STATE OF NEW YORK

536

2021-2022 Regular Sessions

IN SENATE

(Prefiled)

January 6, 2021

Introduced by Sens. KAPLAN, JACKSON -- read twice and ordered printed, and when printed to be committed to the Committee on Judiciary

AN ACT to amend the real property law, in relation to replacing all instances of the word or variations of the word salesman with the word salesperson or variation thereof

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

Section 1. The article heading of article 12-a of the real property law, as amended by chapter 107 of the laws of 1927, is amended to read as follows:

REAL ESTATE BROKERS AND REAL ESTATE
[~~SALESMEN~~] SALESPERSONS

§ 2. Subdivisions 2, 3, 5, and 6 of section 440 of the real property law, subdivision 2 as amended by chapter 324 of the laws of 1998, subdivisions 3 and 5 as amended by chapter 699 of the laws of 1988, and subdivision 6 as added by chapter 183 of the laws of 2006, are amended to read as follows:

2. "Associate real estate broker" means a licensed real estate broker who shall by choice elect to work under the name and supervision of another individual broker or another broker who is licensed under a partnership, trade name, limited liability company or corporation. Such individual shall retain [~~his or her~~] their license as a real estate broker as provided for in this article; provided, however, that the practice of real estate sales and brokerage by such individual as an associate broker shall be governed exclusively by the provisions of this article as they pertain to real estate [~~salesmen~~] salespersons. Nothing contained herein shall preclude an individual who elects to be licensed as an associate broker from also retaining a separate real estate broker's license under an individual, partnership, trade name, limited liability company or corporation.

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

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3. "Real estate [~~salesman~~] salesperson" means a person associated with a licensed real estate broker to list for sale, sell or offer for sale, at auction or otherwise, to buy or offer to buy or to negotiate the purchase or sale or exchange of real estate, or to negotiate a loan on real estate other than a mortgage loan as defined in section five hundred ninety of the banking law, or to lease or rent or offer to lease, rent or place for rent any real estate, or collects or offers or attempts to collect rent for the use of real estate for or in behalf of such real estate broker, or who, notwithstanding any other provision of law, performs any of the above stated functions with respect to the resale of a condominium property originally sold pursuant to the provisions of the general business law governing real estate syndication offerings.

5. "Association, associated; or associated with" whenever used in this article shall be deemed to make reference to a [~~salesman's~~] salesperson's relationship with [~~his or her~~] their broker. Nothing in this article shall be deemed or construed to be indicative or determinative of the legal relationship of a salesperson to a broker nor shall any provision of this article be deemed or construed to alter or otherwise affect the legal responsibility of a real estate broker to third parties for the acts of anyone associated with such broker pursuant to this article.

6. "Office manager" means a licensed associate real estate broker who shall by choice elect to work as an office manager under the name and supervision of another individual broker or another broker who is licensed under a partnership, trade name, limited liability company or corporation. Such individual shall retain [~~his or her~~] their license as a real estate broker as provided for in this article; provided, however, that the practice of real estate sales and brokerage by such individual as an associate broker shall be governed exclusively by the provisions of this article as they pertain to real estate [~~salesmen~~] salespersons. Nothing contained in this subdivision shall preclude an individual who is licensed as an associate broker who elects to work as an office manager from also retaining a separate real estate broker's license under an individual, partnership, trade name, limited liability company or corporation.

§ 3. Section 440-a of the real property law, as amended by section 3 of part V of chapter 58 of the laws of 2020, is amended to read as follows:

§ 440-a. License required for real estate brokers and [~~salesmen~~] salespersons. No person, co-partnership, limited liability company or corporation shall engage in or follow the business or occupation of, or hold [~~himself~~] themselves or itself out or act temporarily or otherwise as a real estate broker or real estate [~~salesman~~] salesperson in this state without first procuring a license therefor as provided in this article. No person shall be entitled to a license as a real estate broker under this article, either as an individual or as a member of a co-partnership, or as a member or manager of a limited liability company or as an officer of a corporation, unless [~~he or she is~~] they are twenty years of age or over. No person shall be entitled to a license as a real estate [~~salesman~~] salesperson under this article unless [~~he or she is~~] they are over the age of eighteen years. No person shall be entitled to a license as a real estate broker or real estate [~~salesman~~] salesperson under this article who has been convicted in this state or elsewhere of a crime, unless the secretary makes a finding in conformance with all applicable statutory requirements, including those contained in article

twenty-three-A of the correction law, that such convictions do not constitute a bar to licensure. No person shall be entitled to a license as a real estate broker or real estate [~~salesman~~] **salesperson** under this article who does not meet the requirements of section 3-503 of the general obligations law.

Notwithstanding anything to the contrary in this section, tenant associations and not-for-profit corporations authorized in writing by the commissioner of the department of the city of New York charged with enforcement of the housing maintenance code of such city to manage residential property owned by such city or appointed by a court of competent jurisdiction to manage residential property owned by such city shall be exempt from the licensing provisions of this section with respect to the properties so managed.

§ 4. Section 440-b of the real property law, as added by chapter 555 of the laws of 1934, is amended to read as follows:

§ 440-b. Licenses in Putnam county. On and after the first day of July, nineteen hundred thirty-four, no person, copartnership or corporation shall engage in or follow the business or occupation of, or hold [~~himself~~] **themselves** or itself out temporarily or otherwise as a real estate broker or real estate [~~salesman~~] **salesperson** in the county of Putnam, without first procuring a license therefor as provided in this article, except that such license in such county shall be granted and issued, without the written examination provided in this article, to a person, copartnership or corporation who was engaged in business as a real estate broker or real estate [~~salesman~~] **salesperson** in such county prior to the first day of January, nineteen hundred thirty-four.

§ 5. Paragraphs (a), (b) and (c) of subdivision 1 and paragraphs (a), (b), (c), and (d) of subdivision 1-A of section 441 of the real property law, paragraph (a) of subdivision 1 as amended by chapter 324 of the laws of 1998, paragraphs (b) and (c) of subdivision 1 and paragraph (d) of subdivision 1-A as amended by chapter 183 of the laws of 2006, and paragraphs (a), (b), and (c) of subdivision 1-A as amended by chapter 81 of the laws of 1995, are amended to read as follows:

(a) Any person, copartnership, limited liability company or corporation desiring to act as a real estate broker or any person desiring to act as a real estate [~~salesman~~] **salesperson** on or after the first day of October, nineteen hundred twenty-two, shall file with the department of state at its office in Albany an application for the kind of license desired, in such form and detail as such department shall prescribe and conforming to the requirements of section 3-503 of the general obligations law, setting forth the following, if the application be for a broker's license:

(i) The name and residence address of the applicant, and if an individual the name under which [~~he intends~~] **they intend** to conduct business.

(ii) If the applicant be a copartnership the name and residence address of each member thereof and the name under which the business is to be conducted; or, if the applicant be a limited liability company, the name of the company, and the name and residence of each of its members; or, if the applicant be a corporation, the name of the corporation and the name and residence address of each of its officers.

(iii) The place or places, including the city, town or village, with the street and number, where the business is to be conducted.

(iv) The business or occupation theretofore engaged in by the applicant, or, if a copartnership, by each member thereof, or, if a limited liability company, by each member thereof, or, if a corporation, by each

officer thereof, for a period of two years, immediately preceding the date of such application, setting forth the place or places where such business or occupation was engaged in and the name or names of employers, if any.

(v) The form, information and statement required by section 3-503 of the general obligations law.

(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 trustworthiness of the applicant if an individual, or of each member of a co-partnership or each member of a limited liability company or each officer of a corporation for whom a license as a broker is asked, and [~~his or~~] their competency to transact the business of real estate broker in such a manner as to safeguard the interests of the public. In determining competency, the department shall require proof that the person being tested to qualify to apply for a broker's license has a fair knowledge of the English language, a fair understanding of the general purposes and general legal effect of deeds, mortgages, land contracts of sale, and leases, a general and fair understanding of the obligations between principal and agent, as well as of the provisions of this section. The applicant must also furnish proof that [~~he has~~] **they have** attended for at least one hundred twenty hours and has successfully completed a real estate course or courses approved by the secretary of state as to method and content and supervision which approval may be withdrawn if in the opinion of the secretary of state said course or courses are not being conducted properly as to method, content and supervision, and that either the applicant has actively participated in the general real estate brokerage business as a licensed real estate [~~salesman~~] **salesperson** under the supervision of a licensed real estate broker for a period of not less than two years or has had the equivalent experience in general real estate business for a period of at least three years, the nature of which experience shall be established by affidavit duly sworn to under oath and/or other and further proof required by the department of state. Computer-based and distance-learning courses may be approved by the department so long as providers demonstrate the ability to monitor and verify participation by the applicant for the specified time period. Notwithstanding the foregoing authority to approve computer-based and distance-learning courses, the department may prescribe that specified subjects or hours must be presented in a classroom setting.

(c) In the event the applicant shall be a licensed [~~salesman~~] **salesperson** under this article and shall have submitted acceptable proof pursuant to the provisions of either paragraph (d) of subdivision one-A of this section or paragraph (a) of subdivision three of this section of having attended and successfully completed seventy-five hours of an approved real estate course or courses within eight years of the date of the application, the department may accept and credit same against the one hundred twenty hours required hereunder.

(a) Every application for a real estate [~~salesman's~~] **salesperson's** license shall set forth:

(i) The name and residence address of the applicant.

(ii) The name and principal business address of the broker with whom [~~he is~~] **they are** to be associated.

(iii) The business or occupation engaged in for the two years immediately preceding the date of the application, setting forth the place

or places where such business or occupation was engaged in, and the name or names of employers if any.

(iv) The length of time [~~he has~~] they have been engaged in the real estate business.

(v) The form, information and statement required by section 3-503 of the general obligations law.

(b) Each applicant for a [~~salesman's~~] salesperson's license shall provide such further information as the department may reasonably require, appearing at such time and place as may be designated by the department, to take a written examination and answer such questions as may be prepared by the department to enable it to determine the trustworthiness of the applicant and the applicant's competence to transact the business of real estate [~~salesman~~] salesperson in such a manner as to safeguard the interests of the public, including the applicant's working knowledge of the basic concepts of law pertaining to contracts, real property, agency and this article which govern conduct of such business, mastery of basic skills needed to perform the applicant's duties, working knowledge of the ethical obligations of a real estate [~~salesman~~] salesperson, and knowledge of the provisions of the general obligations law pertaining to performance of the applicant's duties.

(c) Each application for either a broker's or [~~salesman's~~] salesperson's license under this article shall be subscribed by the applicant; or if made by a co-partnership it shall be subscribed by a member thereof, or if made by a corporation it shall be subscribed by an officer thereof, and shall conform to the requirements of section 3-503 of the general obligations law. Each application shall contain an affirmation by the person so subscribing that the statements therein are true under the penalties of perjury. An application for a license shall be accompanied by the appropriate license fee, as hereinafter prescribed in this article.

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

§ 6. Subdivisions 1, 2, 3, 5, 6, 8, and 12 of section 441-a of the real property law, subdivisions 1 and 8 as amended by chapter 226 of the laws of 1980, subdivision 2 as amended by chapter 345 of the laws of 2012, subdivisions 3 and 6 as amended by chapter 183 of the laws of 2006, subdivision 5 as amended by chapter 61 of the laws 1989, and subdivision 12 as added by chapter 430 of the laws of 2008, are amended to read as follows:

1. The department of state, if satisfied of the competency and trustworthiness of the applicant, shall issue and deliver to [~~him~~] them a license in such form and manner as the department shall prescribe, but

which must set forth the name and principal business address of the licensee, and, in the case of a real estate [~~salesman~~] salesperson, the name and business address of the broker with whom the [~~salesman~~] salesperson is associated.

2. Terms. A license issued or reissued under the provisions of this article shall entitle the person, co-partnership, limited liability company or corporation to act as a real estate broker, or, if the application is for a real estate [~~salesman's~~] salesperson's license, to act as a real estate [~~salesman~~] salesperson in this state up to and including the date in which the license by its terms expires.

3. Place of business; business sign required. Except as otherwise provided in this article, each licensed real estate broker shall have and maintain a definite place of business within this state, and shall conspicuously post on the outside of the building in which said office is conducted a sign of a sufficient size to be readable from the sidewalk indicating the name and the business of the applicant as a licensed real estate broker, unless said office shall be located in an office, apartment or hotel building, in which event the name and the words "licensed real estate broker" shall be posted in the space provided for posting of names of occupants of the building, other than the mail box. Where the applicant for a real estate broker's license maintains more than one place of business, the broker shall apply for and the department shall issue a supplemental license for each branch office so maintained upon payment to the department of state for each supplemental license so issued the same fee prescribed in this article for a license to act as a real estate broker. Each such branch office shall be under the direct supervision of the broker to whom the license is issued, or a representative broker of a corporation or partnership or manager of a limited liability company holding such license, or a duly appointed office manager. Such fee shall accompany such application and shall be non-refundable. For purposes of this subdivision, the principal residence of a real estate broker or [~~salesman~~] salesperson shall not be deemed a place of business solely because such broker or [~~salesman~~] salesperson shall have included the residence telephone number in [~~his~~] their business cards.

5. Change of address. Notice in writing in the manner and form prescribed by the department shall be given the department at its offices in Albany by a licensed real estate broker on [~~his~~] their own behalf and on behalf of each [~~salesman~~] salesperson associated with [~~him~~] them of any change in [~~his~~] their or its principal business address. The filing fee of ten dollars for each licensee named therein shall accompany such notice. Such change by a licensee without such notification shall operate to suspend [~~his~~] their license until such suspension shall be vacated by the department.

6. Pocket card. The department shall prepare, issue and deliver, with the assistance of the department of motor vehicles, to each licensee a pocket card in such form and manner as the department shall prescribe, but which shall contain the photo, name and business address of the licensee, and, in the case of a real estate [~~salesman~~] salesperson, the name and business address of the broker with whom [~~he or she is~~] they are associated and shall certify that the person whose name appears thereon is a licensed real estate broker or [~~salesman~~] salesperson, as may be. Such cards must be shown on demand. In the case of loss, destruction or damage, the secretary of state may, upon submission of satisfactory proof, issue a duplicate pocket card upon payment of a fee of ten dollars.

8. Death of broker. A license issued to a real estate broker who was, at the time of [~~his~~] **their** death, the sole proprietor of a brokerage office may be used after the death of such licensee by [~~his~~] **their** duly appointed administrator or executor in the name of the estate pursuant to authorization granted by the surrogate under the provisions of the surrogate's court procedure act for a period of not more than one hundred twenty days from the date of death of such licensee in order to complete any unfinished realty transactions in the process of negotiation by the broker or [~~his salesmen~~] **their salespersons** existing prior to [~~his~~] **their** decease. There shall be endorsed upon the face of the license, after the name of the decedent, the words "deceased", the date of death and the name of the administrator or executor under whose authority the license is being used. The period of one hundred twenty days may be extended upon application to the secretary of state, for good cause shown, for an additional period not to exceed one hundred twenty days. A license expiring during such period or extension shall be automatically renewed and continued in effect during such period or extension. No fee shall be charged for any such license or renewal thereof.

12. Whenever any person licensed as a real estate broker or real estate [~~salesman~~] **salesperson** is convicted in this state or elsewhere of a felony, of a sex offense, as defined in subdivision two of section one hundred sixty-eight-a of the correction law or any offense committed outside of this state which would constitute a sex offense, or a sexually violent offense, as defined in subdivision three of section one hundred sixty-eight-a of the correction law or any offense committed outside this state which would constitute a sexually violent offense, such real estate broker or real estate [~~salesman~~] **salesperson** shall within five days of the imposition of sentence, transmit a certified copy of the judgment of conviction to the department of state.

§ 7. Subdivisions 1 and 2 of section 441-b of the real property law, subdivision 1 as amended by section 1 of part S of chapter 58 of the laws of 2017, and subdivision 2 as amended by chapter 324 of the laws of 1998, are amended to read as follows:

1. The fee for a license issued or reissued under the provisions of this article entitling a person, co-partnership, limited liability company or corporation to act as a real estate broker shall be one hundred fifty-five dollars. The fee for a license issued or reissued under the provisions of this article entitling a person to act as a real estate [~~salesman~~] **salesperson** shall be fifty-five dollars. Notwithstanding the provisions of subdivision seven of section four hundred forty-one-a of this article, after January first, nineteen hundred eighty-six, the secretary of state shall assign staggered expiration dates for outstanding licenses that have been previously renewed on October thirty-first of each year from the assigned date unless renewed. If the assigned date results in a term that exceeds twenty-four months, the applicant shall pay an additional prorated adjustment together with the regular renewal fee. The secretary of state shall assign dates to existing licenses in a manner which shall result in a term of not less than two years.

2. Corporations and co-partnerships. If the licensee be a corporation, the license issued to it shall entitle the president thereof or such other officer as shall be designated by such corporation, to act as a real estate broker. For each other officer who shall desire to act as a real estate broker in behalf of such corporation an additional license expiring on the same date as the license of the corporation shall be

applied for and issued, as hereinbefore provided, the fee for which shall be the same as the fee required by this section for the license to the corporation. No license as a real estate [~~salesman~~] salesperson shall be issued to any officer of a corporation nor to any manager or member of a limited liability company nor to a member of a co-partnership licensed as a real estate broker. If the licensee be a co-partnership the license issued to it shall entitle one member thereof to act as a real estate broker, and for each other member of the firm who desires to act as a real estate broker an additional license expiring on the same date as the license of the co-partnership shall be applied for and issued, as hereinbefore provided, the fee for which shall be the same as the fee required by this section for the license to the co-partnership. If the licensee be a limited liability company, the license issued to it shall entitle one member thereof or one manager thereof to act as a real estate broker, and for each other member or manager of the firm who desires to act as a real estate broker an additional license expiring on the same date as the license of the limited liability company shall be applied for and issued, as hereinbefore provided, the fee for which shall be the same as the fee required by this section for the license to the limited liability company. In case a person licensed individually as a real estate broker thereafter becomes an officer of a corporation or a member or manager of a limited liability company or a member of a co-partnership an application shall be made in behalf of such corporation, limited liability company or co-partnership for a broker's license for [~~him~~] them as its representative for the remainder of the then current license term, provided that the license and pocket card previously issued to the licensee in [~~his~~] their individual capacity shall have been returned to the department whereupon the department shall cause a properly signed endorsement to be made without charge on the face of such license and pocket card as to such change of license status and return the license and pocket card to the licensee.

§ 8. Paragraph (a) of subdivision 1, subparagraphs (i) and (iv) of paragraph (b) of subdivision 1, and subdivisions 2 and 4 of section 441-c of the real property law, paragraph (a) of subdivision 1 as amended by chapter 131 of the laws of 2020, subparagraphs (i) and (iv) of paragraph (b) of subdivision 1 as amended by chapter 398 of the laws of 1997, and subdivisions 2 and 4 as amended by chapter 347 of the laws of 1966, are amended to read as follows:

(a) The department of state may revoke the license of a real estate broker or [~~salesman~~] salesperson 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 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~~] salesperson, or for a violation of article fifteen of the executive law committed in [~~his or her~~] their capacity as a real estate broker or [~~salesman~~] salesperson, 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.

(i) The provisions of this paragraph shall apply in all cases of licensed broker or licensed [~~salesman~~] salesperson who have failed, after receiving appropriate notice, to comply with a summons, subpoena or warrant relating to a paternity or child support proceeding or is in arrears in payment of child support or combined child and spousal support referred to the department by a court pursuant to the requirements of section two hundred forty-four-c of the domestic relations law or pursuant to section four hundred fifty-eight-b or five hundred forty-eight-b of the family court act.

(iv) Notwithstanding any inconsistent provision of this article or of any other provision of law to the contrary, the license of a real estate broker or [~~salesman~~] salesperson shall be suspended if at the hearing, provided for by subparagraph [~~two~~] (ii) of this paragraph, the licensee fails to present proof of payment as required by such subdivision. Such suspension shall not be lifted unless the court or the support collection unit, where the court order is payable to the support collection unit designated by the appropriate social services district, issues notice to the department that full payment of all arrears of support established by the order of the court to be due have been paid.

2. Determination of department. In the event that the department shall revoke or suspend any such license, or impose any fine or reprimand on the holder thereof, its determination shall be in writing and officially signed. The original of such determination, when so signed, shall be filed in the office of the department and copies thereof shall be served personally or by registered mail upon the broker or [~~salesman~~] salesperson and addressed to the principal place of business of such broker or [~~salesman~~] salesperson, and to the complainant. All brokers' and [~~salesmen's~~] salespersons' licenses and pocket cards shall be returned to the department of state within five days after the receipt of notice of a revocation or suspension, or in lieu thereof, the broker or [~~salesman~~] salesperson whose license has been revoked or suspended shall make and file an affidavit in form prescribed by the department of state, showing that the failure to return such license and pocket card is due either to loss or destruction thereof.

4. Whenever the license of a real estate broker or real estate [~~salesman~~] salesperson is revoked by the department, such real estate broker or real estate [~~salesman~~] salesperson shall be ineligible to be relicensed either as a real estate broker or real estate [~~salesman~~] salesperson until after the expiration of a period of one year from the date of such revocation.

§ 9. Section 441-d of the real property law, as amended by chapter 226 of the laws of 1980, is amended to read as follows:

§ 441-d. [~~Salesman's~~] Salesperson's license suspended by revocation or suspension of employer's license. The revocation or suspension of a broker's license shall operate to suspend the license of each real estate [~~salesman~~] salesperson associated with such broker, pending a change of association of the [~~salesman~~] salesperson or the expiration of the period of suspension of the broker's license. Such suspension of the [~~salesman's~~] salesperson's license shall be deemed to be a discontinuance of association with the broker being suspended.

§ 10. Subdivisions 1 and 2 of section 441-e of the real property law, subdivision 1 as added by chapter 699 of the laws of 1988, and subdivision 2 as amended by chapter 505 of the laws of 2001, are amended to read as follows:

1. Denial of license. The department of state shall, before making a final determination to deny an application for a license, notify the

applicant in writing of the reasons for such proposed denial and shall afford the applicant an opportunity to be heard in person or by counsel prior to denial of the application. Such notification shall be served personally or by certified mail or in any manner authorized by the civil practice law and rules. If the applicant is a [~~salesman~~] salesperson or has applied to become a [~~salesman~~] salesperson, the department shall also notify the broker with whom such [~~salesman~~] salesperson is associated, or with whom such [~~salesman~~] salesperson or applicant is about to become associated, of such proposed denial. If a hearing is requested, such hearing shall be held at such time and place as the department shall prescribe. If the applicant fails to make a written request for a hearing within thirty days after receipt of such notification, then the notification of denial shall become the final determination of the department. The department, acting by such officer or person in the department as the secretary of state may designate, shall have the power to subpoena and bring before the officer or person so designated any person in this state, and administer an oath to and take testimony of any person or cause [~~his~~] their deposition to be taken. A subpoena issued under this section shall be regulated by the civil practice law and rules. If, after such hearing, the application is denied, written notice of such denial shall be served upon the applicant personally or by certified mail or in any manner authorized by the civil practice law and rules, and if the applicant is a [~~salesman~~] salesperson, or has applied to become a [~~salesman~~] salesperson, the department shall notify the broker with whom such applicant is associated.

2. Revocation, suspension, reprimands, fines. The department of state shall, before revoking or suspending any license or imposing any fine or reprimand on the holder thereof or before imposing any fine upon any person not licensed pursuant to this article who is deemed to be in violation of section four hundred forty-two-h of this article, and at least ten days prior to the date set for the hearing, notify in writing the holder of such license or such unlicensed person of any charges made and shall afford such licensee or unlicensed person an opportunity to be heard in person or by counsel in reference thereto. Such written notice may be served by delivery of same personally to the licensee, or by mailing same by certified mail to the last known business address of such licensee or unlicensed person, or by any method authorized by the civil practice law and rules. If said licensee be a [~~salesman~~] salesperson, the department shall also notify the broker with whom [~~he is~~] they are associated of the charges by mailing notice by certified mail to the broker's last known business address. The hearing on such charges shall be at such time and place as the department shall prescribe.

§ 11. Subdivision 1 and paragraph (i) of subdivision 2 of section 442 of the real property law, as amended by chapter 514 of the laws of 2014, are amended to read as follows:

1. No real estate broker shall pay any part of a fee, commission or other compensation received by the broker to any person for any service, help or aid rendered in any place in which this article is applicable, by such person to the broker in buying, selling, exchanging, leasing, renting or negotiating a loan upon any real estate including the resale of a condominium or cooperative apartment unless such a person be a duly licensed real estate [~~salesman~~] salesperson regularly associated with such broker or a duly licensed real estate broker or a person regularly engaged in the real estate brokerage business in a state outside of New York; provided, however, that notwithstanding any other provision of this section, it shall be permissible for a real estate broker to pay

any part of a fee, commission, or other compensation received to an unlicensed corporation or an unlicensed limited liability company if each of its shareholders or members, respectively, is associated as an individual with the broker as a duly licensed associate broker or [~~salesman~~] salesperson.

(i) a real estate [~~salesman~~] salesperson duly licensed under this article who is regularly associated with such broker;

§ 12. Section 442-a of the real property law, as amended by chapter 226 of the laws of 1980, is amended to read as follows:

§ 442-a. Compensation of [~~salesmen~~] salespersons; restrictions. No real estate [~~salesman~~] salesperson in any place in which this article is applicable shall receive or demand compensation of any kind from any person, other than a duly licensed real estate broker with whom [~~he~~] they associated, for any service rendered or work done by such [~~salesman~~] salesperson in the appraising, buying, selling, exchanging, leasing, renting or negotiating of a loan upon any real estate.

§ 13. Section 442-b of the real property law, as amended by chapter 226 of the laws of 1980, is amended to read as follows:

§ 442-b. Discontinuance or change of [~~salesman's~~] salesperson's association; report. When the association of any real estate [~~salesman~~] salesperson shall have been terminated for any reason whatsoever, [~~his~~] their broker shall forthwith notify the department of state thereof in such manner as the department shall prescribe. Where change of such [~~salesman's~~] salesperson's association is the basis for such termination, the [~~salesman's~~] salesperson's successor broker shall forthwith notify the department of such change in such manner as the department shall prescribe, such notice to be accompanied by a fee of one dollar. No real estate [~~salesman~~] salesperson shall perform any act within any of the prohibitions of this article from and after the termination for any cause of [~~his~~] their association until [~~he~~] they thereafter shall have become associated with a licensed real estate broker.

§ 14. Section 442-c of the real property law, as amended by chapter 699 of the laws of 1988, is amended to read as follows:

§ 442-c. Violations by [~~salesmen~~] salespersons; broker's responsibility. No violation of a provision of this article by a real estate [~~salesman~~] salesperson or employee of a real estate broker shall be deemed to be cause for the revocation or suspension of the license of the broker, unless it shall appear that the broker had actual knowledge of such violation or retains the benefits, profits or proceeds of a transaction wrongfully negotiated by [~~his salesman~~] their salesperson or employee after notice of the [~~salesman's~~] salesperson's or employee's misconduct. A broker shall be guilty of a misdemeanor for having any [~~salesman~~] salesperson associated with [~~his~~] their firm who has not secured the required license authorizing such employment.

§ 15. Section 442-d of the real property law, as amended by chapter 324 of the laws of 1998, is amended to read as follows:

§ 442-d. Actions for commissions; license prerequisite. No person, copartnership, limited liability company or corporation shall bring or maintain an action in any court of this state for the recovery of compensation for services rendered, in any place in which this article is applicable, in the buying, selling, exchanging, leasing, renting or negotiating a loan upon any real estate without alleging and proving that such person was a duly licensed real estate broker or real estate [~~salesman~~] salesperson on the date when the alleged cause of action arose.

§ 16. Subdivision 5 of section 442-e of the real property law, as added by chapter 468 of the laws of 1940, is amended to read as follows:

5. The secretary of state shall have the power to enforce the provisions of this article and upon complaint of any person, or on [~~his~~] **their** own initiative, to investigate any violation thereof or to investigate the business, business practices and business methods of any person, firm or corporation applying for or holding a license as a real estate broker or [~~salesman~~] **salesperson**, if in the opinion of the secretary of state such investigation is warranted. Each such applicant or licensee shall be obliged, on request of the secretary of state, to supply such information as may be required concerning [~~his~~] **their** or its business, business practices or business methods, or proposed business practices or methods.

§ 17. Subdivisions 1, 4, and 6 of section 442-g of the real property law, subdivision 1 as amended by chapter 744 of the laws of 1978, subdivision 4 as amended by chapter 482 of the laws of 1963, and subdivision 6 as added by section 2 of part D of chapter 328 of the laws of 2014, are amended to read as follows:

1. A nonresident of this state may become a real estate broker or a real estate [~~salesman~~] **salesperson** by conforming to all of the provisions of this article, except that a nonresident broker regularly engaged in the real estate business as a vocation who is licensed and maintains a definite place of business in another state, which offers the same privileges to the licensed brokers of this state, shall not be required to maintain a place of business within this state. Anything to the contrary herein notwithstanding, if any state prohibits or restricts the right of a resident of this state to become a licensed nonresident real estate broker or [~~salesman~~] **salesperson**, then the issuance of such a license to an applicant resident in such state shall be similarly restricted. The department of state shall recognize the license issued to a real estate broker or [~~salesman~~] **salesperson** by another state as satisfactorily qualifying [~~him~~] **them** for license as broker or [~~salesman~~] **salesperson**, as the case may be, under this section; provided that the laws of the state of which [~~he is~~] **they are** a resident require that applicants for licenses as real estate brokers and [~~salesmen~~] **salespersons** shall establish their competency by written examinations but permit licenses to be issued to residents of the State of New York duly licensed under this article, without examination. If the applicant is a resident of a state which has not such requirement then the applicant must meet the examination requirement as provided herein and the department of state shall issue a license to such nonresident broker or [~~salesman~~] **salesperson** upon payment of the license fee and the filing by the applicant with the department of a certified copy of the applicant's license issued by such other state.

4. The secretary of state shall promptly send one of such copies by registered mail, return receipt requested, to the nonresident broker or nonresident [~~salesman~~] **salesperson** at the post office address of [~~his~~] **their** main office as set forth in the last application filed by him **or her**.

6. Notwithstanding any other provisions of this article, the department of state shall grant a real estate broker or a real estate [~~salesman~~] **salesperson** license to an applicant who is a member of the household of a member of the armed forces of the United States, national guard or reserves and was a member of such household before such member of the armed forces relocated to the state who submits satisfactory evidence of licensure, certification or registration to practice an

equivalent occupation issued by a state, territory, protectorate or dependency of the United States, provided that such license, certification or certificate of registration was current and effective within one year of the date of the individual's application for licensure in New York, was granted in compliance with standards that are, in the judgment of the secretary, no less rigorous than those required for licensure in New York. If such standards for licensure, certification or registration are deemed by the secretary to be less rigorous than those required for licensure in New York, the secretary shall permit an applicant to submit evidence in a form acceptable to the department of state to demonstrate the applicant's competency and trustworthiness. If such evidence is sufficient in the judgment of the secretary, the secretary shall grant a real estate broker or real estate salesperson license.

§ 18. Paragraph j of subdivision 1 of section 443 of the real property law, as amended by chapter 549 of the laws of 2007, is amended to read as follows:

j. "Designated sales agent" means a licensed real estate [~~**salesman**~~] **salesperson** or associate broker, working under the supervision of a real estate broker, who has been assigned to represent a client when a different client is also represented by such real estate broker in the same transaction.

§ 19. This act shall take effect immediately.