

BANKING AND INSURANCE

DIVISION OF THE NEW JERSEY REAL ESTATE COMMISSION

REAL ESTATE COMMISSION

Continuing Education

Proposed Amendments: N.J.A.C. 11:5-2.2, 2.3, 2.5 and 2.6

Proposed New Rules: N.J.A.C. 11:5-12

Authorized By: New Jersey Real Estate Commission, Robert L. Kinniebrew, Executive Director.

Authority: N.J.S.A. 45:15-6 and P.L. 2009, c. 238.

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

Proposal Number: PRN 2011-055.

Submit comments by April 23, 2011 to:

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Summary

The New Jersey Real Estate Commission ("the Commission") in the Department of Banking and Insurance (Department) is proposing to amend N.J.A.C. 11:5-2.2, 2.3, 2.5 and 2.6 and new rules at N.J.A.C. 11:5-12, in response to P.L. 2009, c. 238 ("the Act"), which is codified at N.J.S.A. 45:15-16.2a et seq. The Act requires individuals licensed as real estate brokers, broker-salespersons and salespersons to complete continuing education requirements as a condition of biennial licensure renewal and provides that the Commission shall approve continuing education courses, course providers, and instructors, including those recommended to the Commission by a newly established Volunteer Advisory Committee established by the Act. N.J.S.A. 45:15-16.2a.

The Act provides that not more than 16 hours of continuing education will be required as a condition of license renewal (N.J.S.A. 45:15-16.2a.a) and that not less than 50 percent of the continuing education courses shall be comprised of one or more of the following core topics: agency; disclosure; legal issues; ethics; fair housing; New Jersey's real estate licensing law and the Commission's rules implementing it; and any other core topics prescribed by the Commission. N.J.S.A. 45:15-16.2e. In these proposed rules, the Commission has prescribed the following two additional core topics: environmental laws and rules; and requirements regarding escrow funds.

The Act and the rules permit continuing education courses to be delivered in a classroom setting or via the Internet, distance learning, correspondence or video modalities.

The Act provides that the Volunteer Advisory Committee shall consist of 14 members to be comprised of real estate licensees and other experts, whose members shall be appointed by and serve at the pleasure of the Commissioner of Banking and Insurance. N.J.S.A. 45:15-

16.2a.b(1)(b). The role of the Volunteer Advisory Committee is to review and recommend approval to the Commission of continuing education courses, providers and instructors.

The Act also created a new license type designated as “referral agent.” N.J.S.A. 45:15-9 et seq. The holders of such licenses are not subject to the continuing education requirements. N.J.S.A. 45:15-16.2a.a. References to this new license type are included in appropriate locations throughout the proposed amendments and new rules.

The following amendments are proposed for Subchapter 2 of Chapter 5.

At N.J.A.C. 11:5-2.2, amendments provide that the requirements regarding continuing education courses shall apply to existing prelicensure schools and licensed instructors that, respectively, offer and teach continuing education courses.

At N.J.A.C. 11:5-2.3, amendments provide that the Education Bureau of the Real Estate Commission shall process applications for approval of real estate continuing education providers, instructors and courses and for waivers of the continuing education requirement.

At N.J.A.C. 11:5-2.5, amendments provide for the forms to be used by the Education Bureau to process, and the processing times for, applications for approval of providers, instructors and courses and for continuing education waivers.

At N.J.A.C. 11:5-2.6, an amendment clarifies which fees apply to applications related to continuing education and which do not. The new fees that apply only to continuing education applications are proposed in N.J.A.C. 11:5-12.17.

Proposed N.J.A.C. 11:5-12.1 outlines the purpose and scope of new Subchapter 12. Proposed N.J.A.C. 11:5-12.2 provides the definitions of terms used in the subchapter. Among the terms defined are “continuing education coordinator,” “distance learning” and “Volunteer Advisory Committee.” Proposed N.J.A.C. 11:5-12.3 imposes a 12-hour continuing education

requirement for renewal on July 1, 2013 and each biennial renewal thereafter. Although the Act permits requiring up to 16 hours of continuing education, the Commission surveyed other states, took into consideration the costs and time factors involved and determined at this time to impose the 12-hour requirement. It will monitor the performance of this requirement in the future and make any adjustments it deems appropriate. Proposed N.J.A.C. 11:15-12.3 also provides that two of the 12 hours of continuing education shall be on the topic of ethics. It also: permits a licensed real estate instructor or approved continuing education course instructor to earn credit for teaching a course or courses; provides that successful completion of one or more broker prelicensure education courses as set forth in N.J.A.C. 11:5-2.1 shall fulfill the continuing education requirement for the licensing term in which the course was taken; and provides that a salesperson initially licensed in the second year of a biennial license term shall not be required to fulfill any continuing education to renew their license upon the conclusion of that license term. It further provides that a licensee who fails to complete the continuing education requirements by April 30 of the second year of a biennial license term shall pay a processing fee of \$200.00 in order to renew. The fee is intended to reimburse the Commission for staff time for the handling of the required documentation in an expedited and/or non-electronic manner. A fee of no more than \$200.00 is authorized by the Act. N.J.S.A. 45:15-16.2c. Proposed N.J.A.C. 11:5-12.3 also provides that when applying to renew of their licenses, licensees shall certify their completion of continuing education credits, or the waiver of same as approved by the Commission.

Proposed N.J.A.C. 11:5-12.4 provides the curriculum for the continuing education requirements. It requires licensees to acquire at least six of the twelve required credits in one or more of the core topics. The core topics are: (1) agency; (2) disclosure; (3) legal issues; (4) ethics; (5) fair housing and the New Jersey law against discrimination; (6) the New Jersey real

estate brokers and salesmen statute and rules; (7) New Jersey and Federal environmental laws and rules pertaining to real estate brokerage; and (8) legal requirements regarding escrow monies and financial recordkeeping. The section also provides that all courses in core topics other than ethics shall include instruction on the manner in which ethics relates to the subject matter of the core topic. The balance of the credits may be acquired through the completion of elective courses approved according to these rules.

Proposed N.J.A.C. 11:5-12.5 provides for a waiver of continuing education requirements in certain circumstances pursuant to N.J.S.A. 45:15-16.2a.b(6). The section provides the process to request a waiver from the Commission and specifies the grounds for approval, which are: (1) incapacitating illness; (2) active duty service in the armed forces for one year or more of a two-year license term; (3) emergency; or (4) other substantial and unavoidable hardship. It further provides that financial hardship, unreasonable delay and conflict with business or personal obligations shall not constitute a basis for a waiver. This section also sets forth the process for requesting a waiver. This subchapter also provides that requests for waivers shall be filed on or before March 15 of the second year of a two-year license term, that the Commission may seek additional information, including the provision of a sworn statement or testimony under oath and, except for waivers granted for active military service, any waived core courses shall be made up in the succeeding license term.

Proposed N.J.A.C. 11:5-12.6 provides the standards and the application process for continuing education providers. The application requires the provision of the individual business name of the provider, a description of the courses to be offered, whether the courses will be in-person or by distance learning, the addresses of any locations where continuing education will be offered in-person, and the submission of a non-refundable application fee of \$300.00. The

proposed section also requires designation of a continuing education coordinator who will serve as the provider's primary contact person with the Commission for continuing education matters. The section also provides that currently licensed real estate prelicensure schools, the Commission itself, and the Association of Real Estate License Law Officials (ARELLO), together with public adult education programs and accredited colleges and universities will be deemed to be approved providers. Public adult education programs and public accredited colleges and universities will not be required to pay the application fee. The subchapter also provides the duration of a provider approval and when applications for reapproval are required.

Proposed N.J.A.C. 11:5-12.7 sets forth the responsibilities of continuing education course providers. Among other things, the section requires that providers generally supervise their courses, ensure that the course and instructor have been approved by the Commission, ensure that the instructors are knowledgeable on the subject matter being taught, and provide the Commission with notice in writing prior to any change in the provider's business name and telephone number, its continuing education coordinator and the contact information for that individual, or a change in the location where in-person courses are offered. In addition, the section requires providers to maintain all records as required by the Commission and to verify the attendance at each course delivered by the provider in a classroom or conference room or via distance learning. It also imposes a condition that, prior to completion of an enrollee's registration for a course or the acceptance of any fees by a provider, prospective students shall be provided with a notice specifying the number of credits, whether the offered course is a core or elective course, the applicable fee and refund policy and the procedures and requirements for satisfactory course completion.

Proposed N.J.A.C. 11:5-12.8 sets forth reporting and recordkeeping requirements for continuing education providers. The section requires course providers to issue certificates of completion to licensees who successfully complete courses and that the certifications include the licensee's name, the course name, date of completion, the continuing education course number, the number of credits earned and the provider's New Jersey continuing education provider identification number. It also requires providers to maintain and be capable of producing for inspection by the Commission course and instructor evaluations, information on satisfactory completion of courses by licensees, copies of all written material provided to students, and a summary of written attendance reports. This section further requires that providers electronically submit data to the Commission or its designee on a weekly basis regarding licensees who have completed courses during the preceding reporting period. This section also requires notice to the Commission that the provider intends to cease offering courses and requires providers to request all students provide course and instructor evaluations in an anonymous manner, and specifies the information to be included in the evaluations and the scoring to be used in such evaluations. Finally, the section requires providers to, within 30 days of offering a course, report to the Commission instances where more than 50 percent of the evaluations received on a course or instructor indicate negative assessments on one or more performance factors.

Proposed N.J.A.C. 11:5-12.9 sets forth advertising rules for continuing education providers. Among other things, it provides that all promotional material include the provider's official name and not contain any false, misleading or deceptive claims or misrepresentations.

Proposed N.J.A.C. 11:5-12.10 provides the standards and application process for continuing education instructors. This section sets forth the information required to be on the application which, among other items, include the course topic(s) the applicant intends to teach,

a resume and other evidence of qualification to teach such topics, and any other information the applicant may deem important, together with a non-refundable application fee of \$150.00. The section also sets forth the standards for an individual to be approved, including their educational and professional background. It also provides that currently licensed real estate prelicensure education instructors and ARELLO-approved instructors of ARELLO-approved courses shall, upon assignment of a continuing education instructor identification number by the Commission to them, be approved as instructors of certain courses as specified in the rule. The section also provides the duration of instructor approvals and when applications for reapproval are required.

Proposed N.J.A.C. 11:5-12.11 sets forth the application process for approval of continuing education courses. This section provides that the application shall include the name, address and telephone number of the applicant, the title of the course to be offered, the number of hours required to complete the course, a detailed outline of the subject matter, a description of the materials to be distributed to participants, and a non-refundable application fee of \$200.00. It also provides that all ARELLO-certified distance learning courses on elective topics shall be approved by the Commission and assigned a course number upon request and without review of the Volunteer Advisory Committee. The section also provides the duration of course approvals and when applications for reapproval are required.

Proposed N.J.A.C. 11:5-12.12 sets forth the standards and requirements applicable to continuing education courses. The section requires that courses be instructional and contribute to professional competence. The section further provides that real estate salesperson prelicensure courses, general education or review courses intended to prepare a student to take a broker or salesperson license examination, sales meetings, motivational classes, and courses on office or business skills shall not qualify as continuing education courses. The section also provides that a

course shall be at least one hour in duration, that continuing education credits shall be conferred in whole credit increments, and that a one-hour course period shall consist of no less than 50 minutes of actual instruction, with no more than 10 minutes allotted for attendance, completion of the evaluations or other administrative functions.

Proposed N.J.A.C. 11:5-12.13 specifies nine topic areas for elective continuing education courses and provides that other topics may be approved by the Commission upon application for a specific course. The section also provides the process for the approval of elective courses in other previously unapproved topics and the necessary information to be submitted with such an application.

Proposed N.J.A.C. 11:5-12.14 provides additional requirements that specifically apply to distance learning continuing education courses. Among other things, it requires that distance learning courses promote students' active participation by utilizing techniques that provide for student interaction with the instructor, other students or a computer program. This section requires distance learning and correspondence course providers to make provisions for the handling equipment failures, including providing appropriate technical support for students, and to use procedures that provide reasonable assurances of student identity to verify that the student receiving credit actually completed the course. It further provides that the distance learning provider shall obtain a signed and dated statement from each distance learning student certifying that he or she has personally completed the course.

Proposed N.J.A.C. 11:5-12.15 provides that the Commission may conduct investigations to enforce the provisions of the Act and these rules, and authorizes the Commission to deny applications and to issue reprimands, suspend or revoke the approval of a continuing education provider, instructor or course, as applicable.

Proposed N.J.A.C. 11:5-12.16 sets forth appeal rights regarding initial denials of applications for the approval of continuing education courses, instructors and providers, and of waiver applications.

Proposed N.J.A.C. 11:5-12.17 sets forth the application fees for the approval of continuing education providers, instructors and courses, as well as the fee to process the completion of the continuing education requirement subsequent to May 1 in the second year of a biennial license term. The proposed section requires fees to be submitted in the form of a certified or bank check, money order or business account check until an online payment system has been established. The Commission has established the fee amounts based on its experience in licensing prelicensure education schools and instructors. Pursuant to N.J.S.A. 45:15-16.2a.b(5), the fees are set in such amounts as to reimburse the Department for the expenses it will incur in processing the applications.

Proposed N.J.A.C. 11:5-12.18 establishes the general makeup and activities of the Volunteer Advisory Committee and the general format under which the Committee will conduct its business.

This rule proposal provides for a comment period of 60 days, and, therefore, pursuant to N.J.A.C. 1:30-3.3(a)5, is not subject to the provisions of N.J.A.C. 1:30-3.1 and 3.2 governing rulemaking calendars.

Social Impact

The proposed new rules and amendments will have a positive social impact on licensees, the Commission and consumers of real estate brokerage services. As a result of licensees taking continuing education courses, consumers will be served by more knowledgeable licensees and

the incidence of complaints attributable to licensees' lack of knowledge should be reduced. Such a reduction will enable the Commission to focus its enforcement resources on more serious regulatory violations indicative of a lack of trust, unworthiness or dishonesty by licensees. Licensees will benefit from increasing and refreshing their knowledge of topics that are integral to their successful practice of brokerage activity and, through the opportunity to take elective courses, that relate directly to the areas in which they concentrate their practice, resulting in an enhanced level of professionalism amongst all licensees.

Economic Impact

Real estate licensees will incur costs in taking the courses required to fulfill the new continuing education requirement. At this time, the Commission lacks information on what fees may be charged for the various types of courses that may be offered. However, the additional knowledge acquired by licensees may help them avoid complaints, and civil or administrative actions, based upon their lack of familiarity with applicable laws and rules and the costs involved in responding to such complaints and defending themselves in such actions. Applicants for course, provider, and instructor approval will need to pay the fees specified in the proposed rules, but may receive income by charging for the use of an approved course or for providing or teaching courses. The fees specified for instructor and provider approval applications are significantly less than the corresponding license fees for pre-licensure course instructors and schools.

Implementing the course, instructor and provider approval process will require utilization of staff time, and the data processing resources of the Department. The application fees will offset attendant costs on the Department. With respect to the tracking of continuing education

credits, that function will be performed by the Department's license examination vendor. However, the delegation of this function to the Department's vendor will not have any economic impact on new license applicants because, under the terms of the Department's contract with that vendor, applicants will pay the same exam fee notwithstanding the vendor undertaking the additional work to be done in tracking the continuing education credits.

There should be no need for licensees or continuing education providers or instructors to retain professional services to comply with the new and amended rules. Continuing education providers may need to upgrade their technology systems to ensure that they can collect and report the continuing education credit records as required by the rules. However, providers may offset the costs of such upgrades in the fees charged for the continuing education courses.

As was recognized by the Legislature through its enactment of P.L. 2009, c. 238, the benefits to be realized by the establishment of a compulsory continuing education system for New Jersey real estate licensees outweigh the costs attendant upon the implementation of that system due to the cost of taking the courses and the reasonable application fees imposed upon applicants for course, instructor and provider approval.

Federal Standards Statement

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

Jobs Impact

The Department does not anticipate any jobs will be generated or lost as a result of the proposed amendments and new rules.

The Department invites commenters to submit any data or studies on the potential jobs impact of the proposed amendments and new rules, together with their comments on other aspects of the proposal.

Agriculture Industry Impact

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

Regulatory Flexibility Analysis

Essentially all real estate licensees affected by the new and amended rules are small businesses, as defined in the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq., as the vast majority of real estate broker-salespersons and salespersons operate as independent contractors. The continuing education requirements imposed by the Act are applicable to all individuals who hold real estate licenses except the new license category of "referral agents." The proposed new rules recognize this and are applicable only to individuals licensed as brokers, broker-salespersons and salespersons. In this way, the Act and the rules have provided for flexibility in the applicability of the continuing education requirement by creating an option for persons whose real estate brokerage activity is limited to making referrals to become licensed as referral agents and avoid the requirement to complete the continuing education courses. Moreover, the public policy underlying the new statutory requirement does not provide for reduced requirements for non-referral agent licensees based on the size of their business, as, again, the vast majority of these individual licensees are themselves small businesses.

The majority of continuing education course providers and instructors will also be small businesses. Creating any exceptions to the requirements imposed by the new rules for small businesses would undermine the efficacy of the rules, be inconsistent with the intent of the Act, and not reflect the Department's costs as required by the Act. Consequently, no variation in the regulatory requirements is based on business size.

The need for professional services is addressed in the Economic Impact above.

Smart Growth Impact

The proposed amendments and new rules will not have an impact on the achievement of smart growth or the implementation of the State Development and Redevelopment Plan.

Housing Affordability Impact

The proposed amendments and new rules will not have an impact on housing affordability in this State because they relate to the implementation of continuing education requirements for real estate brokers, broker/salespersons, and salespersons.

Smart Growth Development Impact

The proposed amendments and new rules will not have an impact on smart growth in this State and there is an extreme unlikelihood that the rules would evoke a change in housing production in Planning Areas 1 or 2 or within designated centers under the State Development and Redevelopment Plan in New Jersey because they relate to the implementation of continuing education requirements for real estate brokers, broker/salespersons, and salespersons.

Full text of the proposal follows (additions indicated in boldface **thus**; deletions indicated in brackets [thus]):

11:5-2.2 Licensed schools and instructors; requirements

(a) The following regulations are applicable to schools and instructors licensed to conduct **prelicensure** courses of education in real estate subjects pursuant to N.J.S.A. 45:15-10.4 and 10.5, [and] to applicants for such licenses **and, as applicable, to the conducting of continuing education courses by such schools and instructors pursuant to N.J.A.C. 11:5-12.1.**

1. (No change.)

(b) - (e) (No change.)

(f) Every school licensed by the Commission shall maintain a bona fide office open to the public during normal business hours for the purpose of assisting former and current students. Schools shall provide adequate space, seating, equipment and instructional materials for their students. The premises, equipment and facilities of the school shall comply with all local, city, county and State regulations, such as fire codes, building and sanitation codes. A certificate from a proper authority [covering] **evidencing compliance with** these requirements shall accompany an application for school licensure. The Commission may require proof of ownership or a copy of the lease if the facility is rented. Public adult education programs conducted under the auspices of a board of education in this State and any college or university accredited as such by the [State Department of] **New Jersey Commission on** Higher Education, the facilities of which have been approved by a State agency, shall be presumed to have met the

requirements of this paragraph, so long as the real estate courses offered are held at the approved facility.

1. Any additional teaching locations must be licensed by the Commission and must comply with all the requirements applicable to licensed schools, their directors and instructors as set forth in the Act and this rule. School directors shall have oversight responsibility for these locations. All **prelicensure** courses conducted at such locations must be taught by licensed instructors or guest lecturers, pursuant to N.J.S.A. 45:15-10.5 and this rule. **All continuing education courses conducted at such locations shall be taught by licensed instructors or by individuals approved as continuing education instructors pursuant to N.J.A.C. 11:5-12.10.**

(g) - (l) (No change.)

(m) [The] **For real estate prelicensure courses, the** maximum teaching load per instructor or guest lecturer shall not exceed the ratio of one instructor or guest lecturer to 60 students per class. Each prelicensure course offered by a licensed school shall be under the supervision of an instructor licensed pursuant to N.J.S.A. 45:15-10.5 and N.J.A.C. 11:5-2.2(k). At least one licensed instructor shall be present in the classroom at all sessions. However, additional instructors or guest lecturers may be utilized for instruction so long as not more than 25 percent of the required instruction is done by guest lecturers. Broker prelicensure courses may be taught by up to three instructors, provided that one licensed instructor is designated as having the responsibility for the quality of instruction in that course. School directors shall maintain as a business record the names of any persons teaching as guest lecturers or as a group of instructors, with an indication of the designated supervising instructor.

(n) - (q) (No change.)

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

1. - 4. (No change.)

(s) (No change.)

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

(u) - (w) (No change.)

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

1. - 8. (No change.)

9. No licensed school shall allow any person to[,] solicit students enrolled in, or considering enrolling in, a prelicensure **or continuing education** course to list, purchase or lease any property; or for referrals of prospective sellers, purchasers or lessees at any time while such students are on school premises.

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

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

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

- 1.-3. (No change.)
4. Approval of Real Estate School Director; [and]
5. Approval of experience report for broker license applicant[.];
6. **Approval of real estate continuing education provider;**
7. **Approval of real estate continuing education instructor; and**
8. **Approval of real estate continuing education course.**

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

1. (No change.)
2. Partial waiver of broker prelicensure education requirement and/or complete waiver of broker experience requirement; [and]

3. Waiver of broker experience and certain prelicensure education requirements based upon status of applicant as a qualifying disabled veteran pursuant to N.J.S.A. 45:15-11[.]; **and**

4. **Waiver of continuing education requirement pursuant to N.J.A.C. 11:5-12.5.**

11:5-2.5 Education Bureau forms and processing times

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

1. - 9 (No change.)

10. Experience report for Broker License Applicant; [and]

11. New Jersey State Police, State Bureau of Identification Request for Criminal History Record Information Form[.];

12. **Application for approval of real estate continuing education provider;**

13. **Application for approval of real estate continuing education instructor; and**

14. **Application for approval of real estate continuing education course.**

(b) Following the receipt by the Commission of complete and accurate application forms with the required fee(s) in the correct form, the applications specified below are generally processed by the Education Bureau within the time frames indicated:

1. -4. (No change.)

5. Applications for waivers of the prelicensure education requirements and/or the broker experience requirement which do not require the review of additional information - four weeks; [and]
6. Applications for the approval of experience as a real estate salesperson to fulfill the experience requirement for licensure as a broker (see N.J.S.A. 45:15-9 and N.J.A.C. 11:5-3.8) - four weeks[.];
7. **Applications for approval of real estate continuing education provider - three weeks after recommendation by the Voluntary Advisory Committee is considered by the Real Estate Commission;**
8. **Applications for approval of real estate continuing education instructor - three weeks after recommendation by the Voluntary Advisory Committee is considered by the Real Estate Commission;**
9. **Applications for approval of real estate continuing education course - three weeks after recommendation by the Voluntary Advisory Committee is considered by the Real Estate Commission; and**
10. **Applications for the issuance of a waiver of the continuing education requirement - three weeks after receipt of a complete waiver application.**

11:5-2.6 Education Bureau transaction fees

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

EDUCATION BUREAU TRANSACTION FEES

(No change in table.)

SUBCHAPTER 12. CONTINUING EDUCATION**11:5-12.1 Purpose and scope**

(a) The purpose of this subchapter is to implement N.J.S.A. 45:15-16.2a et seq. by establishing continuing education requirements for real estate brokers, broker-salespersons and salespersons as a condition of biennial licensure renewal, and by establishing standards for the approval of continuing education courses, course providers and course instructors.

(b) This subchapter shall apply to all individuals licensed as real estate brokers, and to all broker-salespersons and salespersons licensed in this State, and to all applicants for the approval of continuing education courses or for approval as continuing education course instructors or providers.

11:5-12.2 Definitions

The following words and terms, as used in this subchapter, shall have the following meanings unless the context clearly indicates otherwise:

“ARELLO” means the Association of Real Estate License Law Officials, which may be contacted at 334-260-2928 and at mailbox@arello.org.

“Commission” means the New Jersey Real Estate Commission.

“Continuing education coordinator” means the individual designated by an approved continuing education provider as the person responsible for assuring compliance

with the provisions of N.J.S.A. 45:15-16.2a et seq., and the rules in this chapter that are applicable to continuing education providers.

“Distance learning” means any educational process based on the geographical separation of instructor and learner (for example, CD-ROM, disk, on-line courses, correspondence courses, webinars or video conferencing).

“Real estate broker” or “broker” means a person, firm or corporation as defined at N.J.S.A. 45:15-3.

“Real estate broker-salesperson” or “broker-salesperson” means a person as defined at N.J.S.A. 45:15-3.

“Real estate salesperson” or “salesperson” means a person as defined at N.J.S.A. 45:15-3.

“Volunteer Advisory Committee” means the committee established pursuant to N.J.S.A. 45:15-16.2a.b(1)(b), which is responsible for recommending continuing education course providers, instructors and courses for approval by the Commission.

11:5-12.3 Continuing education requirements

(a) Unless granted a waiver pursuant to N.J.A.C. 11:5-12.5, commencing with the July 1, 2013 renewal and continuing for every renewal thereafter, in order to qualify for license renewal every individual licensed as a real estate broker and every licensed broker-salesperson or salesperson shall, during the 24-month period prior to that renewal, have completed 12 hours of approved continuing education as set forth in this subchapter, two hours of which shall have been on the topic of ethics, except that:

1. A Commission-licensed real estate instructor or Commission-approved continuing education course instructor shall earn credit for teaching an approved continuing education course offered by an approved provider. Notwithstanding the number of times the instructor teaches an approved course during a two-year license term, the instructor shall earn the number of continuing education credits granted to a licensee who attends and completes that course one time during that license term;

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

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

(b) A licensee for whom a renewal application is timely submitted who completes the continuing education requirements between May 1 and June 30 of the second year in a biennial license term, and a licensee for whom a late renewal application as referenced in N.J.S.A. 45:15-15 is submitted who completes the continuing education

requirements between May 1 of the second year of a biennial license term and the conclusion of the late renewal period, shall pay a processing fee of \$200.00 in order to qualify for the renewal of his or her license. Renewing licensees who complete the continuing education requirements on or before April 30 of the second year of a biennial license term shall not be required to pay this processing fee.

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

(d) When applying to renew their licenses, licensees shall certify to the Commission, either directly or through their broker, that they have either complied with the continuing education requirement, were not required to do so for one of the reasons set forth in (a) above, or have received a waiver as set forth in N.J.A.C. 11:5-12.5.

11:5-12.4 Curricula

(a) The continuing education requirement may be fulfilled by acquiring credits exclusively in the core topic areas listed below in this subsection. Licensees shall acquire at least six of the 12 continuing education credits required for license renewal pursuant to this subchapter in one or more of the following core topic areas:

1. Agency;
2. Disclosure;
3. Legal issues, for example, listing agreements, contracts of sale, leases, attorney review, forms of ownership and deed restrictions;

4. **Ethics;**
5. **Fair housing and the New Jersey Law Against Discrimination;**
6. **New Jersey real estate brokers and salesmen statute and rules;**
7. **New Jersey and Federal environmental laws/rules pertinent to the practice of real estate brokerage; and**
8. **Legal requirements regarding escrow monies and financial recordkeeping.**

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

(c) **All courses in core topics other than ethics shall include instruction on the manner in which ethics relates to the subject matter of the course.**

11:5-12.5 Waiver of continuing education requirements

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

(b) **An applicant requesting a waiver of the continuing education requirement shall certify that the applicant was unable to fulfill the continuing education due to:**

1. **An incapacitating illness;**

2. Active duty service in the armed forces of the United States for one year or more of the two-year licensure period;

3. Emergency; or

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

(c) An applicant for a waiver of the continuing education requirements shall request the waiver in writing on a form prescribed by the Commission and provide documentation that corroborates the applicant's certification as to the basis upon which the waiver is sought.

(d) With the exception of requests based on an emergency, requests for a waiver shall be filed with the Commission on or before March 15 of the second year of a two-year license term. Requests for a waiver based on an emergency shall be filed within a reasonable time given the circumstances.

(e) The Commission may seek additional information regarding the basis of an applicant's request for a waiver of the continuing education requirement under this section, including, but not limited to, the provision of sworn statements or testimony under oath by the waiver applicant.

(f) With the exception of waivers granted to active duty military personnel, licensees who receive a waiver of any portion of the core course continuing education requirement shall make up the waived core course(s), in addition to all continuing education credits required for the current license term, as a condition of renewing their

license for the license term immediately following the license term for which the waiver was issued. (For example, if a licensee receives a waiver of six core credits in the first licensing term, then the licensee must complete those six previously waived core credits and the full 12 continuing education credits, for a total of 18 credits, in the immediately following licensing term in order to be eligible for renewal upon the conclusion of that license term.)

(g) Licensees who receive a waiver of the elective course requirement shall not be required to make up the waived elective course(s).

11:5-12.6 Continuing education providers; standards and application process

- (a) An applicant seeking approval from the Commission to become an approved continuing education provider shall submit a completed application on forms provided by the Commission with the required fee. The application shall include the following:
1. A non-refundable application fee of \$300.00;
 2. The business name which the Commission is to record as the official business name of the provider and any trade name or alternate name under which the provider will operate;
 3. A description of the type(s) of courses to be provided (in-person or distance learning, including the specific type(s) of distance learning course(s));
 4. A designation of an individual, including their phone number and e-mail address, who will serve as the provider's primary contact person with the Commission for matters relating to continuing education and who shall be designated as the provider's New Jersey continuing education coordinator; and

5. If the provider will offer in-person courses, the address(es) and a description of the known location(s) where the course(s) will be offered.

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

1. Real estate prelicensure schools licensed by the Commission pursuant to N.J.S.A. 45:15-10.4 and N.J.A.C. 11:5-2.2;
2. The New Jersey Real Estate Commission; and
3. The Association of Real Estate License Law Officials (ARELLO).

(c) Public adult education programs and all accredited colleges and universities shall be deemed to be approved providers upon application. Public adult education programs and public accredited colleges and universities shall not be required to pay an application fee.

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

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

expire. Subsequent to June 30, 2016, approvals shall expire on June 30, 2020 and at four-year intervals thereafter.

11:5-12.7 Continuing education providers; responsibilities

(a) Providers' responsibilities shall include the following:

- 1. The general supervision of the continuing education courses;**
- 2. Ensuring the offered course and instructor have been approved by the Commission;**
- 3. Ensuring that the instructor is knowledgeable in the subject matter of each course offered by the provider that is taught by that instructor;**
- 4. Securing, maintaining, and reporting upon evaluations of courses and instructors as set forth in N.J.A.C. 11:5-12.8(h) and (i);**
- 5. All recordkeeping and supplying of information to the Commission or its designee in accordance with the provisions of this subchapter; and**
- 6. Ensuring that all course offerings comply with the requirements imposed by this subchapter (for example, appropriate facilities).**

(b) Providers shall notify the Commission in writing prior to any change in the provider's business name(s), its continuing education coordinator and the contact information for that individual, the provider's business telephone number, or any material change in its qualifications (for example, a change in the provider's location at which classroom-based courses are offered).

(c) Each non-distance learning course shall be conducted at a location and in such facilities as shall be appropriate to properly present the course. The providers of such

courses shall ensure that they are conducted at times and in locations that are conducive to learning, free of excessive distractions and segregated from non-course related activity. The facilities at which such courses are offered shall comply with all local, state and Federal laws and regulations.

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

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

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

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

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

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

(b) For a period of six years, providers shall maintain and be capable of producing for inspection by a Commission representative the course and instructor evaluations referenced in (h) and (i) below and the information on the satisfactory completion of continuing education courses by licensees set forth in (d) below. In addition, providers shall maintain and be capable of producing for inspection copies of all course-specific written material provided to students who attend a course. Presuming there is no change in such written material, only one set of copies need be maintained, regardless of the number of times the provider offers the course.

(c) Providers shall use recordkeeping systems that are capable of producing written reports on attendance at approved continuing education courses which include all of the information set forth in (a) above.

(d) Providers shall electronically submit data to the Commission or its designee on a weekly basis identifying those licensees who have completed continuing education

courses offered by the provider during the preceding reporting period and shall include, at a minimum, the following information in each record of the completion of a continuing education course by a licensee:

1. The licensee's name and license reference number;
2. The license term for which the licensee is seeking credit for having completed the continuing education course;
3. The provider's name and identification number; and
4. The continuing education course name, course number, course category (core or elective), completion date and number of credit hours.

(e) The data referenced in (d) above shall be submitted on forms or in a computer readable format provided by the Commission or its designee.

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

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

(h) Providers shall request all students who complete the continuing education courses they provide to submit evaluations of the course(s) attended by the student and, for

all courses except distance learning or correspondence courses that are not taught by an instructor, of the instructor of the course. All students who supply such evaluations shall remain anonymous. The evaluations shall provide for the students to indicate their favorable, neutral or negative assessments of the performance factors referenced in (h)4 and 5 below.

- 1. Providers of non-distance learning courses may request that students manually complete such evaluations during the concluding minutes of the course or electronically subsequent to the completion of the course.**
- 2. Providers of distance learning courses shall request that students complete such evaluations electronically upon completing the course.**
- 3. All evaluations shall specify the name and identification number of the provider and the name and identification number of the instructor and course being evaluated.**
- 4. All evaluations of instructors shall include:**
 - i. A question on the quality of the instructor's presentation of the material;**
 - ii. A question on the level of knowledge of the subject matter of the course displayed by the instructor; and**
 - iii. An opportunity for the licensee to comment upon the instructor's performance.**
- 5. All evaluations of courses shall include:**
 - i. A question on the quality of the materials and the content of the course;**

ii. A question on the quality of the manner in which the information in the course is organized and presented; and

iii. An opportunity for the licensee to comment upon the course.

(i) Within 30 days after offering a course, providers shall report to the Commission's Education Bureau instances where more than 50 percent of the evaluations received on a course or instructor indicate negative assessments on one or more of the performance factors to be evaluated as referenced in (h)4 and 5 above for instructors and courses, respectively.

11:5-12.9 Continuing education providers; advertising

(a) Any advertisement or promotional material used by a provider shall include the provider's official name or trade or alternate name on file with the Commission.

(b) No advertisement shall contain false, misleading or deceptive claims or misrepresentations. In all advertisements which make express or implied claims that are likely to be misleading in the absence of certain qualifying information, such qualifying information shall be disclosed in the advertisement in a clear and conspicuous manner.

11:5-12.10 Continuing education instructors; standards and application process

(a) An applicant seeking approval from the Commission to become an approved continuing education instructor shall submit a completed application on forms provided by the Commission with the required fee. An application for approval as a continuing education instructor shall include:

1. A non-refundable application fee of \$150.00;

2. An indication of the core and/or elective topics the applicant considers him or herself qualified to teach;

3. A resume and other material evidencing the applicant's qualifications for approval as an instructor in accordance with one or more of the criteria set forth in (d) below; and

4. Such additional information as the applicant may wish to provide in support of their application, for example, letters of professional reference.

(b) Real estate instructors licensed pursuant to N.J.S.A. 45:15-10.5 and N.J.A.C. 11:5-2.2 shall, upon the assignment to them of a continuing education instructor identification number, be deemed approved as continuing education instructors in core topics as defined in this subchapter.

(c) ARELLO-approved instructors of ARELLO-approved courses in elective topics shall, upon the assignment to them of a continuing education instructor identification number, be deemed approved as continuing education instructors in such courses.

(d) An individual applying to become an approved continuing education instructor shall meet at least one of the following criteria:

1. A college or university professor in real estate, finance, business, economics or a related field;

2. A specialist with a college degree or experience teaching one or more subjects in the topic(s) noted in their application for approval as an instructor;

3. Possess at least three years of experience in a profession, trade or technical occupation in the real estate field related to the subject matter of proposed instruction;

4. A real estate instructor licensed or otherwise authorized by the agency with regulatory authority over real estate licensees in another jurisdiction who can show subject matter expertise;

5. A member in good standing of the State Bar of New Jersey who is engaged in the field of real estate related law; or

6. Persons who otherwise evidence their teaching qualifications by education or experience or a combination of the two.

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

(f) An approved instructor shall promptly notify the Commission in the event of a material change in his or her qualifications for continuing in the status of an approved instructor (for example, disbarment as an attorney).

(g) All approvals of instructors conferred by the Commission prior to June 30, 2016 shall remain in effect until that date. Instructors whose approval is expiring may seek re-approval by complying with all of the requirements set forth in N.J.A.C. 11:5-12.10, including payment of the non-refundable application fee. Applications for re-approval may be submitted commencing on January 1 of the year in which approval is scheduled to expire. Subsequent to June 30, 2016, approvals shall expire on June 30, 2020 and at four-year intervals thereafter.

11:5-12.11 Continuing education courses; application process

(a) Except as set forth in (b) below, all continuing education courses shall require approval by the Commission. An applicant seeking approval of a course by the Commission shall submit a complete application on a form provided by the Commission with the required fee. An application for approval of a continuing education course shall include:

1. A non-refundable application fee of \$200.00;
 2. The name, address and telephone number of the applicant;
 3. The title of the course to be offered;
 4. The number of hours required to complete the course, which shall be expressed in increments of entire hours;
 5. A detailed outline of the subject matter of the course;
 6. A description of the materials to be distributed to the participants;
- and
7. With respect to distance learning courses, such other information as is referenced in N.J.A.C. 11:5-12.14.

(b) All distance learning courses certified by the ARELLO that provide instruction on one of the elective topic areas listed in N.J.A.C. 11:5-12.13 shall, upon request, be assigned a course identification number and be deemed approved by the Commission without review by the Voluntary Advisory Committee.

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

(d) All approvals of continuing education courses shall expire on December 31 of the fifth year following the year in which the course was approved by the Commission. Applications for re-approval of a course shall comply with all requirements set forth in (a) above.

11:5-12.12 Continuing education courses; standards and requirements

(a) All courses shall be instructional and contribute to the professional competence of individuals engaged in the practice of real estate brokerage.

(b) In order to qualify for approval, courses may but are not required to compel a licensee to pass a comprehensive examination testing the licensee's knowledge of the entire course content as a condition of the receipt of credit for the completion of the continuing education course.

(c) Approved continuing education courses may be offered in a traditional classroom setting or as distance learning courses.

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

1. Real estate salesperson prelicensure courses offered pursuant to N.J.S.A. 45:15-10.1 and N.J.A.C. 11:5-2.1;

2. General education or review courses offered to prepare a student to take a real estate broker's or salesperson's examination;

3. Sales meetings;
4. Motivational classes or seminars; and
5. Offerings in mechanical office and business skills, such as typing, computer training, instructional navigation of the world wide web and internet, instructional use of generic computer software, speed reading, memory improvement, report writing, salesmanship and sales psychology.

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

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

11:5-12.13 Continuing education courses; elective courses

(a) The following are approved topic areas for elective continuing education courses:

1. Commercial real estate;

2. **Property management;**
 3. **Seasonal rentals;**
 4. **Requirements of and transactions subject to the Real Estate Sales Full Disclosure Act and the New Jersey Real Estate Timeshare Act;**

5. **Financing;**
 6. **Land use;**
 7. **Real estate valuation;**
 8. **Foreclosures and short-sale transactions; and**
 9. **Specific aspects of residential real estate transactions.**

(b) **Continuing education courses offered in the elective topics set forth in (a) above shall be deemed approved by the Commission upon application if they are:**

1. **Offered and/or approved by the Association of Real Estate License Law Officials (ARELLO) or by a public adult education program or an accredited college or university that has obtained from the Commission a New Jersey real estate continuing education provider identification number;**
2. **Courses that are offered by providers who have obtained a New Jersey real estate continuing education provider identification number and that are approved as pre-licensure or continuing education courses in this State in professions related to real estate brokerage, for example, courses approved for prelicensure or continuing education under the New Jersey Residential Mortgage Lending Act, N.J.S.A. 17:11C-51 et seq. or the Real Estate Appraisers Act, N.J.S.A. 45:14F-1 et seq.; or**
3. **Courses for which continuing education credit is conferred for their completion upon real estate licensees by another state, provided that:**

- i. The course is approved as a continuing education course by the agency exercising regulatory authority over the real estate licensees of the other state;
- ii. The course is instructional and contributes to the enhancement of the integrity and/or professional competence of the attending real estate licensees; and
- iii. The course provider obtains a New Jersey course provider identification number and provides the Commission or its designee with satisfactory evidence of a licensee's participation in and completion of such course in accordance with N.J.A.C. 11:5-12.8.

(c) The Commission shall confer credit for the satisfactory completion of a continuing education course offered by an approved provider on a topic deemed of a timely nature which has not previously been approved by the Commission provided that:

1. The course is submitted for approval no later than March 1 of the second year in a biennial license term for real estate licensees and the course is subsequently approved prior to April 30 of that year;
2. The course provider delivers a written statement to licensees prior to their attendance at the course notifying them that the course is pending approval by the Real Estate Commission and, if the course is advertised prior to the time of offering, all advertisements state in a prominent manner that the course is pending approval by the Real Estate Commission; and
3. The course provider provides the Commission or its designee with satisfactory evidence of a licensee's attendance at and completion of such course in accordance with N.J.A.C. 11:5-12.8 and complies with all other requirements applicable to the providers of continuing education courses as set forth in this subchapter.

11:5-12.14 Distance learning continuing education courses; additional requirements

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

(b) Except as limited in (b)1 below, distance learning courses shall meet the following criteria:

1. The course is designed to promote students' active participation in the instructional process by utilizing techniques that provide for substantial student interaction with the instructor, other students or a computer program. However, upon the recommendation of the Voluntary Advisory Committee, the Commission may approve a correspondence course or a course offered through a video modality that does not provide for such substantial interaction but fulfills all other requirements for course approval as set forth in this section and in N.J.A.C. 11:5-12.12 and 12.13;
2. The course, when taken without interruption, consists of no less than one hour of distance learning education, in accordance with N.J.A.C. 11:5-12.12(e);
3. The time required for a student of average ability to complete the course shall be at least equal to the number of course credit hours to be assigned in accordance with N.J.A.C. 11:5-12.12(e), as verified by the results of studies or field tests or other means;
4. Providers of distance learning courses shall, in addition to providing to students the notice containing all of the information referenced in N.J.A.C. 11:5-12.7(e),

include in that notice information on how interaction is accomplished in the course and on any special requirements related to computer hardware, software or any other equipment needed to complete the distance learning course;

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

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

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

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

11:5-12.15 Denials, suspension or revocation of approvals

(a) The Commission may conduct investigations as may be necessary to enforce the provisions of N.J.S.A. 45:15-16.2a et seq. and this subchapter and may deny an application for approval and issue a reprimand to or suspend or revoke the approval of a

real estate continuing education provider, instructor or course, as applicable, if it is determined that:

1. An applicant, an instructor or a provider, individually or through any of the provider's employees, has failed to comply with applicable law or this subchapter;
2. A course submitted for approval or previously approved does not adequately reflect and present current and accurate information;
3. The provider or instructor or applicant for approval has engaged in misrepresentation in advertising or otherwise;
4. The provider or instructor has failed to timely and accurately download data on course completion;
5. The provider or instructor or applicant for approval has included false information in an application or reported false data to the Commission or its designee;
6. The provider or instructor is affiliated with a real estate broker or broker-salesperson licensee that has used or threatened to use a penalty or other form of coercion to compel a licensee to take a continuing education course from the affiliated provider or instructor;
7. A payment to the Commission was dishonored or, if made by credit card, reversed;
8. The provider or instructor has been disciplined by the Commission or any other occupational licensing agency in New Jersey or another jurisdiction;
9. The provider has collected money from licensees for a continuing education course, but refused or failed to provide the promised instruction; or

10. The provider or instructor has provided to a licensee any false or misleading information related to real estate licensing or education matters or to the licensee's education needs or license status.

(b) In the event that a provider or instructor who is also a New Jersey real estate licensee is found to have engaged in any of the conduct set forth in (a) above, the provider or instructor shall also be subject to discipline pursuant to N.J.S.A. 45:15-17 or 45:15-10.11, as applicable.

(c) If an application for approval is denied or disciplinary action is initiated, written notice of the grounds for denial, suspension or revocation of approval shall be issued by the Commission to the affected party. The applicant or respondent shall thereafter have the opportunity to be heard by the Commission in accordance with the provisions of the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq.

11:5-12.16 Appeals of initial denials of applications for continuing education course, instructor and provider approval and of applications for a waiver of the continuing education requirement

(a) Complete applications for continuing education course, instructor and provider approval shall be reviewed by the Voluntary Advisory Committee. Should the Voluntary Advisory Committee recommend denial of the application, the Executive Director of the Commission shall so notify the applicant in writing, which notification shall include the specific grounds on the basis of which the Voluntary Advisory Committee determined to recommend the denial of the application. Such a notification shall constitute

an initial denial of the application and shall advise the applicant of their opportunity to appeal the initial denial to the Real Estate Commission as set forth in this section.

(b) Applications for a waiver of the continuing education requirement shall be initially reviewed by the Commission staff. Should it be determined that an applicant does not qualify for such a waiver, the Executive Director of the Commission shall issue an initial denial in writing so notifying the applicant. The initial denial shall include the specific grounds on the basis of which it was determined that the applicant did not qualify for a waiver and shall advise the applicant of their opportunity to appeal the initial denial to the Real Estate Commission as set forth in this section.

(c) An applicant may appeal an initial denial as referenced in (a) or (b) above to the Commission by submitting an original and two copies of a written submission requesting such an appeal.

1. All appeal submissions shall include a copy of the initial denial of the Executive Director denying the application.

2. Appeal submissions may include any other relevant written material tending to support the appeal.

3. Appeals shall be filed within 30 days of the date of the initial denial issued by the Executive Director. A failure by the applicant to timely appeal an initial denial of an application shall result in the application being deemed withdrawn.

(d) Unless the Commission determines that there is a genuine issue of material fact in dispute, the Commission shall consider all appeals referenced in this section on the papers. Should the Commission determine that a genuine issue of material fact does exist, the applicant shall be notified of the date and place at which an evidentiary hearing, which

shall include live testimony and which shall be conducted in accordance with N.J.A.C. 1:1-14, will be held.

(e) Upon the conclusion of a hearing on the papers or with live testimony on an appeal as referenced in this section, the Commission shall issue a written order, which may be in the form of a letter, either affirming the initial denial of the application or granting the application.

11:5-12.17 Fees

(a) The fees for applications related to the requirements imposed by this subchapter are as follows:

1. Application for approval as a continuing education provider - \$300.00.
2. Application for approval as a continuing education instructor - \$150.00.
3. Application for approval of a continuing education course - \$200.00.
4. Fee to process completion of continuing education requirement subsequent to May 1 in the second year of a biennial license term - \$200.00.

(b) All fees referenced in (a) above shall be payable in the form of a certified or bank check or money order or business account check until such time as an on-line or otherwise automated payment system is established. Upon the implementation of such a system, payment shall be made via credit or debit card or otherwise in accordance with the instructions for the use of such a system posted on the website of the Commission. Personal checks shall not be accepted.

11:5-12.18 Voluntary Advisory Committee

- (a) The Voluntary Advisory Committee created pursuant to N.J.S.A. 45:15-16.2a.b(1)(b) shall elect a chairperson and a vice-chairperson from among its members. Any member of the Committee shall be eligible for election to either position.
- (b) The Voluntary Advisory Committee shall form committees and subcommittees to review complete applications for the approval of courses in the various core and elective topics set forth in N.J.A.C. 11:5-12.4 and 12.13 and complete applications for approval as a continuing education instructor or provider.
- (c) The Voluntary Advisory Committee shall promptly report to the Commission's Executive Director its recommendations to approve or disapprove all of the complete applications it reviews. Each subcommittee of the Voluntary Advisory Committee shall report the results of its reviews of applications to the Voluntary Advisory Committee promptly upon completing such reviews and shall provide to the Executive Director copies of all recommendations for approval or disapproval contained in such reports. In the event that the Voluntary Advisory Committee fails to recommend approval or disapproval of a continuing education course, instructor or provider within 30 days of the completion of a subcommittee's review of such a complete application, the Commission may take action based upon the recommendation of the subcommittee.
- (d) A majority of the appointed members of the Committee shall constitute a quorum and a majority vote by the members taken when a quorum is present shall constitute an action taken by the Committee.

1. The Voluntary Advisory Committee may meet in person or via teleconference, video conference or through the use of similar technologies.

(e) Members of the Voluntary Advisory Committee shall recuse themselves from the consideration of any application for approval to be considered by the Committee where grounds for recusal as set forth in the New Jersey Uniform Code of Ethics are present.