15-1 et seq. or of the administrative rules adopted by the commission pursuant to the provisions of R.S. 45:15-1 et seq. The commission is expressly vested with the power and authority to make, prescribe and enforce any and all rules and regulations for the conduct of the real estate brokerage business consistent with the provisions of chapter 15 of Title 45 of the Revised Statutes.

If a licensee is deemed to be guilty of a third violation of any of the provisions of this section, whether of the same provision or of separate provisions, the commission may deem that person a repeat offender, in which event the commission may direct that no license as a real estate broker, broker-salesperson, or salesperson shall henceforth be issued to that person.

Amended 1948, c. 155, § 2; 1953, c. 229, § 5; 1954, c. 193, § 2; 1966, c. 11, § 5; 1977, c. 331, § 5; 1989, c. 126, § 3; 1993, c. 51, § 20; 2001, c. 68, eff. Apr. 19, 2001; 2009, c. 238, § 11, eff. July 1, 2011; 2009, c. 273, § 1, eff. Jan. 17, 2010; 2018, c. 71, § 16, eff. Jan. 1, 2018.

45:15-17.1. Temporary suspension of license

The commission may, on its own motion, enter an order temporarily suspending the license of any licensee upon making a finding that prima facie evidence exists that the licensee has violated subsection d. or subsection o. of R.S. 45:15-17. At least 24 hours prior to entering the order, the commission shall give notice to the licensee of the application for the order and shall provide the licensee with an opportunity to be heard. The notice may be given either by telephone or in writing and may be served personally or sent by certified mail to the last known business address of the licensee.

When the commission orders the temporary suspension of a license, it shall advise the licensee of the date upon which the commission shall hold an evidentiary hearing on the violations upon which the temporary suspension is based, which date shall be no more than 30 days following the date of the order entering the temporary suspension.

L. 1993, c. 51, § 23.

45:15-17.2. Freezing accounts during suspension of broker's license

Upon entering an order temporarily suspending the license of any broker, the commission may also enter an order directing that some or all of the accounts maintained by the broker in any depository institution in the State be temporarily frozen. The commission shall serve copies of the order upon the institution either in person or by certified mail within ten days and, where a broker's trust or escrow account is frozen, upon all persons known to the commission for whom the broker was acting as escrow agent or trustee. In the event the commission subsequently determines that the suspension shall not be continued, it shall immediately notify the depository institution and other interested parties that the temporary freeze order is dissolved. If the commission orders that the license suspension shall continue for more than 30 days or that a license revocation shall be imposed, the commission shall, within 10 days of that ruling, make application to Superior Court for payment into the court of all funds in the accounts temporarily frozen by order of the commission. The commission shall provide notice of the application to the broker and all known interested parties. Following payment into court, the monies or any portion of them shall thereafter only be released upon court order obtained by the broker or other interested party, upon notice to the commission and in compliance with court rules.

L. 1993, c. 51, § 24.

45:15-17.3. Sanctions for noncomplying sales of mobile homes

A real estate licensee who acts as an agent or broker in the sale of a mobile or manufactured home, as defined in subsection a. of R.S. 39:10-19, in a manner which does not comply with all requirements of R.S. 39:10-1 et seq. applicable to the sale of any such mobile or manufactured home, shall, pursuant to

R.S. 45:15-17, be subject to sanctions by the New Jersey Real Estate Commission for engaging in conduct which demonstrates incompetency.

L. 1994, c. 150, § 2

45:15-17.4. Rules, regulations

The New Jersey Real Estate Commission, after consultation with the Director of the Division of Motor Vehicles, shall, pursuant to the provisions of the "Administrative Procedure Act," P.L. 1968, c. 410 (C. 52:14B-1 et seq.), promulgate rules and regulations to effectuate the provisions of this act.

L. 1994, c. 150, § 3

45:15-18. Notification to licensee of charges made in license suspension, revocation

With the exception of a temporary suspension imposed by the commission pursuant to section 23 of P.L. 1993, c. 51 (C. 45:15-17.1), the commission shall, before suspending or revoking any license, and at least ten days prior to the date set for the hearing, notify in writing the licensee of any charges made, and afford him an opportunity to be heard in person or by counsel. Such written notice may be served either personally or sent by certified mail to the last known business address of the licensee. If the licensee is a broker-salesperson or salesperson, the commission shall also notify the broker employing or contracting with him, specifying the charges made against such licensee, by sending a notice thereof by certified mail to the broker's last known business address. The commission shall have power to bring before it any licensee or any person in this State pursuant to subpoena served personally or by certified mail, or the commission may take testimony by deposition in the same manner as prescribed by law in judicial proceedings in the courts of this State. Any final decision or determination of the commission shall be reviewable by the Appellate Division of the Superior Court.

Amended 1953, c. 43, § 73; 1993, c. 51, § 25; 2009, c. 238, § 12, eff. July 1, 2011; 2018, c. 71, § 17, eff. Jan. 1, 2018.

45:15-19. Cause for revocation of license

Any unlawful act or violation of any of the provisions of R.S. 45:15-1 et seq., by any real estate broker-salesperson or salesperson, shall not be cause for the revocation of any real estate broker's license, unless it shall appear to the satisfaction of the commission that the real estate broker employing or contracting with such licensee had guilty knowledge thereof.

Amended 1993, c. 51, § 26; 2009, c. 238, § 13, eff. July 1, 2011; 2018, c. 71, § 18, eff. Jan. 1, 2018.

45:15-19.1. License revoked upon conviction

When, during the term of any license issued by the commission, the licensee shall be convicted in a court of competent jurisdiction in the State of New Jersey or any state (including federal courts) of forgery, burglary, robbery, any theft or related

offense with the exception of shoplifting, criminal conspiracy to defraud, or other like offense or offenses, or any crime involving, related to or arising out of the licensee's activities as a real estate broker, broker-salesperson, or salesperson, and a duly certified or exemplified copy of the judgment of conviction shall be obtained by the commission, the commission shall revoke forthwith the license by it theretofore issued to the licensee so convicted. The commission shall revoke the license of any licensee convicted of any sex offense that would qualify the licensee for registration pursuant to section 2 of P.L. 1994, c. 133 (C. 2C:7-2) or under an equivalent statute of another state or jurisdiction.

L. 1953, c. 229, § 6; amended 1989, c. 126, § 4; 1993, c. 51, § 27; 2009, c. 238, § 14, eff. July 1, 2011; 2018, c. 71, § 19, eff. Jan. 1, 2018.

45:15-19.2. License suspended when licensee is indicted

In the event that any licensee shall be indicted in the State of New Jersey or any state or territory (including federal courts) for murder, kidnapping, aggravated sexual assault or any sex offense that would qualify the licensee for registration pursuant to section 2 of P.L. 1994, c. 133 (C. 2C:7-2) or under an equivalent statute of another state or jurisdiction, robbery, burglary, arson, any theft offense, bribery, racketeering, distribution of a controlled dangerous substance or conspiracy to distribute a controlled dangerous substance, forgery, criminal conspiracy to defraud, or other like offense or offenses, or any crime involving, related to or arising out of the licensee's activities as a real estate broker, broker-salesperson, or salesperson, and a certified copy of the indictment is obtained by the commission, or other proper evidence thereof be to it given, the commission shall have authority, in its discretion, to suspend the license issued to such licensee pending trial upon such indictment.

L. 1953, c. 229, § 7; amended 1989, c. 126, § 5; 1993, c. 51, § 28; 2009, c. 238, § 15, eff. July 1, 2011; 2018, c. 71, § 20, eff. Jan. 1, 2018.

45:15-19.3. No supercedure

No provision of R.S. 45:15-1 et seq., or any amendment or supplement thereof, shall be deemed to supersede P.L. 1968, c. 282 (C. 2A:168A-1 et seq.).

L. 2018, c. 71, § 21, eff. Jan. 1, 2018.

45:15-20. Nonresident licenses

A nonresident may become a real estate broker, broker-salesperson, or salesperson by conforming to all of the provisions of R.S. 45:15-1 et seq. All nonresident licenses issued by the commission prior to July 1, 1994 may be renewed upon payment of the renewal fees established pursuant to R.S. 45:15-15. All nonresident licenses so renewed shall be issued by the commission in the same form as a resident license. In the event that any person to whom a nonresident license is issued fails to maintain or renew the license or to obtain a new license from the commission for a period of two or more consecutive years, the person shall be required to fulfill the requirements for initial licensure

established pursuant to R.S.45:15-9 prior to the issuance of any further license.

A licensed broker whose main office is not located within this State shall only provide brokerage services concerning real estate located within this State either personally or through persons in the broker's employ or with whom the broker has contracted who are the holders of real estate broker-salesperson or salesperson licenses issued by the commission. In the event that a broker maintains one or more branch offices in this State, no person shall engage in the business of a real estate broker, broker-salesperson, or salesperson at those offices unless the person is a holder of a license issued by the commission authorizing him to do so.

Amended 1938, c. 227, § 2; 1949, c. 214; 1961, c. 88, § 3; 1993, c. 51, § 29; 2009, c. 238, § 16, eff. July 1, 2011; 2018, c. 71, § 22, eff. Jan. 1, 2018.

45:15-21. Filing of irrevocable consent to service

Every applicant for a license whose business address is outside this State shall file an irrevocable consent that suits and actions may be commenced against such applicant by the commission or by any person in any of the courts of record of this State, by the service of any process or pleading authorized by the laws of this State, in any county in which the plaintiff may reside, by serving the same on the secretary of the commission, said consent stipulating and agreeing that such service of such process or pleadings on said secretary shall be taken and held in all courts to be as valid and binding as if due service had been made personally upon the applicant in this State. This consent shall be duly acknowledged, and, if made by a corporation, shall be authenticated by its seal. The consent from a corporation shall be accompanied by a duly certified copy of the resolution of the board of directors, authorizing the proper officers to execute it. In all cases where process or pleadings shall be served, under the provisions of this article, upon the secretary of the commission, such process or pleadings shall be served in duplicate, one of which shall be filed in the office of the commission and the other shall be forwarded immediately by the secretary of the commission, by registered mail, to the last known business address of the licensee against which such process or pleadings are directed.

Every licensee whose business address is outside this State shall, by acceptance of a license for that out-of-state address, automatically and irrevocably consent to the commission's jurisdiction over and investigative authority regarding the licensed business premises, and all records and conduct of the licensee both within and outside of the State. The licensee shall also automatically and irrevocably consent that service of any pleading or subpoena issued by the secretary of the commission pursuant to R.S. 45:15-17 or R.S. 45:15-18 which is delivered by certified mail to the licensee's last known address, shall constitute valid and binding service of the subpoena or pleading upon the licensee as if service had been made personally upon the licensee in this State.

Amended 1993, c. 51, s. 30.

45:15-22. Repealed by L. 1993, c. 51, § 58, eff. May 20, 1993

45:15-23. Repealed by L. 1989, c. 126, § 7, eff. July 3, 1989

45:15-24. Commitment for nonpayment of judgment

The trial shall be with a jury upon the demand of any party to the action. The court shall, if judgment be rendered for the plaintiff, cause any such defendant, who refuses or neglects to pay forthwith the amount of the judgment rendered against him and all costs and charges incident thereto, to be committed to the county jail for a period not exceeding thirty days.

Amended by L. 1953, c. 43, p. 817, 75.

45:15-25, 45:15-26. Repealed by L. 1953, c. 43, §§ 76, 77

45:15-27. Disposition of penalties

Any penalty recovered for any violation of this article shall be applied by the commission to the same purpose as other funds of the commission collected in accordance with the provisions of this article.

Amended by L. 1953, c. 43, p. 817, 78.

45:15-28. Repealed by L. 1953, c. 43, § 79

45:15-29. Payment of fines, penalties; funding of commission's expenses

a. All fines and penalties received by the commission pursuant to the provisions of this article shall be paid by it into the State treasury monthly. The payments shall be made on or before the tenth day of each month following their receipt, and at the time of payment a statement thereof shall be filed with the Director of the Division of Budget and Accounting.

b. All expenses incurred by the commission shall be paid from fees collected by the commission pursuant to the provisions of article I of chapter 15 of Title 45 of the Revised Statutes. Monies collected annually pursuant to this subsection shall be dedicated to the commission for the purposes of funding its incurred expenses for the current fiscal year, which expenses shall include, in addition to the direct cost of personal service, the cost of maintenance and operation, the cost of employee benefits and the workers' compensation paid for and on account of personnel, rentals for space occupied in State-owned or State-leased buildings and all other direct and indirect costs of the administration thereof.

Amended 1995, c. 156, s. 15.

45:15-29.1. Employees transferred

Such employees of the New Jersey Real Estate Commission, as the Commissioner of Insurance may determine are needed for the proper performance of the work of the division of the New Jersey Real Estate Commission in the Department of Insurance, are hereby transferred to the Department of Insurance. Persons so

transferred shall be assigned to such duties as the Commissioner of Insurance shall determine.

L. 1948, c. 88, § 6; amended 1993, c. 51, § 31.

45:15-29.2. Rights under Title 11 and under pension laws not affected

Nothing in this act shall be construed to deprive any person of any right or protection provided him by Title 11 of the Revised Statutes, Civil Service, or under any pension law or retirement system.

L. 1948, c. 88, p. 502, 7.

45:15-29.3. Orders, rules, regulations continued

The orders, rules and regulations heretofore made or promulgated by the New Jersey Real Estate Commission shall continue with full force and effect until amended or repealed by the New Jersey Real Estate Commission constituted hereunder as the Division of the New Jersey Real Estate Commission in the Department of Insurance.

L. 1948, c. 88, § 9; amended 1993, c. 51, § 32.

45:15-29.4. "New Jersey Real Estate Commission," reference

Whenever the term "New Jersey Real Estate Commission" occurs or any reference is made thereto, in any law, contract or document, the same shall be deemed to mean or refer to the New Jersey Real Estate Commission constituted hereunder as the Division of the New Jersey Real Estate Commission in the Department of Insurance.

L. 1948, c. 88, § 10; amended 1993, c. 51, § 33.

45:15-29.5. Actions, proceedings not affected

This act shall not affect actions or proceedings, civil or criminal, brought by or against the New Jersey Real Estate Commission and pending on the effective date of this act, and such actions or proceedings may be prosecuted or defended in the same manner and to the same effect by the New Jersey Real Estate Commission constituted hereunder as the Division of the New Jersey Real Estate Commission in the Department of Insurance as if the foregoing provisions had not taken effect, nor shall any of the foregoing provisions affect any order or recommendation made by, or other matters or proceedings before, the New Jersey Real Estate Commission; and all such matters or proceedings pending before the New Jersey Real Estate Commission on the effective date of this act shall be continued by the New Jersey Real Estate Commission constituted hereunder as the Division of the New Jersey Real Estate Commission in the Department of Insurance.

L. 1948, c. 88, § 11; amended 1993, c. 51, § 34.

ARTICLE 2. REAL ESTATE AUCTIONEERS [REPEALED]

45:15-30 to 45:15-33. Repealed by L. 1953, c. 229, § 9

ARTICLE 3. REAL ESTATE GUARANTY FUND

45:15-34. Real estate guaranty fund established

A real estate guaranty fund is established as a special trust fund to be maintained by the State Treasurer and administered by the New Jersey Real Estate Commission in accordance with the provisions of this act to provide a fund from which recovery may be obtained by any person aggrieved by the embezzlement, conversion or unlawful obtaining of money or property in a real estate brokerage transaction by a licensed real estate broker, broker-salesperson, or salesperson or an unlicensed employee of a real estate broker; provided, however, that the amount of such recovery shall not exceed in the aggregate the sum of \$10,000 in connection with any one transaction regardless of the number of claims, persons aggrieved, or parcels of, or interests in real estate involved in the transaction. The maximum amount recoverable per transaction shall be increased to \$20,000 for claims filed on the basis of causes of action which accrue after the effective date of P.L. 1993, c. 51 (C. 45:15-12.3 et al.).

L. 1976, c. 112, § 1; amended 1993, c. 51, § 35, eff. May 20, 1993, 2009, c. 238, § 17, eff. July 1, 2011, 2018, c. 71, § 23, eff. Jan. 1, 2018.

45:15-35. Additional amount payable upon initial issuance of license

Upon the initial issuance of a biennial license as a real estate broker, broker-salesperson, or salesperson the licensee shall pay to the commission, in addition to the license fee fixed by R.S. 45:15-15, an additional amount to be forwarded by the commission to the State Treasurer and accounted for and credited by him to the real estate guaranty fund. The additional amount payable by a broker or broker-salesperson shall be \$20 and by a salesperson, \$10.

L. 1976, c. 112, § 2; amended 1993, c. 51, § 36, 1996, c. 38, § 4, eff. Dec. 18, 1996, 2009, c. 238, § 18, eff. July 1, 2011, 2018, c. 71, § 24, eff. Jan. 1, 2018.

45:15-36. Management and investment of funds

The State Treasurer shall hold, manage and through the Division of Investment, invest and reinvest funds of the real estate guaranty fund and credit all interest and other income earned thereon to the real estate guaranty fund in the same manner as provided by law with respect to investment of pension and retirement funds administered by the State. The Real Estate Commission shall keep the State Treasurer advised of the anticipated cash demands for payment of claims against the fund.

L. 1976, c. 112, 3, eff. Feb. 1, 1977.

45:15-37. Payments from real estate guaranty fund

No claim shall be made for payment from the real estate guaranty fund except upon the reduction to final judgment, which shall include reasonable attorney fees and costs, of a civil action

against the broker, broker-salesperson, or salesperson or unlicensed employee of a broker, and, where the judgment creditor has pursued all available remedies, made all reasonable searches, and has been unable to satisfy the judgment from the licensee's assets, the entry of a court order which directs the New Jersey Real Estate Commission to make payment from the fund. No such order shall authorize a payment to the spouse or personal representative of the spouse of the judgment debtor.

No order shall be entered unless the claimant, either at the time of filing the civil action or thereafter, files a certification affirming that a criminal complaint alleging the misappropriation of funds by the broker, broker-salesperson, or salesperson or unlicensed employee has been filed with a law enforcement agency of this State or of a county or municipality in this State. The criminal complaint shall refer to the same conduct to which reference is made in the civil action as forming the basis for a claim against the real estate guaranty fund. The certification shall specify the date on which the criminal complaint was filed and the law enforcement agency with which it was filed. A copy of the certification shall be provided to the New Jersey Real Estate Commission upon its being filed. The requirement to file a certification shall apply prospectively only to claims seeking reimbursement from the fund filed on the basis of causes of action which accrue after the effective date of P.L. 1993, c. 51 (C.45:15-12.3 et al.).

Upon delivery by the New Jersey Real Estate Commission to the State Treasurer of a certified copy of the court order together with an assignment to the New Jersey Real Estate Commission of the judgment creditor's right, title and interest in the judgment to the extent of the amount of the court order, the State Treasurer shall make payment to the claimant from the real estate guaranty fund.

L. 1976, c. 112, § 4, amended 1993, c. 51, § 37, eff. May 20, 1993, 2009, c. 238, § 19, eff. July 1, 2011; 2018, c. 71, § 25, eff. Jan. 1, 2018.

45:15-38. Civil action which may result in court order for payment; limitations of action; joinder of commission

Any civil action which may result in a court order for payment from the real estate guaranty fund shall be instituted within six years of the accrual of the cause of action and the New Jersey Real Estate Commission shall be joined as a necessary party to any such civil action. Nothing in this section shall affect the right of any aggrieved person to pursue other rights or remedies authorized by law.

L. 1976, c. 112, § 5, eff. Feb. 1, 1977; Amended by L. 1984, c. 124, § 1, eff. Aug. 8, 1984.

45:15-39. Secretary of commission constituted as agent

Any person to whom is issued a license to be a real estate broker, broker-salesperson, or salesperson shall, by the securing of said license, make and constitute the secretary of the commission or the person in charge of the office of the commission as agent for the acceptance of process in any civil proceeding hereunder.

L. 1976, c. 112, § 6, amended 1993, c. 51, § 38, 2009, c. 238, § 20, eff. July 1, 2011; 2018, c. 71, § 26, eff. Jan. 1, 2018.

45:15-40. Insufficiency of funds; replenishment; excess amounts

a. If at any time the funds available in the real estate guaranty fund are insufficient to satisfy in full court orders for payment therefrom, payment shall be made in the order in which such court orders were issued; and the New Jersey Real Estate Commission shall by regulation impose further additional amounts to be paid by brokers, broker-salespersons, or salespersons to replenish the guaranty fund. No such additional amount assessed at any one time shall exceed the amounts specified in section 2 of P.L. 1976, c. 112 (C.45:15-35).

b. If at any time the funds available in the real estate guaranty fund are, in the opinion of the New Jersey Real Estate Commission, in excess of amounts anticipated to be necessary to meet claims for a period of at least two years, the commission may, with the approval of the Commissioner of Banking and Insurance, allocate and receive from the guaranty fund a specified amount thereof for research and educational projects to increase the proficiency and competency of real estate licensees.

L. 1976, c. 112, § 7, amended 1993, c. 51, § 39; 2009, c. 238, § 21, eff. July 1, 2011; 2018, c. 71, § 27, eff. Jan. 1, 2018.

45:15-41. Revocation of license upon issuance of court order for payment from fund

Upon the issuance of a court order for payment from the real estate guaranty fund the license of the broker, broker-salesperson, or salesperson, whose acts gave rise to the claim, shall be revoked and no such broker, broker-salesperson, or salesperson shall be eligible for reinstatement of his license until he shall have satisfied the judgment in full including reimbursement of the real estate guaranty fund together with interest.

L. 1976, c. 112, § 8, amended 1993, c. 51, § 40; 2009, c. 238, § 22, eff. July 1, 2011; 2018, c. 71, § 28, eff. Jan. 1, 2018.

45:15-42. Rules and regulations

The Real Estate Commission is authorized to issue rules and regulations to implement the provisions of this act.

L. 1976, c. 112, § 9, eff. Feb. 1, 1977.