

CHAPTER 32

AN ACT concerning consumer rights in certain real estate transactions and amending P.L.2009, c.238 and supplementing Title 45 of the Revised Statutes and chapter 8 of Title 56 of the Revised Statutes.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

C.45:15-16.86 Definitions.

1. As used in P.L.2024, c.32 (C.45:15-16.86 et al.):

“Agency relationship” means the agency relationship created under P.L.2024, c.32 (C.45:15-16.86 et al.) between a real estate brokerage firm and a principal relating to the performance of real estate brokerage services.

“Agent” means a real estate brokerage firm, including affiliated brokers, broker-salespersons, and salespersons who are duly licensed under R.S.45:15-1 et seq., that has an agency relationship with a principal.

“Brokerage firm” means a real estate brokerage firm, including real estate brokers, real estate broker-salespersons, and real estate salespersons licensed or otherwise authorized to provide brokerage services in this State pursuant to chapter 15 of Title 45 of the Revised Statutes who are affiliated with the brokerage firm, unless the context requires the terms to be considered separately. In accordance with section 2 of P.L.1989, c.239 (C.45:15-16.28), “broker” also includes any broker, broker-salesperson, or salesperson 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 chapter 15 of Title 45 of the Revised Statutes.

“Brokerage services” means the rendering of services for which a real estate license is required under chapter 15 of Title 45 of the Revised Statutes.

“Brokerage services agreement” means a written agreement between a brokerage firm and principal that appoints a brokerage firm to represent the principal as an agent or work with a buyer or seller as a transaction broker. Broker services agreements include, but are not limited to, sale and rental listing agreements; buyer-lessee agency agreements; and transaction broker, dual agency, and designated agency agreements.

“Buyer” means an actual or prospective purchaser in a real estate transaction, or an actual or prospective tenant in a real estate rental or lease transaction, as applicable.

“Buyer’s agent” means a brokerage firm, including brokers, broker-salespersons, and salespersons affiliated with the brokerage firm, that has an agency relationship and works only with the buyer in a real estate transaction and to whom the brokerage firm and its brokers, broker-salespersons, and salespersons owe fiduciary duties.

“Commercial real estate” means a fee title interest, possessory estate, or lease in real property located in the State of New Jersey, other than an interest in real property that is:

improved with one single-family residential unit or one multifamily structure with four or fewer residential units;

unimproved and the maximum permitted development is one to four residential units or structures under applicable zoning regulations;

classified as farmland, timberland, or other agricultural land for real estate tax assessment purposes;

improved with single-family residential units, such as condominiums, townhouses, timeshares, or stand-alone houses in a subdivision that may be legally sold, leased, or otherwise disposed of on a unit-by-unit basis;

subject to an agreement that provides that the real estate should be considered residential; or within the definition in this section as of the date of its disposition.

“Confidential information” means information from or concerning a principal that, unless required to be disclosed by the brokerage firm pursuant to applicable law:

is acquired by the brokerage firm during the course of an agency relationship with the principal;

is information that, as advised by the principal to the brokerage firm, the principal reasonably expects to be kept confidential or that the brokerage firm otherwise knows is confidential;

would, if disclosed, operate to the detriment of the principal, except that the information may be disclosed if authorized by the principal; and

the principal personally would not be obligated to disclose to the other party.

“Designated agent” means, in any transaction where the buyer’s agent and the seller’s agent are affiliated with the same brokerage firm or are the same broker, broker-salesperson, or salesperson, the broker, broker-salesperson, or salesperson who has been designated by the brokerage firm, including, but not limited to, by a broker or managing broker of the brokerage firm, to solely represent the buyer as the buyer’s agent and another broker, broker-salesperson, or salesperson who has been designated by the brokerage firm, including, but not limited to, a broker or managing broker of the brokerage firm, to solely represent the seller as the seller’s agent in a particular real estate transaction.

“Disclosed dual agent” means a brokerage firm, including brokers, broker-salespersons, and salespersons affiliated with the brokerage firm, that has an agency relationship and is working for both the buyer and seller in the same transaction.

“Material information” means the existence or non-existence of information:

(1) to which a reasonable person would attach importance in deciding whether or how to proceed with a transaction; or

(2) that the agent knows or has reason to know that the recipient of the information regards or is likely to regard as important in deciding whether or how to proceed, although a reasonable person would not so regard it.

“Principal” means a buyer or a seller who has an agency relationship with a brokerage firm.

“Real estate transaction” or “transaction” means an actual or prospective transaction involving a purchase, sale, option, or exchange of any interest in real property or a lease or rental of real property. For purposes of P.L.2024, c.32 (C.45:15-16.86 et al.), a prospective transaction does not exist until a written offer has been signed by at least one party.

“Seller” means an actual or prospective seller in a real estate transaction or an actual or prospective landlord in a real estate rental or lease transaction, as applicable.

“Seller’s agent” means a brokerage firm, including brokers, broker-salespersons, and salespersons affiliated with the brokerage firm, that has an agency relationship and works only with the seller in a real estate transaction and to whom the brokerage firm and its brokers, broker-salespersons, and salespersons owe fiduciary duties.

“Transaction broker” means a brokerage firm, including brokers, broker-salespersons, or salespersons affiliated with the brokerage firm, that works with a buyer or a seller, or both, in a real estate transaction without representing either party and has no agency relationship and owes no fiduciary duties to either party to the transaction.

C.45:15-16.87 Brokerage firm acting as buyer's, seller's, dual disclosed, designated agent, duties owed to principal, all parties in a transaction.

2. In addition to the duties provided for under current law, a brokerage firm, including its brokers, broker-salespersons, and salespersons, when acting as a buyer’s agent, seller’s agent, disclosed dual agent, or designated agent, owes the following duties to the brokerage firm’s principal and to all parties in a transaction, which may not be waived:

a. to strictly comply with the laws of agency and the principles governing fiduciary relationships;

b. to exercise reasonable skill and care;

c. to deal honestly and in good faith;

d. unless otherwise directed in writing by the principal, to present all written offers and counteroffers in a timely manner in accordance with applicable law and to provide written confirmation of receipt to the other party or its agent or transaction broker of each and every written offer or counteroffer as soon as reasonably practicable, regardless of whether the property is subject to an existing contract for sale or the buyer is already a party to an existing contract to purchase another property;

e. where the principal is the seller in a residential real estate transaction, to obtain a signed property condition disclosure statement that is provided for in section 1 of P.L.1999, c.76 (C.56:8-19.1), with it being required that the seller provide to the brokerage firm the statement with the information filled in and signed by the seller and, if the seller is not represented by a brokerage firm or working with a brokerage firm that is a transaction broker, then the seller shall be required to provide the statement to the buyer before the buyer becomes obligated under any contract for the purchase of the property;

f. to disclose all existing material information known by a real estate broker, real estate broker-salesperson, or real estate salesperson acting on behalf of the brokerage firm or which a reasonable effort to ascertain the information would have revealed to their principal and when appropriate to any other party to the transaction concerning the physical condition of the property that is for sale;

g. to provide an accounting to the principal as necessary in a timely manner for all money and property received from or on behalf of any party to the transaction;

h. in a residential real estate transaction, to provide the consumer information statement in the form required by the New Jersey Real Estate Commission and obtain a signed acknowledgment of receipt of same by the party. The statement shall be included as part of the brokerage services agreement. The statement shall be provided to:

(1) any party to whom the broker renders real estate brokerage services as soon as reasonably practical, but no later than at the time the party signs a brokerage services agreement; and

(2) any party not represented by a brokerage firm in a transaction before the party signs an offer or as soon as reasonably practical thereafter;

i. to disclose in writing as soon as reasonably practical, but no later than at the time the brokerage firm's principal signs a brokerage service agreement:

(1) whether the brokerage firm is acting as the buyer's agent, the seller's agent, a disclosed dual agent, a designated agent, or a transaction broker. The disclosure shall be set forth in a separate paragraph titled "Agency Disclosure" in a brokerage services agreement prepared by the brokerage firm between the principal and the brokerage firm or in a separate writing titled "Agency Disclosure" signed by the principal; and

(2) the terms of compensation, if any, offered by a party or the brokerage firm to another brokerage firm representing a different party; and

j. to undertake a reasonable effort to obtain material information concerning the condition of every property for which the brokerage firm accepts an agency relationship or is retained to market as a transaction broker and concerning the financial qualifications of every person for whom the brokerage firm submits an offer to the brokerage firm's principal, provided that the broker, broker-salesperson, or salesperson at the brokerage firm who undertakes the reasonable

efforts shall not be held to a standard of a licensed property inspector unless that broker, broker-salesperson, or salesperson is separately licensed as a property inspector.

C.45:15-16.88 Brokerage firms, real estate brokerage services, buyer's agent, conditions, exceptions.

3. a. A brokerage firm, including brokers, broker-salespersons, and salespersons affiliated with the brokerage firm, that performs real estate brokerage services for a buyer is a buyer's agent unless:

(1) a brokerage firm, including brokers, broker-salespersons, and salespersons affiliated with the brokerage firm, represents the seller pursuant to a brokerage services agreement between the brokerage firm and the seller, in which case the brokerage firm, including the brokers, broker-salespersons, and salespersons, is a seller's agent;

(2) a brokerage firm, including brokers, broker-salespersons, and salespersons affiliated with the brokerage firm, represents the seller pursuant to a brokerage services agreement between the brokerage firm and the seller, and the brokerage firm, including the same broker, broker-salesperson, or salesperson or a different broker, broker-salesperson, or salesperson affiliated with the same brokerage firm in a residential real estate transaction or otherwise represents the buyer in a commercial real estate transaction, represents the buyer pursuant to a brokerage services agreement between the brokerage firm and the buyer, in which case the brokerage firm, including the broker, broker-salesperson, or salesperson or brokers, broker-salespersons, or salespersons, as applicable, is a disclosed dual agent;

(3) the brokerage firm, including a broker, broker-salesperson, or salesperson affiliated with the brokerage firm, has agreed to work with the buyer pursuant to a brokerage services agreement between the brokerage firm and the buyer in a residential real estate transaction or otherwise represents the buyer in a commercial real estate transaction as a transaction broker; or

(4) the broker, broker-salesperson, or salesperson affiliated with the brokerage firm is the seller or one of the sellers.

b. (1) In a residential real estate transaction, a brokerage firm shall enter into a brokerage services agreement with the buyer before, or as soon as reasonably practical after, the firm commences rendering real estate brokerage services to, or on behalf of, the buyer. A brokerage services agreement shall not be required between a brokerage firm and a buyer in a commercial real estate transaction.

(2) The brokerage services agreement shall include the following:

(a) the term of the brokerage services agreement, including, if applicable, the period after the termination of the agreement that the brokerage firm will be protected as provided in the agreement with regard to any properties that a broker, broker-salesperson, or salesperson from the brokerage firm introduced to the buyer during the term of the agreement;

(b) that the brokerage firm is appointed as an agent for the buyer;

(c) if the agency relationship is exclusive or nonexclusive;

(d) if the buyer consents to the brokerage firm acting as a disclosed dual agent or designated agent, which, if consent is granted, shall be in the brokerage services agreement or another document requiring separate initialization or signature by the buyer and include an acknowledgment from the buyer that a disclosed dual agent shall not advocate terms favorable to one principal to the detriment of the other principal;

(e) if the buyer consents, as demonstrated by initialization or signature, to the broker or a managing broker for the brokerage firm, or a broker, broker-salesperson, or salesperson appointed by the broker or managing broker, being an agent for the buyer to act as a disclosed dual agent in a transaction in which the same broker, broker-salesperson, or salesperson or

different brokers, broker-salespersons, or salespersons, as applicable, affiliated with the brokerage firm represent different parties;

(f) the brokerage firm's compensation, how the compensation will be calculated, and if the compensation is to be shared with another brokerage firm that may have a brokerage relationship with another party to the transaction; and

(g) a disclosure expressly stating that broker compensation is fully negotiable and not set by law.

c. A brokerage firm may work with a party in separate transactions pursuant to different or the same agency relationships, including, but not limited to, representing a party in one transaction and at the same time representing that party in a different transaction, if the broker complies with P.L.2024, c.32 (C.45:15-16.86 et al.) in establishing the relationships for each transaction, even if the other transaction is a related transaction.

C.45:15-16.89 Buyer's agent duties, exceptions.

4. a. In addition to the duties provided for under current law, the duties of a buyer's agent shall include the following, which may not be waived, except as expressly set forth in paragraphs (4) and (5) of this subsection:

(1) to be loyal to the buyer by taking no action that is adverse or detrimental to the buyer's interest in a transaction and to exercise primary devotion to the buyer's interests;

(2) to timely disclose to the buyer any actual or potential conflicts of interest which the buyer's agent may reasonably anticipate;

(3) to advise the buyer to seek expert advice on matters relating to the transaction that are beyond the agent's expertise;

(4) to not disclose confidential information from or about the buyer, except under subpoena, court order, or otherwise as provided by law or as expressly authorized by the buyer, even after termination of the agency relationship;

(5) unless otherwise agreed to in writing, to make a good-faith and continuous effort to find a property for the buyer, except that a buyer's agent is not obligated to seek additional properties to purchase while the buyer is a party to an existing contract to purchase that is no longer subject to the attorney-review period, if applicable; and

(6) any additional duties that are agreed to in writing signed by a buyer's agent or other authorized representative of the brokerage firm.

b. (1) The showing of a property in which a buyer is interested to other prospective buyers by a buyer's agent shall not breach the duty of loyalty to the buyer or create a conflict of interest.

(2) The representation of or acting as a transaction broker with more than one buyer by a brokerage firm, including different brokers, broker-salespersons, or salespersons affiliated with the brokerage firm, in competing transactions involving the same property does not breach the duty of loyalty to the buyer or create a conflict of interest.

C.45:15-16.90 Brokerage firms, real estate brokerage services, seller's agent, conditions, exceptions.

5. a. A brokerage firm, including brokers, broker-salespersons, and salespersons affiliated with the brokerage firm, that performs real estate brokerage services for a seller is a seller's agent unless:

(1) a brokerage firm, including brokers, broker-salespersons, and salespersons affiliated with the brokerage firm, represents the buyer pursuant to a brokerage services agreement between the brokerage firm and the buyer in a residential real estate transaction or otherwise represents the buyer in a commercial real estate transaction, in which case the brokerage firm, including the brokers, broker-salespersons, and salespersons, is a buyer's agent;

(2) a brokerage firm, including brokers, broker-salespersons, and salespersons affiliated with the brokerage firm, represents the buyer pursuant to a brokerage services agreement between the brokerage firm and the buyer in a residential real estate transaction or otherwise represents the buyer in a commercial real estate transaction, and the brokerage firm, including the same broker, broker-salesperson, or salesperson or a different broker, broker-salesperson, or salesperson represents the seller pursuant to a brokerage services agreement between the brokerage firm and the seller, in which case the brokerage firm, including the broker, broker-salesperson, or salesperson or brokers, broker-salespersons, or salespersons, as applicable, is a disclosed dual agent;

(3) the brokerage firm, including a broker, broker-salesperson, or salesperson affiliated with the brokerage firm, has agreed to work with the seller pursuant to brokerage services agreement between the brokerage firm and the seller as a transaction broker; or

(4) the broker, broker-salesperson, or salesperson affiliated with the brokerage firm is the buyer or one of the buyers.

b. (1) A brokerage firm shall enter into a brokerage services agreement with the seller before, or as soon as reasonably practical after, it commences rendering real estate brokerage services to, or on behalf of, the seller.

(2) The brokerage services agreement shall include the following:

(a) the term of the brokerage services agreement, including, if applicable, the period after the termination of the agreement that the brokerage firm will be protected as provided in the agreement with regard to any properties that a broker, broker-salesperson, or salesperson from the brokerage firm introduced to the seller during the term of the agreement;

(b) the brokerage firm is appointed as an agent for the seller;

(c) if the agency relationship is exclusive or nonexclusive and shall include an option for the seller to select if the relationship is exclusive or nonexclusive;

(d) if the seller consents to the brokerage firm acting as a disclosed dual agent or designated agent, which, if consent is granted, shall be in the brokerage services agreement or in another document requiring separate initialization or signature by the seller and include an acknowledgment from the seller that a disclosed dual agent shall not advocate terms favorable to one principal to the detriment of the other principal;

(e) if the seller consents, as demonstrated by initialization or signature, to the broker or a managing broker for the brokerage firm, or a broker, broker-salesperson, or salesperson appointed by the broker or managing broker, being an agent for the seller to act as a disclosed dual agent in a transaction in which the same broker, broker-salesperson, or salesperson or different brokers, broker-salespersons, or salespersons, as applicable, affiliated with the brokerage firm represent different parties;

(f) the brokerage firm's compensation, how the compensation will be calculated, and if the compensation will be shared with another brokerage firm that may have a brokerage relationship with another party to the transaction; and

(g) whether a notice on the property to be sold will be circulated in a database established to provide data about properties for sale, such as a multiple listing service, of which the brokerage firm is a member, except that the seller's agent shall not submit any notice to the service stating whether the seller authorized the sharing of the compensation of the seller's agent with cooperating sub-agents, transaction brokers, or the buyer's agents or the amount of the shared compensation to any service that prohibits an offer from being displayed.

c. A brokerage firm may work with a party in separate transactions pursuant to different or same agency relationships, including, but not limited to, representing a party in one transaction and at the same time representing that party in a different transaction, if the broker

complies with P.L.2024, c.32 (C.45:15-16.86 et al.) in establishing the relationships for each transaction, even if the other transaction is a related transaction.

C.45:15-16.91 Seller's agent duties, exceptions.

6. a. In addition to the duties provided for under current law, the duties of a seller's agent shall include the following, which may not be waived, except as expressly set forth in paragraphs (4) and (5) of this subsection:

(1) to be loyal to the seller by taking no action that is adverse or detrimental to the seller's interest in a transaction and to exercise primary devotion to the seller's interests;

(2) to timely disclose to the seller any actual or potential conflicts of interest which the seller's agent may reasonably anticipate;

(3) to advise the seller to seek expert advice on matters relating to the transaction that are beyond the agent's expertise;

(4) not to disclose any confidential information from or about the seller, except under subpoena, court order, or otherwise as provided by law or as expressly authorized by the seller, even after termination of the agency relationship;

(5) unless otherwise agreed to in writing, to make a good-faith and continuous effort to find a buyer for the property, except that a seller's agent is not obligated to seek additional offers to purchase the property while the property is subject to an existing contract for sale that is no longer subject to the attorney-review period, if applicable; and

(6) any additional duties that are agreed to in writing signed by a seller's agent or other authorized representative of the brokerage firm.

b. (1) The showing of properties not owned by the seller to prospective buyers or the listing of competing properties for sale by a seller's agent does not breach the duty of loyalty to the seller or create a conflict of interest.

(2) The representation of or acting as a transaction broker with more than one seller by a brokerage firm, including different brokers, broker-salespersons, or salespersons affiliated with the brokerage firm, in competing transactions involving the same buyer does not breach the duty of loyalty to the seller or create a conflict of interest.

C.45:15-16.92 Brokerage firms acting as a disclosed dual agent, informed consent of both parties, residential, commercial real estate transaction; duties, exceptions.

7. a. A brokerage firm, including its brokers, broker-salespersons, and salespersons, may act as a disclosed dual agent only with the informed consent of both parties to the transaction as set forth in brokerage services agreements signed by the buyer and the seller, respectively, in a residential real estate transaction or otherwise in writing in a commercial real estate transaction.

b. In addition to the duties provided for under current law, the duties of a disclosed dual agent shall include the following, which may not be waived, except as expressly set forth in paragraphs (4), (5) and (6) of this subsection:

(1) to take no action that is adverse or detrimental to either party's interest in a transaction;

(2) to timely disclose to both parties any actual or potential conflicts of interest which the disclosed dual agent may reasonably anticipate;

(3) to advise both parties to seek expert advice on matters relating to the transaction that are beyond the disclosed dual agent's expertise;

(4) not to disclose any confidential information from or about either party, except under subpoena, court order, or otherwise as provided by law or as expressly authorized by the party, even after termination of the agency relationship;

(5) unless otherwise agreed to in writing with the seller, to make a good faith and continuous effort to find a buyer for the property, except that a disclosed dual agent is not

obligated to seek additional offers to purchase the property while the property is subject to an existing contract for sale that is no longer subject to the attorney-review period, if applicable;

(6) unless otherwise agreed to in writing with the buyer, to make a good-faith and continuous effort to find a property for the buyer, except that a disclosed dual agent is not obligated to seek additional properties to purchase while the buyer is a party to an existing contract to purchase that is no longer subject to the attorney-review period, if applicable; and

(7) any additional duties that are agreed to in writings signed by a disclosed dual agent or an authorized representative of the brokerage firm and each of the parties.

c. Notwithstanding any provision of chapter 15 of Title 45 of the Revised Statutes or any other law, rule, or regulation to the contrary, including, but not limited to, subsection i. of R.S.45:15-17, a broker, broker-salesperson, or salesperson acting as a disclosed dual agent in a real estate transaction shall be deemed to be acting in the same capacity with the buyer and the seller as a dual agent and may receive compensation through its brokerage firm from either or both the buyer and seller provided that the sources and amounts of compensation are disclosed in writing to the buyer and the seller.

d. (1) The showing of properties not owned by the seller to prospective buyers or the listing of competing properties for sale by a disclosed dual agent does not constitute action that is adverse or detrimental to the seller or create a conflict of interest.

(2) The representation of or acting as a transaction broker with more than one seller by different brokers, broker-salespersons, or salespersons licensed with the same brokerage firm in competing transactions involving the same buyer does not constitute action that is adverse or detrimental to the seller or create a conflict of interest.

e. (1) The showing of property in which a buyer is interested to other prospective buyers or the presentation of additional offers to purchase property while the property is subject to a transaction in which a disclosed dual agent is involved does not constitute action that is adverse or detrimental to the buyer or create a conflict of interest.

(2) The representation of or acting as a transaction broker with more than one buyer by the brokerage firm, including different brokers, broker-salespersons, or salespersons affiliated with the brokerage firm, in competing transactions involving the same property does not constitute action that is adverse or detrimental to the buyer or create a conflict of interest.

C.45:15-16.93 Different broker, broker-salesperson, salesperson, designated agent, fiduciary duties owed, respective principals.

8. a. In a transaction in which a different broker, broker-salesperson, or salesperson is designated as a designated agent by a brokerage firm, including, but not limited to, by the broker or a managing broker affiliated with the brokerage firm, the broker, broker-salespersons, or salespersons, as applicable, shall be designated agents. Each designated agent shall solely represent the party with whom the designated agent has an agency relationship.

(1) For the purposes of designated agency, the seller's designated agent and the buyer's designated agent are not dual agents and owe fiduciary duties solely to their respective principals.

(2) In order for a designated agency relationship to take effect, the brokerage firm shall enter into a written designated agency agreement that may be incorporated into the brokerage services agreement with each of the parties in a residential real estate transaction or otherwise in a written agreement with each of the parties in a commercial transaction that includes the informed, written consent of each of parties to the transaction.

b. Notwithstanding any provision of chapter 15 of Title 45 of the Revised Statutes or any other law, rule, or regulation to the contrary, including, but not limited to, subsection i. of R.S.45:15-17, a broker-salesperson or salesperson acting as a designated agent in a real estate transaction shall be deemed to be acting in the same capacity with the buyer and the seller as

a designated agent and may receive compensation through its brokerage firm from either or both the buyer and the seller provided that the sources and amounts of compensation are disclosed in writing to the buyer and the seller.

C.45:15-16.94 Brokerage firm engaged as transaction broker shall not act as an agent or represent any party in the transaction; transaction broker duties.

9. a. A brokerage firm, including brokers, broker-salespersons, and salespersons affiliated with the brokerage firm, that has been engaged as a transaction broker by a buyer, a seller, or both shall not act as an agent for and shall not represent any party in the transaction, shall not promote the interest of one party over the interest of the other party, and shall not be required to keep any information confidential.

b. In addition to the duties provided for under current law, a transaction broker's duties shall include the following:

(1) to perform the terms of any brokerage service agreement made with any party to the transaction;

(2) to ensure, when working with a seller, that the brokerage service agreement states whether a notice on the property to be sold will be circulated in a database established to provide data about properties for sale, such as a multiple listing service, of which the brokerage firm is a member, except that the seller's agent shall not submit any notice to the service stating whether the seller authorized the sharing of the compensation of the seller's agent with cooperating sub-agents, transaction brokers, or the buyer's agents or the amount of the shared compensation to any service that prohibits an offer from being displayed;

(3) to treat all parties honestly and act in a competent manner;

(4) to locate qualified buyers for a seller or suitable properties for a buyer;

(5) unless otherwise directed in writing by the principal, to present all written offers and counteroffers in a timely manner in accordance with applicable law and to provide written confirmation of receipt to the other party or its agent or transaction broker of each and every written offer or counteroffer as soon as reasonably practicable, regardless of whether the property is subject to an existing contract of sale or the buyer is already a party to an existing contract to purchase another property;

(6) to keep the parties fully informed regarding the transaction;

(7) to communicate and work with all parties in an effort to arrive at an acceptable agreement without providing advice to any party on how to gain an advantage at the expense of the other party;

(8) to advise the parties to seek expert advice on matters relating to the transaction;

(9) to manage the transaction and perform tasks to facilitate the closing of the transaction; and

(10) any additional duties that are agreed to in writings signed by the transaction broker or other authorized representative of the brokerage firm.

c. The showing of alternate properties not owned by the seller to a buyer shall not breach any duties or create a conflict of interest.

d. The showing of a property in which a buyer is interested to other prospective buyers shall not breach any duties or create a conflict of interest.

C.45:15-16.95 Established agency, transaction broker relationships, completion, expiration of terms, termination, conditions.

10. a. The agency or transaction broker relationships established pursuant to this chapter shall continue until the earliest of the following:

(1) completion of performance by the brokerage firm;

- (2) expiration of the term agreed upon by the parties;
- (3) termination of the relationship by mutual agreement of the parties; or
- (4) termination of the relationship by written notice from either party to the other as provided in the brokerage services agreement, if applicable, except that a termination does not otherwise affect the contractual rights of either party.

b. If the agency or transaction broker relationship is being terminated pursuant to paragraphs (3) or (4) of subsection a. of this section, written confirmation of termination shall be required for the termination to take effect. Written confirmation of termination shall not be required for the termination to take effect pursuant to paragraphs (1) or (2) of subsection a. of this section.

c. Except as otherwise agreed to in writing, a brokerage firm shall owe no further duty or other responsibility after termination of the agency or transaction broker relationship, other than the duty:

(1) to provide an accounting to its principal as necessary in a timely manner for all moneys and property received from or on behalf of any party to the transaction; and

(2) to not disclose confidential information if there was an agency relationship, except under subpoena, court order, or otherwise as provided by law or as expressly authorized by the applicable party.

d. With respect to the termination of disclosed dual agent relationships, absent a termination by expiration or fulfillment by a completed closing, brokerage services agreements between a disclosed dual agent and a buyer and a seller shall otherwise only be terminated in writing signed by the buyer or seller, as applicable, with confirmed delivery to the disclosed dual agent.

C.45:15-16.96 Real estate transaction, brokerage firm compensation.

11. a. In any real estate transaction, a brokerage firm's compensation may be paid by one or more of the following: the seller; the buyer; a third party; or by sharing the compensation between brokerage firms. Agreements on compensation shall be in writing signed by the seller or buyer, as applicable.

b. An agreement to pay or payment of compensation shall not establish an agency relationship between the party who paid the compensation and the brokerage firm.

c. A seller may agree that a seller's agent's or transaction broker's brokerage firm may share with another brokerage firm the compensation paid by the seller, provided that this type of agreement is in writing and signed by the seller.

d. A buyer may agree that a buyer's agent's or transaction broker's brokerage firm may share with another brokerage firm the compensation paid by the buyer, provided that this type of agreement is in writing and signed by the buyer.

e. Notwithstanding any provision of chapter 15 of Title 45 of the Revised Statutes or any other law, rule, or regulation to the contrary, including, but not limited to, subsection i. of R.S.45:15-17, a brokerage firm may be compensated by more than one party for real estate brokerage services in a real estate transaction regardless of the agency or transaction broker relationship the brokerage firm has with the parties.

f. A brokerage firm may receive compensation based upon a flat fee arrangement, a percentage of the purchase price, or other method permitted by law, all of which shall be a commission payment for any real estate brokerage services rendered, without breaching any duty to the buyer or seller.

g. To receive compensation for rendering real estate brokerage services from any party, firm, or third party, a brokerage firm shall have a written brokerage services agreement with the buyer or the seller, as applicable, in a residential real estate transaction and a written

brokerage services agreement with the seller but not with the buyer in a commercial real estate transaction containing the following:

- (1) the terms of compensation, including:
 - (a) the amount the principal agrees to compensate the brokerage firm;
 - (b) the principal's consent, if any, and any terms of the consent to compensation sharing between brokerage firms and parties sharing the payment of the compensation; and
 - (c) the principal's consent, if any, and any terms of consent to compensation of the brokerage firm by more than one party; and
- (2) in a brokerage services agreement with a buyer, if there is no agreement, offer, or a limited offer by any other party or brokerage firm to pay compensation to the brokerage firm, if the buyer will pay the difference between the offer and the compensation the buyer has agreed is due to the buyer's agent and, if not, the buyer's agreement as to how to proceed in this situation, including, but not limited to, directing the buyer's agent not to introduce the buyer to properties where the seller is not offering compensation or is offering less compensation to the buyer's agent than the buyer agreed is due to the buyer's agent.

h. A brokerage firm may receive compensation, which shall be deemed to be the payment of a commission, without a brokerage services agreement for the provision of a broker's price opinion, comparative market analysis, or a referral by one firm to another firm if the referring firm provided no real estate brokerage services in the transaction.

C.45:15-16.97 Liability, brokerage firm, principal, agent, transaction broker.

12. a. A principal shall not be liable for an act, error, or omission by an agent or transaction broker of the principal arising out of their relationship:

- (1) unless the principal participated in or authorized the act, error, or omission.
- (2) except to the extent that the principal benefited from the act, error, or omission, in which case the principal's liability shall be limited to the monetary amount of the benefit unless some form of punitive damages are awarded.

b. A brokerage firm shall not be liable for information that is to be disclosed by a seller in a property condition disclosure statement that is provided for in section 1 of P.L.1999, c.76 (C.56:8-19.1) or otherwise by law or that the brokerage firm requested the seller to provide and was not provided to the brokerage firm, provided a real estate broker, real estate broker-salesperson, or real estate salesperson acting on behalf of the brokerage firm made reasonable efforts to ascertain all material information concerning the physical condition, including, but not limited to, making inquiries to the seller about any physical conditions that may affect the property and performing a visual inspection of the property to determine if there are any readily observable physical conditions affecting the property, and made disclosure of such information to appropriate parties to a transaction as required by law.

C.45:15-16.98 Principal not to be charged, knowledge, notice of facts known by brokerage firm, not actually known by principal.

13. Unless otherwise agreed to in writing, a principal may not be charged with knowledge or notice of any facts known by a brokerage firm representing or working with the principal that are not actually known by the principal. A brokerage firm representing or working with the principal may not be charged with knowledge or notice of any facts known by the principal that are not actually known by the brokerage firm; provided a real estate broker, real estate broker-salesperson, or real estate salesperson acting on behalf of the brokerage firm made reasonable efforts to ascertain all material information concerning the physical condition, including, but not limited to, making inquiries to the seller about any physical conditions that

may affect the property and performing a visual inspection of the property to determine if there are any readily observable physical conditions affecting the property.

C.45:15-16.99 Residential property showing, generally open to public, sign advising prospective buyers, brokerage firm representing seller only; exceptions, sign text.

14. a. At any residential property showing that is generally open to the public, a sign shall be posted at the entrance or at a sign-in sheet clearly advising prospective buyers that the brokerage firm hosting the real estate open house represents the seller only and has no relationship with the prospective buyer, except if the buyer does not have an exclusive buyer agency agreement with another brokerage firm and agrees to the seller's agent becoming a disclosed dual agent or designated agent.

b. For the avoidance of doubt and to ensure uniformity at public real estate open houses across the State, the sign shall clearly read:

"ATTENTION PROSPECTIVE PURCHASERS - PLEASE READ THIS SIGN CAREFULLY. This is to advise you that the agent who is conducting this Open House REPRESENTS THE SELLER AND IS REQUIRED BY LAW TO PROMOTE THE INTERESTS OF THE SELLER. ANY INFORMATION YOU GIVE THIS AGENT IS NOT CONSIDERED CONFIDENTIAL under New Jersey law and could be disclosed to the Seller of this property. You, as the Buyer, are entitled to have someone represent you as a Buyer's Agent if you are interested in this property. The duties of a Buyer's Agent include helping you evaluate the property, prepare an offer on the property and negotiate in your best interests. If you, as the Buyer, are already exclusively represented by a Buyer's Agent, you are required to disclose this representation on the sign-in sheet. If you, as the Buyer, are not already exclusively represented by a Buyer's Agent, please be advised that the Open House agent is not precluded from being a disclosed dual agent or designated agent and can enter into any relationship with you as explained in the Consumer Information Statement."

C.45:15-16.100 Regulations, relationships, real estate brokerage firms.

15. 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.) to effectuate the purposes of P.L.2024, c.32 (C.45:15-16.86 et al.), including regulations to address other types of agency or business relationships for real estate brokerage firms.

16. Section 27 of P.L.2009, c.238 (C.45:15-16.2e) is amended to read as follows:

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

27. 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.

d. Notwithstanding the provisions of subsection a. of this section, the commission shall require that a continuing education course on agency be completed by a broker, broker-salesperson, and salesperson as a condition for license renewal during each biennial license term.

C.45:15-16.101 Rights, remedies, prohibitions declared additional, cumulative.

17. The rights, remedies, and prohibitions accorded by the provisions of P.L.2024, c.32 (C.45:15-16.86 et al.), are hereby declared to be in addition to and cumulative of any other right, remedy, or prohibition accorded by the common law or statutes of the United States or of this State, and nothing herein shall be construed to deny, abrogate, or impair any such common law or statutory right, remedy, or prohibition.

18. This act shall take effect on August 1, 2024.

Approved July 10, 2024.