

5693--A

2013-2014 Regular Sessions

I N S E N A T E

June 5, 2013

Introduced by Sens. ZELDIN, VALESKY -- read twice and ordered printed, and when printed to be committed to the Committee on Judiciary -- recommitted to the Committee on Judiciary in accordance with Senate Rule 6, sec. 8 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the real property law, in relation to clarifying the permissibility of commissions, fees or other compensation paid to real estate brokers

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 Section 1. Section 442 of the real property law, as amended by chapter
2 45 of the laws of 1982, the opening paragraph as amended by chapter 316
3 of the laws of 2004, the second undesignated paragraph as amended by
4 chapter 734 of the laws of 1986, is amended to read as follows:
5 S 442. Splitting commissions. 1. No real estate broker shall pay any
6 part of a fee, commission or other compensation received by the broker
7 to any person for any service, help or aid rendered in any place in
8 which this article is applicable, by such person to the broker in
9 buying, selling, exchanging, leasing, renting or negotiating a loan upon
10 any real estate including the resale of a condominium OR COOPERATIVE
11 APARTMENT unless such a person be a duly licensed real estate salesman
12 regularly associated with such broker or a duly licensed real estate
13 broker or a person regularly engaged in the real estate brokerage busi-
14 ness in a state outside of New York; provided, however, that notwith-
15 standing any other provision of this section, it shall be permissible
16 for a real estate broker to pay any part of a fee, commission, or other
17 compensation received to an unlicensed corporation or an unlicensed
18 limited liability company if each of its shareholders or members,
19 respectively, is associated as an individual with the broker as a duly
20 licensed associate broker or salesman.

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets
[] is old law to be omitted.

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1 2. Furthermore, notwithstanding any other provision of law, it shall
2 be permissible for a broker properly registered pursuant to the
3 provisions of article twenty-three-A of the general business law who
4 earns a commission on the original sale of a cooperative or homeowners
5 association interest in real estate, including condominium units to pay
6 any part of a fee, commission or other compensation received for bring-
7 ing about such sale to a person whose [principal] PRINCIPAL business is
8 not the sale or offering of cooperatives or homeowners association
9 interests in real property, including condominium units in this state
10 but who is either: (i) a real estate salesman duly licensed under this
11 article who is regularly associated with such broker; (ii) a broker duly
12 licensed under this article; or a person regularly engaged in the real
13 estate brokerage business in a state outside of New York.

14 [Except when permitted pursuant to the foregoing provisions of this
15 section no real estate broker shall pay or agree to pay any part of a
16 fee, commission, or other compensation received by the broker, or due,
17 or to become due to the broker to any person, firm or corporation who or
18 which is or is to be a party to the transaction in which such fee,
19 commission or other compensation shall be or become due to the broker]
20 PROVIDED, HOWEVER, THAT NOTHING IN THIS SECTION SHALL PROHIBIT A REAL
21 ESTATE BROKER FROM OFFERING ANY PART OF A FEE, COMMISSION, OR OTHER
22 COMPENSATION RECEIVED BY THE BROKER TO THE SELLER, BUYER, LANDLORD OR
23 TENANT WHO IS BUYING, SELLING, EXCHANGING, LEASING, RENTING OR NEGOTIAT-
24 ING A LOAN UPON ANY REAL ESTATE INCLUDING THE RESALE OF A CONDOMINIUM OR
25 COOPERATIVE APARTMENT. SUCH FEE, COMMISSION, OR OTHER COMPENSATION MUST
26 NOT BE MADE TO THE SELLER, BUYER, LANDLORD OR TENANT FOR PERFORMING ANY
27 ACTIVITY REQUIRING A LICENSE UNDER THIS ARTICLE.

28 S 2. This act shall take effect immediately.