STATE OF NEW YORK

5359

2021-2022 Regular Sessions

IN ASSEMBLY

February 16, 2021

Introduced by M. of A. CRUZ -- read once and referred to the Committee on Judiciary

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 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 deter-

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

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mining 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**, a general and fair understanding of the laws, rules and regulations pertaining to fair housing and discrimination in the sale or rental of real property or an interest in real property**, as well as of the provisions of this section. The applicant must also furnish proof that he has attended for at least one hundred [~~twenty~~] **fifty-two** 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 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 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~~] **seventy-seven** hours of an approved real estate course or courses**, six hours of which have been focused on fair housing and discrimination in the sale or rental of real property or an interest in real property,** within eight years of the date of the application, the department may accept and credit same against the one hundred [~~twenty~~] **fifty-two** hours required hereunder.

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

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

(b) Each applicant for a salesman'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 depart-

ment to enable it to determine the trustworthiness of the applicant and the applicant's competence to transact the business of real estate salesman 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, **knowledge of laws, rules, and regulations pertaining to fair housing and discrimination in the sale or rental of real property or an interest in real property,** mastery of basic skills needed to perform the applicant's duties, working knowledge of the ethical obligations of a real estate salesman, and knowledge of the provisions of the general obligations law pertaining to performance of the applicant's duties.

(d) Anything to the contrary herein notwithstanding, on and after the effective date of this paragraph, no salesman'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~~] **seventy-seven** 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.

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

(c) **(i)** The secretary of state shall promulgate rules establishing the method, content, setting and supervision requirements of the continuing education real estate course or courses provided for in this section. In establishing the requirements for the continuing education course or courses, the secretary of state shall permit alternatives with respect to content and method of presentation in consideration of the type of brokerage practiced and the availability of the sources of such course or courses in different areas of the state. Each course shall have an established curriculum composed primarily of real estate practice and professional responsibility and ethics and properly prepared written materials of the subject matter which shall be distributed as part of the course. It shall be taught by a qualified faculty with attorneys presenting legal subjects. Credit shall be awarded on the basis of one hour for each sixty minutes of actual attendance and records shall be maintained of attendance at each session which shall be transmitted to the department at the conclusion of the course. 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 licensee for the specified time period.

(ii) The secretary of state shall require approved faculty to sign a document under oath, approved by and submitted to the department of state, attesting to compliance with all applicable statutory and regulatory requirements pertaining to the instruction of the established curriculum. The secretary of state shall promulgate penalties for faculty that fail to meet the obligations required under this section and

department of state regulations including, but not limited to, the temporary suspension of their instructor certificate for the first such failure and the revocation of their instructor certificate for any subsequent failure.

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