STATE OF NEW YORK

2131--A

2021-2022 Regular Sessions

IN SENATE

January 19, 2021

Introduced by Sens. SKOUFIS, KAVANAGH, THOMAS -- read twice and ordered printed, and when printed to be committed to the Committee on Judiciary -- reported favorably from said committee and committed to the Committee on Rules -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the real property law, in relation to requiring the secretary of state to promulgate regulations requiring real estate brokers to institute standardized operating procedures for the prerequisites prospective homebuyers shall meet prior to receiving any services

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section 442-h of the real property law is amended by adding a new subdivision 4 to read as follows:

4. (a) The secretary of state, upon notice and a public hearing, shall promulgate rules and regulations requiring real estate brokers to institute standardized operating procedures for the prerequisites prospective homebuyers must meet prior to receiving any services. Such rules and regulations shall include but not be limited to the following:

(i) whether prospective clients shall show identification;

(ii) whether an exclusive broker agreement is required; and

(iii) whether pre-approval for a mortgage loan is required.

(b) Real estate brokers shall submit such standardized operating procedures to the department of state and the department of state shall maintain a file of such standardized operating procedures while the broker's license is active and for at least five years thereafter. If any alterations are made to the standardized operating procedures subsequent to such submission, real estate brokers shall notify and submit such new standard operating procedures within thirty days. Any salesperson operating under a brokerage license that fails to adhere to such

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

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operating procedures shall be subject to the penalties imposed by section four hundred forty-one-c of this article.

§ 2. Paragraph (a) of subdivision 1 of section 441-c of the real property law, as amended by chapter 131 of the laws of 2020, is amended to read as follows:

(a) The department of state may revoke the license of a real estate broker or salesman or suspend the same, for such period as the department may deem proper, or in lieu thereof may impose a fine not exceeding one thousand dollars payable to the department of state, or a reprimand upon conviction of the licensee of a violation of any provision of this article, **or for a violation of subdivision four of section four hundred forty-two-h of this article,** or for a material misstatement in the application for such license, or if such licensee has been guilty of fraud or fraudulent practices, or for dishonest or misleading advertising, or has demonstrated untrustworthiness or incompetency to act as a real estate broker or salesman, or for a violation of article fifteen of the executive law committed in his or her capacity as a real estate broker or salesman, as the case may be. In the case of a real estate broker engaged in the business of a tenant relocator, untrustworthiness or incompetency shall include engaging in any course of conduct including, but not limited to, the interruption or discontinuance of essential building service, that interferes with or disturbs the peace, comfort, repose and quiet enjoyment of a tenant.

§ 3. This act shall take effect immediately.