

# STATE OF NEW YORK

2132--B

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 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- 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 increasing required training for real estate brokers and real estate salespeople to prevent discrimination

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

Section 1. Subdivision 3 of section 441 of the real property law is amended by adding a new paragraph (e) to read as follows:

(e) The secretary of state shall, upon notice and a public hearing, promulgate rules establishing the content of the instruction pertaining to fair housing and/or discrimination in the sale or rental of real property or an interest in real property required by paragraph (a) of this subdivision. Such instruction shall include, but not be limited to, courses on: (1) the legacy of segregation, unequal treatment, and historic lack of access to opportunity in housing; (2) unequal access to amenities and resources on the basis of race, disability, and other protected characteristics; (3) federal, state, and local fair housing laws; and (4) anti-bias training.

§ 2. Paragraphs (b) and (c) of subdivision 1 of section 441 of the real property law, as amended by chapter 183 of the laws of 2006, are amended and a new paragraph (d) is added to read as follows:

(b) Such further information as the department may reasonably require shall be furnished by the applicant including sufficient proof of having taken and passed a written examination and answered such questions as may be prepared by the department to enable it to determine the trust-

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

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1 worthiness of the applicant if an individual, or of each member of a  
2 co-partnership or each member of a limited liability company or each  
3 officer of a corporation for whom a license as a broker is asked, and  
4 his or their competency to transact the business of real estate broker  
5 in such a manner as to safeguard the interests of the public. In deter-  
6 mining competency, the department shall require proof that the person  
7 being tested to qualify to apply for a broker's license has a fair know-  
8 ledge of the English language, a fair understanding of the general  
9 purposes and general legal effect of deeds, mortgages, land contracts of  
10 sale, and leases, a general and fair understanding of the obligations  
11 between principal and agent, a general and fair understanding of the  
12 laws, rules and regulations pertaining to fair housing and discrimi-  
13 nation in the sale or rental of real property or an interest in real  
14 property, as well as of the provisions of this section. The applicant  
15 must also furnish proof that he has attended for at least one hundred  
16 [~~twenty~~] fifty-two hours and has successfully completed a real estate  
17 course or courses approved by the secretary of state as to method and  
18 content and supervision which approval may be withdrawn if in the opin-  
19 ion of the secretary of state said course or courses are not being  
20 conducted properly as to method, content and supervision, and that  
21 either the applicant has actively participated in the general real  
22 estate brokerage business as a licensed real estate salesman under the  
23 supervision of a licensed real estate broker for a period of not less  
24 than two years or has had the equivalent experience in general real  
25 estate business for a period of at least three years, the nature of  
26 which experience shall be established by affidavit duly sworn to under  
27 oath and/or other and further proof required by the department of state.  
28 Computer-based and distance-learning courses may be approved by the  
29 department so long as providers demonstrate the ability to monitor and  
30 verify participation by the applicant for the specified time period.  
31 Notwithstanding the foregoing authority to approve computer-based and  
32 distance-learning courses, the department may prescribe that specified  
33 subjects or hours must be presented in a classroom setting.

34 (c) In the event the applicant shall be a licensed salesman under this  
35 article and shall have submitted acceptable proof pursuant to the  
36 provisions of either paragraph (d) of subdivision one-A of this section  
37 or paragraph (a) of subdivision three of this section of having attended  
38 and successfully completed [~~seventy-five~~] seventy-seven hours of an  
39 approved real estate course or courses, six hours of which have been  
40 focused on fair housing and discrimination in the sale or rental of real  
41 property or an interest in real property, within eight years of the date  
42 of the application, the department may accept and credit same against  
43 the one hundred [~~twenty~~] fifty-two hours required hereunder.

44 (d) The one hundred fifty-two hours of an approved real estate course  
45 or courses required by paragraph (b) of this subdivision shall include  
46 instruction on fair housing and discrimination in the sale or rental of  
47 real property or an interest in real property as described in paragraph  
48 (e) of subdivision three of this section and instruction on the licensed  
49 real estate broker's responsibility for ensuring that each licensed real  
50 estate salesman under such broker's supervision is in compliance with  
51 his or her obligations under applicable federal, state, and local laws,  
52 rules, and regulations pertaining to fair housing and discrimination in  
53 the sale or rental of real property or an interest in real property.

54 § 3. Paragraphs (b) and (d) of subdivision 1-A of section 441 of the  
55 real property law, paragraph (b) as amended by chapter 81 of the laws of

1 1995, and paragraph (d) as amended by chapter 183 of the laws of 2006,  
2 are amended to read as follows:

3 (b) Each applicant for a salesman's license shall provide such further  
4 information as the department may reasonably require, appearing at such  
5 time and place as may be designated by the department, to take a written  
6 examination and answer such questions as may be prepared by the depart-  
7 ment to enable it to determine the trustworthiness of the applicant and  
8 the applicant's competence to transact the business of real estate  
9 salesman in such a manner as to safeguard the interests of the public,  
10 including the applicant's working knowledge of the basic concepts of law  
11 pertaining to contracts, real property, agency and this article which  
12 govern conduct of such business, knowledge of laws, rules, and regu-  
13 lations pertaining to fair housing and discrimination in the sale or  
14 rental of real property or an interest in real property, mastery of  
15 basic skills needed to perform the applicant's duties, working knowledge  
16 of the ethical obligations of a real estate salesman, and knowledge of  
17 the provisions of the general obligations law pertaining to performance  
18 of the applicant's duties.

19 (d) Anything to the contrary herein notwithstanding, on and after the  
20 effective date of this paragraph, no salesman's license or conditional  
21 license shall be issued by the department unless the application there-  
22 for has been accompanied by proof that prior to such application the  
23 applicant has attended at least [~~seventy-five~~] seventy-seven hours and  
24 successfully completed a real estate course or courses approved by the  
25 secretary of state as to method and content and supervision, which  
26 approval may be withdrawn if in the opinion of the secretary of state  
27 said course or courses are not properly conducted as to method, content  
28 and supervision. Computer-based and distance-learning courses may be  
29 approved by the department so long as providers demonstrate the ability  
30 to monitor and verify participation by the applicant for the specified  
31 time period. Notwithstanding the foregoing authority to approve compu-  
32 ter-based and distance-learning courses, the department may prescribe  
33 that specified subjects or hours must be presented in a classroom  
34 setting.

35 § 4. Paragraph (c) of subdivision 3 of section 441 of the real proper-  
36 ty law, as amended by chapter 470 of the laws of 1998, is amended to  
37 read as follows:

38 (c) (i) The secretary of state shall promulgate rules establishing the  
39 method, content, setting and supervision requirements of the continuing  
40 education real estate course or courses provided for in this section. In  
41 establishing the requirements for the continuing education course or  
42 courses, the secretary of state shall permit alternatives with respect  
43 to content and method of presentation in consideration of the type of  
44 brokerage practiced and the availability of the sources of such course  
45 or courses in different areas of the state. Each course shall have an  
46 established curriculum composed primarily of real estate practice and  
47 professional responsibility and ethics and properly prepared written  
48 materials of the subject matter which shall be distributed as part of  
49 the course. It shall be taught by a qualified faculty with attorneys  
50 presenting legal subjects. Credit shall be awarded on the basis of one  
51 hour for each sixty minutes of actual attendance and records shall be  
52 maintained of attendance at each session which shall be transmitted to  
53 the department at the conclusion of the course. Computer-based and  
54 distance learning courses may be approved by the department so long as  
55 providers demonstrate the ability to monitor and verify participation by  
56 the licensee for the specified time period.

1     (ii) The secretary of state shall require approved faculty to sign a  
2 document under oath, approved by and submitted to the department of  
3 state, attesting to compliance with all applicable statutory and regula-  
4 tory requirements pertaining to the instruction of the established  
5 curriculum. The secretary of state shall promulgate penalties for facul-  
6 ty that fail to meet the obligations required under this section and  
7 department of state regulations including, but not limited to, the  
8 temporary suspension of their instructor certificate for the first such  
9 failure and the revocation of their instructor certificate for any  
10 subsequent failure.

11     § 5. This act shall take effect on the first of July next succeeding  
12 the date on which it shall have become a law.