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RULE ADOPTION
LAW AND PUBLIC SAFETY
DIVISION OF CONSUMER AFFAIRS
STATE BOARD OF REAL ESTATE APPRAISERS
MIXED PRACTICE: CONFLICT OF INTEREST

Adopted New Rule: N.J.A.C. 13:40A-7.5

Proposed: October 7, 2002 at 34 N.J.R. 3445(a).

Adopted: January 14, 2003 by the State Board of Real Estate Appraisers, Barry Krauser, President.

Filed: April 11, 2003 as R.2003 d.192, without change.

Authority: N.J.S.A. 45:14F-8.

Effective Date: May 5, 2003.

Expiration Date: June 7, 2007.

Federal Standards Statement

A Federal standards analysis is not required because the adopted new rule is dictated by State statute and is not subject to Federal requirements or standards.

Full text of the adoption follows:

<< **NJ ADC 13:40A-7.5** >

13:40A-7.5 Mixed practice; conflict of interest

(a) For the purposes of this section, "real estate licensee" means any natural person licensed as a real estate broker, broker-salesperson or salesperson pursuant to N.J.S.A. 45:15-1 et seq. and "transaction" means the buying, selling, leasing, mortgaging, auctioning or exchanging of real estate.

(b) A real estate appraiser, who is also a real estate licensee or who is employed as an appraiser by a licensed real estate broker, shall not prepare an appraisal upon a property while:

1. The real estate appraiser also is acting in the capacity of a real estate licensee for any party with respect to any transaction involving the property to be appraised;
2. The employing broker of the real estate appraiser is acting as a real estate licensee for any party with respect to any transaction involving the property to be appraised; or
3. Any real estate licensee who is working for the employing broker of the real estate appraiser acts as a real estate licensee for any party with respect to such transaction.

(c) The prohibitions listed in (b) above shall continue until the transaction closes.

1. A sale or buy transaction is considered closed at the time the closing has been completed and title has passed from the seller to the buyer;
2. A lease transaction is considered closed at the time the lease is fully executed and delivered to the parties or, if there

is no written lease, at the time of occupancy of the leased premises by the tenant;

3. A mortgage transaction is considered closed at the time a mortgage document is executed by the mortgagor and delivered to the mortgagee; and

4. An exchange is considered closed at the time the closing has been completed and title has passed between the parties.

(d) Notwithstanding (b) above, this section shall not be construed to preclude a real estate appraiser who is also a real estate licensee, acting in the capacity of a real estate licensee, from giving or offering to give, for a fee or otherwise, counsel and advice on the pricing, listing, selling, renting and use of real property, directly to a property owner or prospective purchaser if the intended use of the counsel or advice is solely for the individual knowledge of or use by the property owner or prospective purchaser or lessee and not by any third party. When providing such counsel or advice, the licensed real estate appraiser, acting in the capacity of a real estate licensee, shall disclose, in writing, to the property owner or prospective purchaser or lessee that such counsel and advice is not a "certified appraisal" or a "licensed appraisal."