

3565

2009-2010 Regular Sessions

I N S E N A T E

March 24, 2009

Introduced by Sen. LAVALLE -- read twice and ordered printed, and when printed to be committed to the Committee on Higher Education

AN ACT to amend the education law, the insurance law, the real property law and the executive law, in relation to disclosing examination questions

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

1 Section 1. Legislative intent and declaration of purpose. It is in the  
2 public interest to insure that individuals taking examinations used in  
3 the process of licensing professionals or occupations have a degree of  
4 opportunity to review actual past test questions. Such disclosure is  
5 important for test takers to be able to study and learn from the subject  
6 areas on past examinations and for independent researchers to review  
7 these tests for validity and fairness.

8 S 2. The education law is amended by adding a new section 6507-a to  
9 read as follows:

10 S 6507-A. LICENSING EXAMINATION AND RE-EXAMINATIONS. IN CONNECTION  
11 WITH ANY EXAMINATION PREPARED OR ADMINISTERED BY THE DEPARTMENT OR IN  
12 CONJUNCTION WITH THE DEPARTMENT FOR THE PURPOSE OF LICENSING OR CERTIFY-  
13 ING THE PROFESSIONS AND OCCUPATIONS DEFINED IN THIS ARTICLE:

14 A. THE DEPARTMENT, BOARD OR AGENCY SHALL PLACE ON FILE, AS PUBLIC  
15 RECORDS, WITH THE COMMISSIONER THE FOLLOWING:

16 (1) A COPY OF ALL QUESTIONS USED IN CALCULATING A TEST SUBJECT'S RAW  
17 SCORE FROM ONE EXAMINATION FORM ADMINISTERED DURING THE PERIOD SET FORTH  
18 BELOW;

19 (2) THE CORRESPONDING ACCEPTABLE ANSWERS; AND

20 (3) ALL RULES FOR DETERMINING A SCORE WHICH QUALIFIES AN EXAMINATION  
21 SUBJECT FOR LICENSURE OR CERTIFICATION IN ACCORDANCE WITH THE FOLLOWING  
22 SCHEDULE:

23 (I) FOR EXAMINATIONS ADMINISTERED TO FIFTY THOUSAND OR MORE PEOPLE IN  
24 NEW YORK EVERY YEAR, ALL TESTS;

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

LBD10120-01-9

1 (II) FOR EXAMINATIONS ADMINISTERED TO TEN THOUSAND OR MORE PEOPLE BUT  
2 FEWER THAN FIFTY THOUSAND PEOPLE IN NEW YORK EVERY YEAR, TWICE ANNUALLY;

3 (III) FOR EXAMINATIONS ADMINISTERED TO FIVE THOUSAND OR MORE PEOPLE  
4 BUT FEWER THAN TEN THOUSAND PEOPLE IN NEW YORK EVERY YEAR, ANNUALLY;

5 (IV) FOR EXAMINATIONS ADMINISTERED TO TWO THOUSAND OR MORE PEOPLE BUT  
6 FEWER THAN FIVE THOUSAND PEOPLE IN NEW YORK EVERY YEAR, ONCE EVERY THREE  
7 YEARS;

8 (V) FOR EXAMINATIONS ADMINISTERED TO FEWER THAN TWO THOUSAND PEOPLE IN  
9 NEW YORK EVERY YEAR, ONCE EVERY FIVE YEARS.

10 B. THE DEPARTMENT OR BOARD SHALL PROMULGATE REGULATIONS:

11 (1) GIVING ANY EXAMINATION SUBJECT THE OPPORTUNITY TO SECURE THE EXAM-  
12 INATIONS DISCLOSED UNDER THIS SECTION PRIOR TO THE ADMINISTRATION OF THE  
13 EXAMINATION SUBJECT'S EXAMINATION; AND

14 (2) TO IMPLEMENT THE PROVISIONS OF THIS SECTION. THE DEPARTMENT,  
15 BOARD OR EXAMINATION AGENCY MAY CHARGE A NOMINAL FEE FOR PROVIDING SUCH  
16 INFORMATION, NOT TO EXCEED THE DIRECT COST THEREOF.

17 C. THE DEPARTMENT, BOARD, OR EXAMINATION AGENCY SHALL PROVIDE, ALONG  
18 WITH THE EXAMINATION QUESTIONS ALREADY DISCLOSED UNDER THIS SECTION, THE  
19 FOLLOWING INFORMATION TO THE EXAMINATION SUBJECT:

20 (1) HOW THE EXAMINATION SUBJECT MAY OBTAIN THE EXAMINATION QUESTIONS  
21 ALREADY DISCLOSED UNDER THIS SECTION PRIOR TO THE ADMINISTRATION OF THE  
22 EXAMINATION FOR WHICH THE EXAMINATION SUBJECT HAS REGISTERED;

23 (2) STATEMENTS DESIGNED TO PROVIDE INFORMATION FOR INTERPRETING EXAM-  
24 INATION RESULTS, INCLUDING BUT NOT LIMITED TO, EXPLANATION OF ALL RULES  
25 FOR DETERMINING A SCORE WHICH QUALIFIES AN EXAMINATION SUBJECT FOR  
26 LICENSURE OR CERTIFICATION;

27 (3) A COMPLETE DESCRIPTION OF ANY PROMISES OR COVENANTS THAT THE  
28 DEPARTMENT, BOARD, OR EXAMINATION AGENCY MAKES TO ANY EXAMINATION  
29 SUBJECT WITH REGARD TO ACCURACY OF SCORING, TIMELY FORWARDING OF INFOR-  
30 MATION, POLICIES FOR NOTIFYING ANY EXAMINATION SUBJECT REGARDING INACCU-  
31 RACIES IN SCORING OR SCORE REPORTING, PROCEDURES FOR REVIEWING CHAL-  
32 LENGES BY ANY EXAMINATION SUBJECT TO THE KEYING, SCORING, WORDING OR ANY  
33 ASPECT OF AN EXAMINATION QUESTION OR QUESTIONS USED TO CALCULATE A TEST  
34 SUBJECT'S RAW SCORES AND PRIVACY OF INFORMATION RELATING TO THE EXAMINA-  
35 TION SUBJECT.

36 D. THE DEPARTMENT, BOARD OR EXAMINATION AGENCY SHALL GRANT EXAMINATION  
37 SUBJECTS WHO FAIL EXAMINATIONS THE FOLLOWING PROCEDURES:

38 (1) AN EXAMINATION SUBJECT SHALL HAVE SIXTY DAYS FROM THE DATE EXAM-  
39 INATION RESULTS ARE REPORTED TO HIM TO REQUEST THAT HIS EXAMINATION BE  
40 RE-SCORED. SUCH RE-SCORING SHALL BE COMPLETED AND PROVIDED TO THE EXAM-  
41 INATION SUBJECT WITHIN SIXTY DAYS. THE DEPARTMENT, BOARD OR EXAMINATION  
42 AGENCY MAY CHARGE A NOMINAL FEE FOR RE-SCORING, NOT TO EXCEED THE DIRECT  
43 COST THEREOF;

44 (2) AN EXAMINATION SUBJECT SHALL BE PROVIDED WITH AN OPPORTUNITY TO  
45 REVIEW THE EXAMINATION QUESTIONS USED IN CALCULATING THE EXAMINATION  
46 SUBJECT'S RAW SCORE, THE CORRECT ANSWER KEY FOR SUCH QUESTIONS AND THE  
47 EXAMINATION SUBJECT'S ANSWER SHEET. SUCH OPPORTUNITY SHALL BE PROVIDED  
48 WITHIN SIXTY DAYS FROM THE DATE THE EXAMINATION RESULTS ARE REPORTED TO  
49 THE EXAMINATION SUBJECT AND SHALL REMAIN AVAILABLE FOR AT LEAST A PERIOD  
50 OF ONE HUNDRED EIGHTY DAYS. THE DEPARTMENT, BOARD OR EXAMINATION AGENCY  
51 MAY REQUIRE THE EXAMINATION SUBJECT TO FOLLOW SUCH PROCEDURES AS ARE  
52 NECESSARY TO SAFEGUARD THE SECURITY OF EXAMINATION QUESTIONS WHICH ARE  
53 NOT DISCLOSED PURSUANT TO THIS SECTION. SUCH PROCEDURES SHALL NOT  
54 PROHIBIT THE EXAMINATION SUBJECT FROM PREPARING WRITTEN NOTES SUFFICIENT  
55 TO FILE AN APPEAL AS DEFINED IN PARAGRAPH THREE OF THIS SUBDIVISION;

1 (3) AN EXAMINATION SUBJECT MAY FILE AN APPEAL OF HIS SCORE TO THE  
2 DEPARTMENT, BOARD OR EXAMINATION AGENCY DURING THE PERIOD IN WHICH HE  
3 CAN REVIEW HIS EXAMINATION AND MUST RECEIVE A WRITTEN REPLY WITHIN NINE-  
4 TY DAYS;

5 (4) AN EXAMINATION SUBJECT SHALL BE NOTIFIED OF THESE PROCEDURES IN  
6 WRITING AT THE TIME HE REGISTERS FOR AN EXAMINATION, AT THE TIME AN  
7 EXAMINATION IS ADMINISTERED, AND AT THE TIME EXAMINATION SCORES ARE  
8 REPORTED TO HIM.

9 E. AS USED IN THIS SECTION:

10 (1) "EXAMINATION" MEANS ANY WRITTEN EXAMINATION GIVEN IN NEW YORK  
11 WHICH IS DESIGNED FOR USE AND USED IN THE PROCESS OF ADMISSION TO THE  
12 PRACTICE OF THE PROFESSIONS DEFINED IN SECTIONS SIX THOUSAND FIVE  
13 HUNDRED TWENTY THROUGH EIGHT THOUSAND TWO HUNDRED NINE OF THIS CHAPTER;

14 (2) "EXAMINATION SUBJECT" MEANS AN INDIVIDUAL TO WHOM AN EXAMINATION  
15 IS ADMINISTERED;

16 (3) "EXAMINATION AGENCY" MEANS ANY ORGANIZATION, ASSOCIATION, CORPO-  
17 RATION, PARTNERSHIP, OR INDIVIDUAL OR PERSON THAT DEVELOPS, SPONSORS OR  
18 ADMINISTERS AN EXAMINATION.

19 S 3. The insurance law is amended by adding a new section 2137 to read  
20 as follows:

21 S 2137. TESTING. FOR ANY EXAMINATION PREPARED OR ADMINISTERED BY THE  
22 SUPERINTENDENT OR IN CONJUNCTION WITH THE SUPERINTENDENT FOR THE PURPOSE  
23 OF LICENSING INSURANCE AGENTS, INSURANCE BROKERS, INSURANCE CONSULTANTS  
24 OR INSURANCE ADJUSTERS AS DEFINED IN SECTIONS TWO THOUSAND ONE HUNDRED  
25 THREE, TWO THOUSAND ONE HUNDRED FOUR, TWO THOUSAND ONE HUNDRED SEVEN AND  
26 TWO THOUSAND ONE HUNDRED EIGHT OF THIS ARTICLE:

27 (A) THE SUPERINTENDENT OR EXAMINATION AGENCY SHALL PLACE ON FILE, AS  
28 PUBLIC RECORDS, WITH THE SUPERINTENDENT THE FOLLOWING:

29 (1) A COPY OF ALL QUESTIONS USED IN CALCULATING A TEST SUBJECT'S RAW  
30 SCORE FROM ONE EXAMINATION FORM ADMINISTERED DURING THE PERIOD SET FORTH  
31 BELOW;

32 (2) THE CORRESPONDING ACCEPTABLE ANSWERS; AND

33 (3) ALL RULES FOR DETERMINING A SCORE WHICH QUALIFIES AN EXAMINATION  
34 SUBJECT FOR LICENSURE OR CERTIFICATION IN ACCORDANCE WITH THE FOLLOWING  
35 SCHEDULE:

36 (A) FOR EXAMINATIONS ADMINISTERED TO FIFTY THOUSAND OR MORE PEOPLE IN  
37 NEW YORK EVERY YEAR, ALL TESTS;

38 (B) FOR EXAMINATIONS ADMINISTERED TO TEN THOUSAND OR MORE PEOPLE BUT  
39 FEWER THAN FIFTY THOUSAND PEOPLE IN NEW YORK EVERY YEAR, TWICE ANNUALLY;

40 (C) FOR EXAMINATIONS ADMINISTERED TO FIVE THOUSAND OR MORE PEOPLE BUT  
41 FEWER THAN TEN THOUSAND PEOPLE IN NEW YORK EVERY YEAR, ANNUALLY;

42 (D) FOR EXAMINATIONS ADMINISTERED TO TWO THOUSAND OR MORE PEOPLE BUT  
43 FEWER THAN FIVE THOUSAND PEOPLE IN NEW YORK EVERY YEAR, ONCE EVERY THREE  
44 YEARS;

45 (E) FOR EXAMINATIONS ADMINISTERED TO FEWER THAN TWO THOUSAND PEOPLE IN  
46 NEW YORK EVERY YEAR, ONCE EVERY FIVE YEARS.

47 (B) THE SUPERINTENDENT SHALL PROMULGATE REGULATIONS:

48 (1) GIVING ANY EXAMINATION SUBJECT THE OPPORTUNITY TO SECURE THE EXAM-  
49 INATIONS DISCLOSED UNDER THIS SECTION PRIOR TO THE ADMINISTRATION OF THE  
50 EXAMINATION SUBJECT'S EXAMINATION; AND

51 (2) TO IMPLEMENT THE PROVISIONS OF THIS SECTION. THE SUPERINTENDENT OR  
52 EXAMINATION AGENCY MAY CHARGE A NOMINAL FEE FOR PROVIDING SUCH INFORMA-  
53 TION, NOT TO EXCEED THE DIRECT COST THEREOF.

54 (C) THE SUPERINTENDENT OR EXAMINATION AGENCY SHALL PROVIDE, ALONG WITH  
55 THE EXAMINATION QUESTIONS ALREADY DISCLOSED UNDER THIS SECTION, THE  
56 FOLLOWING INFORMATION TO THE EXAMINATION SUBJECT:

1 (1) HOW THE EXAMINATION SUBJECT MAY OBTAIN THE EXAMINATION QUESTIONS  
2 ALREADY DISCLOSED UNDER THIS SECTION PRIOR TO THE ADMINISTRATION OF THE  
3 EXAMINATION FOR WHICH THE EXAMINATION SUBJECT HAS REGISTERED;

4 (2) STATEMENTS DESIGNED TO PROVIDE INFORMATION FOR INTERPRETING EXAM-  
5 INATION RESULTS, INCLUDING BUT NOT LIMITED TO, EXPLANATION OF ALL RULES  
6 FOR DETERMINING A SCORE WHICH QUALIFIES AN EXAMINATION SUBJECT FOR  
7 LICENSURE OR CERTIFICATION;

8 (3) A COMPLETE DESCRIPTION OF ANY PROMISES OR COVENANTS THAT THE  
9 SUPERINTENDENT OR EXAMINATION AGENCY MAKES TO ANY EXAMINATION SUBJECT  
10 WITH REGARD TO ACCURACY OF SCORING, TIMELY FORWARDING OF INFORMATION,  
11 POLICIES FOR NOTIFYING ANY EXAMINATION SUBJECT REGARDING INACCURACIES IN  
12 SCORING OR SCORE REPORTING, PROCEDURES FOR REVIEWING CHALLENGES BY ANY  
13 EXAMINATION SUBJECT TO THE KEYING, SCORING, WORDING OR ANY ASPECT OF AN  
14 EXAMINATION QUESTION OR QUESTIONS USED TO CALCULATE A TEST SUBJECT'S RAW  
15 SCORES AND PRIVACY OF INFORMATION RELATING TO THE EXAMINATION SUBJECT.

16 (D) THE SUPERINTENDENT OR EXAMINATION AGENCY SHALL GRANT EXAMINATION  
17 SUBJECTS WHO FAIL EXAMINATIONS THE FOLLOWING PROCEDURES:

18 (1) AN EXAMINATION SUBJECT SHALL HAVE SIXTY DAYS FROM THE DATE EXAM-  
19 INATION RESULTS ARE REPORTED TO HIM TO REQUEST THAT HIS EXAMINATION BE  
20 RE-SCORED. SUCH RE-SCORING SHALL BE COMPLETED AND PROVIDED TO THE EXAM-  
21 INATION SUBJECT WITHIN SIXTY DAYS. THE SUPERINTENDENT OR EXAMINATION  
22 AGENCY MAY CHARGE A NOMINAL FEE FOR RE-SCORING, NOT TO EXCEED THE DIRECT  
23 COST THEREOF;

24 (2) AN EXAMINATION SUBJECT SHALL BE PROVIDED WITH AN OPPORTUNITY TO  
25 REVIEW THE EXAMINATION QUESTIONS USED IN CALCULATING THE EXAMINATION  
26 SUBJECT'S RAW SCORE, THE CORRECT ANSWER KEY FOR SUCH QUESTIONS, AND THE  
27 EXAMINATION SUBJECT'S ANSWER SHEET. SUCH OPPORTUNITY SHALL BE PROVIDED  
28 WITHIN SIXTY DAYS FROM THE DATE THE EXAMINATION RESULTS ARE REPORTED TO  
29 THE EXAMINATION SUBJECT AND SHALL REMAIN AVAILABLE FOR AT LEAST A PERIOD  
30 OF ONE HUNDRED EIGHTY DAYS. THE SUPERINTENDENT OR EXAMINATION AGENCY MAY  
31 REQUIRE THE EXAMINATION SUBJECT TO FOLLOW SUCH PROCEDURES AS ARE NECES-  
32 SARY TO SAFEGUARD THE SECURITY OF EXAMINATION QUESTIONS WHICH ARE NOT  
33 DISCLOSED PURSUANT TO THIS SECTION. SUCH PROCEDURES SHALL NOT PROHIBIT  
34 THE EXAMINATION SUBJECT FROM PREPARING WRITTEN NOTES SUFFICIENT TO FILE  
35 AN APPEAL AS DEFINED IN PARAGRAPH THREE OF THIS SUBSECTION;

36 (3) AN EXAMINATION SUBJECT MAY FILE AN APPEAL OF HIS SCORE TO THE  
37 SUPERINTENDENT OR EXAMINATION AGENCY DURING THE PERIOD IN WHICH HE CAN  
38 REVIEW HIS EXAMINATION AND MUST RECEIVE A WRITTEN REPLY WITHIN NINETY  
39 DAYS;

40 (4) AN EXAMINATION SUBJECT SHALL BE NOTIFIED OF THESE PROCEDURES IN  
41 WRITING AT THE TIME HE REGISTERS FOR AN EXAMINATION, AT THE TIME AN  
42 EXAMINATION IS ADMINISTERED AND AT THE TIME EXAMINATION SCORES ARE  
43 REPORTED TO HIM.

44 (E) AS USED IN THIS SECTION:

45 (1) "EXAMINATION" MEANS ANY WRITTEN EXAMINATION GIVEN IN NEW YORK  
46 WHICH IS DESIGNED FOR USE AND USED IN THE PROCESS OF LICENSING OCCUPA-  
47 TIONS DEFINED IN SECTIONS TWO THOUSAND ONE HUNDRED THREE, TWO THOUSAND  
48 ONE HUNDRED FOUR, TWO THOUSAND ONE HUNDRED SEVEN AND TWO THOUSAND ONE  
49 HUNDRED EIGHT OF THIS ARTICLE;

50 (2) "EXAMINATION SUBJECT" MEANS AN INDIVIDUAL TO WHOM AN EXAMINATION  
51 IS ADMINISTERED;

52 (3) "EXAMINATION AGENCY" MEANS ANY ORGANIZATION, ASSOCIATION, CORPO-  
53 RATION, PARTNERSHIP, OR INDIVIDUAL OR PERSON THAT DEVELOPS, SPONSORS OR  
54 ADMINISTERS AN EXAMINATION.

55 S 4. The real property law is amended by adding a new section 440-c to  
56 read as follows:

1 S 440-C. TESTING. FOR ANY EXAMINATION PREPARED OR ADMINISTERED BY THE  
2 DEPARTMENT OR IN CONJUNCTION WITH THE DEPARTMENT FOR THE PURPOSE OF  
3 LICENSING REAL ESTATE BROKERS OR REAL ESTATE SALESMEN AS DEFINED IN  
4 SECTION FOUR HUNDRED FORTY OF THIS ARTICLE:

5 1. THE DEPARTMENT OR EXAMINATION AGENCY SHALL PLACE ON FILE, AS PUBLIC  
6 RECORDS, WITH THE SECRETARY OF STATE THE FOLLOWING:

7 (A) A COPY OF ALL QUESTIONS USED IN CALCULATING A TEST SUBJECT'S RAW  
8 SCORE FROM ONE EXAMINATION FORM ADMINISTERED DURING THE PERIOD SET FORTH  
9 BELOW;

10 (B) THE CORRESPONDING ACCEPTABLE ANSWERS; AND

11 (C) ALL RULES FOR DETERMINING A SCORE WHICH QUALIFIES AN EXAMINATION  
12 SUBJECT FOR LICENSURE OR CERTIFICATION IN ACCORDANCE WITH THE FOLLOWING  
13 SCHEDULE:

14 (I) FOR EXAMINATIONS ADMINISTERED TO FIFTY THOUSAND OR MORE PEOPLE IN  
15 NEW YORK EVERY YEAR, ALL TESTS;

16 (II) FOR EXAMINATIONS ADMINISTERED TO TEN THOUSAND OR MORE PEOPLE BUT  
17 FEWER THAN FIFTY THOUSAND PEOPLE IN NEW YORK EVERY YEAR, TWICE ANNUALLY;

18 (III) FOR EXAMINATIONS ADMINISTERED TO FIVE THOUSAND OR MORE PEOPLE  
19 BUT FEWER THAN TEN THOUSAND PEOPLE IN NEW YORK EVERY YEAR, ANNUALLY;

20 (IV) FOR EXAMINATIONS ADMINISTERED TO TWO THOUSAND OR MORE PEOPLE BUT  
21 FEWER THAN FIVE THOUSAND PEOPLE IN NEW YORK EVERY YEAR, ONCE EVERY THREE  
22 YEARS;

23 (V) FOR EXAMINATIONS ADMINISTERED TO FEWER THAN TWO THOUSAND PEOPLE IN  
24 NEW YORK EVERY YEAR, ONCE EVERY FIVE YEARS.

25 2. THE DEPARTMENT SHALL PROMULGATE REGULATIONS:

26 (A) GIVING ANY EXAMINATION SUBJECT THE OPPORTUNITY TO SECURE THE EXAM-  
27 INATIONS DISCLOSED UNDER THIS SECTION PRIOR TO THE ADMINISTRATION OF THE  
28 EXAMINATION SUBJECT'S EXAMINATION; AND

29 (B) TO IMPLEMENT THE PROVISIONS OF THIS SECTION. THE DEPARTMENT OR  
30 EXAMINATION AGENCY MAY CHARGE A NOMINAL FEE FOR PROVIDING SUCH INFORMA-  
31 TION, NOT TO EXCEED THE DIRECT COST THEREOF.

32 3. THE DEPARTMENT OR EXAMINATION AGENCY SHALL PROVIDE, ALONG WITH THE  
33 EXAMINATION QUESTIONS ALREADY DISCLOSED UNDER THIS SECTION, THE FOLLOW-  
34 ING INFORMATION TO THE EXAMINATION SUBJECT:

35 (A) HOW THE EXAMINATION SUBJECT MAY OBTAIN THE EXAMINATION QUESTIONS  
36 ALREADY DISCLOSED UNDER THIS SECTION PRIOR TO THE ADMINISTRATION OF THE  
37 EXAMINATION FOR WHICH THE EXAMINATION SUBJECT HAS REGISTERED;

38 (B) STATEMENTS DESIGNED TO PROVIDE INFORMATION FOR INTERPRETING EXAM-  
39 INATION RESULTS, INCLUDING BUT NOT LIMITED TO, EXPLANATION OF ALL RULES  
40 FOR DETERMINING A SCORE WHICH QUALIFIES AN EXAMINATION SUBJECT FOR  
41 LICENSURE OR CERTIFICATION;

42 (C) A COMPLETE DESCRIPTION OF ANY PROMISES OR COVENANTS THAT THE  
43 DEPARTMENT OR EXAMINATION AGENCY MAKES TO ANY EXAMINATION SUBJECT WITH  
44 REGARD TO ACCURACY OF SCORING, TIMELY FORWARDING OF INFORMATION, POLI-  
45 CIES FOR NOTIFYING ANY EXAMINATION SUBJECT REGARDING INACCURACIES IN  
46 SCORING OR SCORE REPORTING, PROCEDURES FOR REVIEWING CHALLENGES BY ANY  
47 EXAMINATION SUBJECT TO THE KEYING, SCORING, WORDING OR ANY ASPECT OF AN  
48 EXAMINATION QUESTION OR QUESTIONS USED TO CALCULATE A TEST SUBJECT'S RAW  
49 SCORES AND PRIVACY OF INFORMATION RELATING TO THE EXAMINATION SUBJECT.

50 4. THE DEPARTMENT OR EXAMINATION AGENCY SHALL GRANT EXAMINATION  
51 SUBJECTS WHO FAIL EXAMINATIONS THE FOLLOWING PROCEDURES:

52 (A) AN EXAMINATION SUBJECT SHALL HAVE SIXTY DAYS FROM THE DATE EXAM-  
53 INATION RESULTS ARE REPORTED TO HIM TO REQUEST THAT HIS EXAMINATION BE  
54 RE-SCORED. SUCH RE-SCORING SHALL BE COMPLETED AND PROVIDED TO THE EXAM-  
55 INATION SUBJECT WITHIN SIXTY DAYS. THE DEPARTMENT OR EXAMINATION AGENCY

1 MAY CHARGE A NOMINAL FEE FOR RE-SCORING, NOT TO EXCEED THE DIRECT COST  
2 THEREOF;

3 (B) AN EXAMINATION SUBJECT SHALL BE PROVIDED WITH AN OPPORTUNITY TO  
4 REVIEW THE EXAMINATION QUESTIONS USED IN CALCULATING THE EXAMINATION  
5 SUBJECT'S RAW SCORE, THE CORRECT ANSWER KEY FOR SUCH QUESTIONS, AND THE  
6 EXAMINATION SUBJECT'S ANSWER SHEET. SUCH OPPORTUNITY SHALL BE PROVIDED  
7 WITHIN SIXTY DAYS FROM THE DATE THE EXAMINATION RESULTS ARE REPORTED TO  
8 THE EXAMINATION SUBJECT AND SHALL REMAIN AVAILABLE FOR AT LEAST A PERIOD  
9 OF ONE HUNDRED EIGHTY DAYS. THE DEPARTMENT OR EXAMINATION AGENCY MAY  
10 REQUIRE THE EXAMINATION SUBJECT TO FOLLOW SUCH PROCEDURES AS ARE NECES-  
11 SARY TO SAFEGUARD THE SECURITY OF EXAMINATION QUESTIONS WHICH ARE NOT  
12 DISCLOSED PURSUANT TO THIS SECTION. SUCH PROCEDURES SHALL NOT PROHIBIT  
13 THE EXAMINATION SUBJECT FROM PREPARING WRITTEN NOTES SUFFICIENT TO FILE  
14 AN APPEAL AS DEFINED IN PARAGRAPH (C) OF THIS SUBDIVISION;

15 (C) AN EXAMINATION SUBJECT MAY FILE AN APPEAL OF HIS SCORE TO THE  
16 DEPARTMENT OR EXAMINATION AGENCY DURING THE PERIOD IN WHICH HE CAN  
17 REVIEW HIS EXAMINATION AND MUST RECEIVE A WRITTEN REPLY WITHIN NINETY  
18 DAYS;

19 (D) AN EXAMINATION SUBJECT SHALL BE NOTIFIED OF THESE PROCEDURES IN  
20 WRITING AT THE TIME HE REGISTERS FOR AN EXAMINATION, AT THE TIME AN  
21 EXAMINATION IS ADMINISTERED, AND AT THE TIME EXAMINATION SCORES ARE  
22 REPORTED TO HIM.

23 5. AS USED IN THIS SECTION:

24 (A) "DEPARTMENT" MEANS THE DEPARTMENT OF STATE;

25 (B) "EXAMINATION" MEANS ANY WRITTEN EXAMINATION GIVEN IN NEW YORK  
26 WHICH IS DESIGNED FOR USE AND USED IN THE PROCESS OF LICENSING REAL  
27 ESTATE BROKERS OR REAL ESTATE SALESMEN AS DEFINED IN SECTION FOUR  
28 HUNDRED FORTY OF THIS ARTICLE;

29 (C) "EXAMINATION SUBJECT" MEANS AN INDIVIDUAL TO WHOM AN EXAMINATION  
30 IS ADMINISTERED;

31 (D) "EXAMINATION AGENCY" MEANS ANY ORGANIZATION, ASSOCIATION, CORPO-  
32 RATION, PARTNERSHIP, OR INDIVIDUAL OR PERSON THAT DEVELOPS, SPONSORS OR  
33 ADMINISTERS AN EXAMINATION.

34 S 5. The executive law is amended by adding a new section 90-a to read  
35 as follows:

36 S 90-A. TESTING. FOR ANY EXAMINATION PREPARED OR ADMINISTERED BY THE  
37 DEPARTMENT OR IN CONJUNCTION WITH THE DEPARTMENT FOR THE PURPOSE OF  
38 LICENSING INDIVIDUALS FOR ANY OCCUPATIONS REGULATED BY THE DEPARTMENT:

39 1. THE DEPARTMENT OR EXAMINATION AGENCY SHALL PLACE ON FILE, AS PUBLIC  
40 RECORDS, WITH THE SECRETARY THE FOLLOWING:

41 (A) A COPY OF ALL QUESTIONS USED IN CALCULATING A TEST SUBJECT'S RAW  
42 SCORE FROM ONE EXAMINATION FORM ADMINISTERED DURING THE PERIOD SET FORTH  
43 BELOW;

44 (B) THE CORRESPONDING ACCEPTABLE ANSWERS; AND

45 (C) ALL RULES FOR DETERMINING A SCORE WHICH QUALIFIES AN EXAMINATION  
46 SUBJECT FOR LICENSURE OR CERTIFICATION IN ACCORDANCE WITH THE FOLLOWING  
47 SCHEDULE:

48 (I) FOR EXAMINATIONS ADMINISTERED TO FIFTY THOUSAND OR MORE PEOPLE IN  
49 NEW YORK EVERY YEAR, ALL TESTS;

50 (II) FOR EXAMINATIONS ADMINISTERED TO TEN THOUSAND OR MORE PEOPLE BUT  
51 FEWER THAN FIFTY THOUSAND PEOPLE IN NEW YORK EVERY YEAR, TWICE ANNUALLY;

52 (III) FOR EXAMINATIONS ADMINISTERED TO FIVE THOUSAND OR MORE PEOPLE  
53 BUT FEWER THAN TEN THOUSAND PEOPLE IN NEW YORK EVERY YEAR, ANNUALLY;

54 (IV) FOR EXAMINATIONS ADMINISTERED TO TWO THOUSAND OR MORE PEOPLE BUT  
55 FEWER THAN FIVE THOUSAND PEOPLE IN NEW YORK EVERY YEAR, ONCE EVERY THREE  
56 YEARS;

1 (V) FOR EXAMINATIONS ADMINISTERED TO FEWER THAN TWO THOUSAND PEOPLE IN  
2 NEW YORK EVERY YEAR, ONCE EVERY FIVE YEARS.

3 2. THE DEPARTMENT SHALL PROMULGATE REGULATIONS:

4 (A) GIVING ANY EXAMINATION SUBJECT THE OPPORTUNITY TO SECURE THE EXAM-  
5 INATION DISCLOSED UNDER THIS SECTION PRIOR TO THE ADMINISTRATION OF THE  
6 EXAMINATION SUBJECT'S EXAMINATION; AND

7 (B) TO IMPLEMENT THE PROVISIONS OF THIS SECTION. THE DEPARTMENT OR  
8 EXAMINATION AGENCY MAY CHARGE A NOMINAL FEE FOR PROVIDING SUCH INFORMA-  
9 TION, NOT TO EXCEED THE DIRECT COST THEREOF.

10 3. THE DEPARTMENT OR EXAMINATION AGENCY SHALL PROVIDE, ALONG WITH THE  
11 EXAMINATION QUESTIONS ALREADY DISCLOSED UNDER THIS SECTION, THE FOLLOW-  
12 ING INFORMATION TO THE EXAMINATION SUBJECT:

13 (A) HOW THE EXAMINATION SUBJECT MAY OBTAIN THE EXAMINATION QUESTIONS  
14 ALREADY DISCLOSED UNDER THIS SECTION PRIOR TO THE ADMINISTRATION OF THE  
15 EXAMINATION FOR WHICH THE EXAMINATION SUBJECT HAS REGISTERED;

16 (B) STATEMENTS DESIGNED TO PROVIDE INFORMATION FOR INTERPRETING EXAM-  
17 INATION RESULTS, INCLUDING BUT NOT LIMITED TO, EXPLANATION OF ALL RULES  
18 FOR DETERMINING A SCORE WHICH QUALIFIES AN EXAMINATION SUBJECT FOR  
19 LICENSURE OR CERTIFICATION;

20 (C) A COMPLETE DESCRIPTION OF ANY PROMISES OR COVENANTS THAT THE  
21 DEPARTMENT OR EXAMINATION AGENCY MAKES TO ANY EXAMINATION SUBJECT WITH  
22 REGARD TO ACCURACY OF SCORING, TIMELY FORWARDING OF INFORMATION, POLI-  
23 CIES FOR NOTIFYING ANY EXAMINATION SUBJECT REGARDING INACCURACIES IN  
24 SCORING OR SCORE REPORTING, PROCEDURES FOR REVIEWING CHALLENGES BY ANY  
25 EXAMINATION SUBJECT TO THE KEYING, SCORING, WORDING OR ANY ASPECT OF AN  
26 EXAMINATION QUESTION OR QUESTIONS USED TO CALCULATE A TEST SUBJECT'S RAW  
27 SCORES AND PRIVACY OF INFORMATION RELATING TO THE EXAMINATION SUBJECT.

28 4. THE DEPARTMENT OR EXAMINATION AGENCY SHALL GRANT EXAMINATION  
29 SUBJECTS WHO FAIL EXAMINATIONS THE FOLLOWING PROCEDURES:

30 (A) AN EXAMINATION SUBJECT SHALL HAVE SIXTY DAYS FROM THE DATE EXAM-  
31 INATION RESULTS ARE REPORTED TO HIM TO REQUEST THAT HIS EXAMINATION BE  
32 RE-SCORED. SUCH RE-SCORING SHALL BE COMPLETED AND PROVIDED TO THE EXAM-  
33 INATION SUBJECT WITHIN SIXTY DAYS. THE DEPARTMENT OR EXAMINATION AGENCY  
34 MAY CHARGE A NOMINAL FEE FOR RE-SCORING, NOT TO EXCEED THE DIRECT COST  
35 THEREOF;

36 (B) AN EXAMINATION SUBJECT SHALL BE PROVIDED WITH AN OPPORTUNITY TO  
37 REVIEW THE EXAMINATION QUESTIONS USED IN CALCULATING THE EXAMINATION  
38 SUBJECT'S RAW SCORE, THE CORRECT ANSWER KEY FOR SUCH QUESTIONS, AND THE  
39 EXAMINATION SUBJECT'S ANSWER SHEET. SUCH OPPORTUNITY SHALL BE PROVIDED  
40 WITHIN SIXTY DAYS FROM THE DATE THE EXAMINATION RESULTS ARE REPORTED TO  
41 THE EXAMINATION SUBJECT AND SHALL REMAIN AVAILABLE FOR AT LEAST A PERIOD  
42 OF ONE HUNDRED EIGHTY DAYS. THE DEPARTMENT OR EXAMINATION AGENCY MAY  
43 REQUIRE THE EXAMINATION SUBJECT TO FOLLOW SUCH PROCEDURES AS ARE NECES-  
44 SARY TO SAFEGUARD THE SECURITY OF EXAMINATION QUESTIONS WHICH ARE NOT  
45 DISCLOSED PURSUANT TO THIS SECTION. SUCH PROCEDURE SHALL NOT PROHIBIT  
46 THE EXAMINATION SUBJECT FROM PREPARING WRITTEN NOTES SUFFICIENT TO FILE  
47 AN APPEAL AS DEFINED IN PARAGRAPH (C) OF THIS SUBDIVISION;

48 (C) AN EXAMINATION SUBJECT MAY FILE AN APPEAL OF HIS SCORE TO THE  
49 DEPARTMENT OR EXAMINATION AGENCY DURING THE PERIOD IN WHICH HE CAN  
50 REVIEW HIS EXAMINATION AND MUST RECEIVE A WRITTEN REPLY WITHIN NINETY  
51 DAYS;

52 (D) AN EXAMINATION SUBJECT SHALL BE NOTIFIED OF THESE PROCEDURES IN  
53 WRITING AT THE TIME HE REGISTERS FOR AN EXAMINATION, AT THE TIME AN  
54 EXAMINATION IS ADMINISTERED, AND AT THE TIME EXAMINATION SCORES ARE  
55 REPORTED TO HIM.

56 5. AS USED IN THIS SECTION:

1 (A) "EXAMINATION" MEANS ANY WRITTEN EXAMINATIONS GIVEN IN NEW YORK  
2 WHICH ARE DESIGNED FOR USE AND USED IN THE PROCESS OF LICENSING INDIVID-  
3 UALS FOR ANY OCCUPATIONS REGULATED BY THE DEPARTMENT;  
4 (B) "EXAMINATION SUBJECT" MEANS AN INDIVIDUAL TO WHOM AN EXAMINATION  
5 IS ADMINISTERED;  
6 (C) "EXAMINATION AGENCY" MEANS ANY ORGANIZATION, ASSOCIATION, CORPO-  
7 RATION, PARTNERSHIP, OR INDIVIDUAL OR PERSON THAT DEVELOPS, SPONSORS OR  
8 ADMINISTERS AN EXAMINATION.  
9 S 6. This act shall take effect on the first of July next succeeding  
10 the date on which it shall have become a law.