

ESSENTIALS OF

NEW JERSEY REAL ESTATE

Edith Lank,
Joan m. Sobeck
& Joseph H. Martin

Update 1995

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ESSENTIALS OF

**NEW
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Preface

The Essentials of New Jersey Real Estate: Update 1995 has been developed with input from many New Jersey educators and was written by a trio of authors with extensive educational and practical real estate experience. The text is a valuable tool to help students prepare for real estate licensing exams as well as careers in real estate.

Text features:

- 24 chapters organized so topical coverage parallels the state-mandated number of hours of instruction.
- Reading level that avoids legal jargon while maintaining accuracy. Difficult terms are introduced carefully, with English-as-a-second-language students in mind. Complicated concepts are explained in simple language. Technical terms are defined the first time they're used.
- Each chapter includes a list of key terms, a summary of important concepts, interactive matchup review of key terms and concepts and multiple-choice review questions in the ASI question format used for the New Jersey real estate licensing exams.
- New Jersey license laws and rules and regulations are summarized in simple English. An appendix of the actual laws and rules and regulations is printed at the back of the text.
- A glossary of real estate terms includes page references where the term can be found within the text.
- Two 110-question sample salesperson licensing exams are structured to follow the New Jersey examinations.
- In addition to the ASI Content Outline for the New Jersey exams, typical New Jersey contracts

and other material specific to the state are included.

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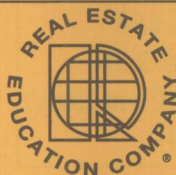
..... A**about the Authors**

Edith Lank is a charter member and former director of the national Real Estate Educators Association. She has taught prelicensing courses on the college level for 15 years. Her weekly real estate column is distributed by the Los Angeles Times Syndicate to more than 100 newspapers and has been carried by the *Camden Courier-Post*, *Asbury Park Press*, *Atlantic City Press*, *Jersey Journal*, *Trenton Times* and *Burlington Country Times*. She is the author of the best-selling New York textbook, *Modern Real Estate Practice in New York*, and five other books on real estate.

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1

Real Estate Licensing

■ KEY TERMS

broker
broker-salesperson
Guaranty Fund
New Jersey Real Estate Commission
pocket card
REALTOR®
REALTOR-ASSOCIATE®
referral fee
salesperson
Title 45, Chapter 15

Anyone taking part in a real estate transaction in New Jersey *for another person and for a fee* must be licensed. The state of New Jersey created real estate licensing regulations to protect the general public from unscrupulous brokers and salespersons.

In New Jersey, licenses have been administered since 1919 by the **New Jersey Real Estate Commission**, which operates within the Department of Insurance. Those holding licenses are governed by

- the Real Estate License Act, known as **Title 45, Chapter 15**; and
- rules and regulations set up by the Commission.

The statute and rules are reprinted verbatim in the appendix at the end of this book. A complete, current copy is available from the New Jersey Real Estate Commission, 20 West State Street, CN328, Trenton, NJ 08625-0325.

■ REAL ESTATE COMMISSION

The New Jersey Real Estate Commission is composed of eight members appointed by the governor. Five are real estate brokers, licensed as such for at least ten years; two are chosen from the general public; and one represents a department of the state government. Members serve three-year terms; the governmental member serves as long as the governor wishes. The governor has the right to remove any member from the Commission for cause.

■ REAL ESTATE LICENSES

Classes of Licenses

The License Act sets up three categories of licensees.

1. A **broker** is authorized to operate a real estate business, to hire salespeople and to charge the public for services.
2. A **salesperson** works under close supervision by a sponsoring licensed real estate broker, doing business in the name of the broker and receiving money only from his or her broker. The supervising broker is required to furnish "guidance and direction."
3. A **broker-salesperson** is a qualified broker who chooses to remain associated as a salesperson in another broker's office. The broker-salesperson does not maintain an office or a trust (escrow) account.

All licenses expire on June 30 each year and can be renewed annually on July 1. The salesperson's license is kept by the broker; the salesperson receives an identifying **pocket card**.

(The trademarked terms REALTOR® and REALTOR-ASSOCIATE® are used by members of a private trade association, and have no connection with state licensing. They are discussed in Chapter 9.)

Activities Covered

When the work is being performed for another person and in anticipation of a fee or commission, a broker's license is required to

- list real estate for sale;
- sell, exchange, buy or rent real estate;
- collect rent (or attempt to);
- sell real estate at auction;
- negotiate a real estate loan;
- sell lots for a developer;
- sell business opportunities that involve real estate; or
- attempt to do any of the above.

A salesperson's license allows the holder to operate under the supervision of a licensed broker to assist in

- negotiating purchase or sale of real estate;
- negotiating real estate loans;
- leasing, renting and collecting rent; and
- selling lots for a developer.

It is important to note that brokers and salespeople can assist a customer in obtaining a mortgage without a mortgage broker's license. However, those persons who intend to act as mortgage solicitors must be licensed by the New Jersey Department of Banking.

Exemptions

The law does not apply to

- brokers licensed in another state;
- owners handling their own property;
- attorneys, executors, trustees, receivers, administrators and others handling real estate under the order of a court;
- banks and trust companies; and
- insurance companies.

Attorneys are exempt while handling real estate in their normal practice of law, but an attorney who intends to engage in general real estate brokerage must obtain a license.

To collect a commission, one must be licensed *at the time the service is performed*. No one who is not licensed may share in a commission, and a broker may share commissions only with his or her own salespersons or with another broker.

Payment of Fees

The prohibition against sharing any commission with an unlicensed person forbids *kickbacks* in the form of valuable gifts or money to seller or buyer. *Finders' fees*—money or gifts to unlicensed persons who refer buyers or sellers—are also forbidden. A broker is, however, allowed to share a commission with a broker licensed in another state, usually as a **referral fee** for furnishing the name of a prospective buyer or seller.

Transfer and Termination

In New Jersey, a real estate salesperson can transfer from one broker to another without heavy complication. Effective July 1, 1994, the lower portion of all new licenses will contain two detachable sections: the termination confirmation and temporary license.

When licensee terminates or resigns his or her employment with a broker, that broker must sign and date the license in addition to the termination confirmation section. As of the day that the licensee resigns or is terminated, the terminating broker has five business days to send the completed termination confirmation to the Commission. The terminating broker may then give the license to the departing licensee.

The licensee then presents the license to the employing broker who signs, dates and provides the effective date of employment on the license in addition to the temporary license section. The employing broker then sends the temporary license to the Commission with a check for \$25 to cover the license transfer fee.

The broker who goes out of business must return all licenses to the Commission, close out the escrow account, remove signs, notify clients and provide the Commission with a name and address where past records will be available for six years.

License Qualifications

To obtain a salesperson's license, the candidate must

- be aged 18 years or older;
- prove the equivalent of a high school education;
- furnish evidence of good moral character;
- successfully complete a 75-hour prelicensing course;
- pass a state examination; and
- be sponsored by a licensed real estate broker.

The applicant for a broker's license must

- be aged 18 years or older;
- prove the equivalent of a high school education;
- furnish evidence of good moral character;
- successfully complete a 90-hour general broker prelicensing course;
- successfully complete a 30-hour prelicensing course on brokers' ethics and agency law and relationships;
- successfully complete a 30-hour prelicensing course on office management and related topics;
- have served three full years' apprenticeship as a licensed salesperson; and
- pass a state examination.

Exceptions

The *experience* requirement for a broker's or broker-salesperson's license can be waived for an honorably discharged war veteran with a service-connected wound or disability. License and renewal fees also are waived.

The Commission may agree to waive the *education* requirement for

- a licensed broker from another state;
- someone previously licensed as a New Jersey broker within the past five years;
- someone who has taken equivalent real estate courses in college;
- New Jersey attorneys; and
- in some cases, certain applicants who took an equivalent prelicensing course in another state.

Required Experience

The License Act requires an apprenticeship period for a broker-candidate. The standard is three full years' activity as a salesperson immediately

preceding license application, defined as at least a five-day week, 10 a.m. to 8 p.m. In addition, full-time status means the salesperson has not been employed elsewhere for 25 hours a week or more.

Although no specific number of transactions is required, as a guideline the Commission looks for a minimum of six transactions each year in each of the fields of sales, rentals and mortgages. Consideration is given, however, to the candidate who has experience in only one field or who has extensive experience in another field of real estate (industrial leasing, for example, or development).

Time Limit on Application

License application must be made within one year after the required prelicensing course is completed. Otherwise, the course must be taken over again.

Nonresidents

Someone who does not live in the state may obtain a New Jersey real estate license after qualifying in the usual way and also filing consent to be sued in this state.

Corporations

Although a corporation is a legal person, it may not hold a real estate license, which is issued to a specific broker qualified to transact business in the name of the corporation. This person is referred to as the "officer" of the corporation.

Examination

Fees for the license examination are paid directly to the independent testing service that runs the examination. Special arrangements can be made for persons who are blind or disabled, who have extreme language difficulty and who observe a Sabbath on regular examination days. More details on the examination are included in Chapter 24.

Temporary License

If a broker dies or becomes mentally or physically incapacitated and the office has no other broker to carry on transactions already in progress, a temporary one year broker's license may be issued to a salesperson with at least three years' experience immediately preceding the date of application. The salesperson is expected to complete qualification for a broker's license during the one year; no extension of time is allowed. The application requesting the temporary license must be made 30 days from the date of the broker's death and is effective for one year from the date of issuance.