

STATE OF NEW YORK

8077--A

2021-2022 Regular Sessions

IN ASSEMBLY

June 11, 2021

Introduced by M. of A. O'DONNELL, McDONALD -- read once and referred to the Committee on Judiciary -- recommitted to the Committee on Judiciary in accordance with Assembly Rule 3, sec. 2 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

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 amended by chapter 699 of the laws of 2021, 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

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

LBD04895-02-2

broker's license under an individual, partnership, trade name, limited liability company or corporation.

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. An associate real estate broker shall be required to have been active as a licensed associate broker for at least two of the four years preceding appointment as an office manager. Such individual shall retain [~~his or her~~] their license as a real estate broker as provided for in this article and shall be required to exercise the same duty of supervision over [~~salesmen~~] salespersons and associate brokers as a licensed real estate broker; 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

1 years of age or over. No person shall be entitled to a license as a real
2 estate [~~salesman~~ salesperson under this article unless [~~he or she is~~
3 they are over the age of eighteen years. No person shall be entitled to
4 a license as a real estate broker or real estate [~~salesman~~ salesperson
5 under this article who has been convicted in this state or elsewhere of
6 a crime, unless the secretary makes a finding in conformance with all
7 applicable statutory requirements, including those contained in article
8 twenty-three-A of the correction law, that such convictions do not
9 constitute a bar to licensure. No person shall be entitled to a license
10 as a real estate broker or real estate [~~salesman~~ salesperson under this
11 article who does not meet the requirements of section 3-503 of the
12 general obligations law.

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

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

23 § 440-b. Licenses in Putnam county. On and after the first day of
24 July, nineteen hundred thirty-four, no person, copartnership or corpo-
25 ration shall engage in or follow the business or occupation of, or hold
26 [~~himself~~ themselves or itself out temporarily or otherwise as a real
27 estate broker or real estate [~~salesman~~ salesperson in the county of
28 Putnam, without first procuring a license therefor as provided in this
29 article, except that such license in such county shall be granted and
30 issued, without the written examination provided in this article, to a
31 person, copartnership or corporation who was engaged in business as a
32 real estate broker or real estate [~~salesman~~ salesperson in such county
33 prior to the first day of January, nineteen hundred thirty-four.

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

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

50 (i) The name and residence address of the applicant, and if an indi-
51 vidual the name under which [~~he intends~~ they intend to conduct busi-
52 ness.

53 (ii) If the applicant be a copartnership the name and residence
54 address of each member thereof and the name under which the business is
55 to be conducted; or, if the applicant be a limited liability company,
56 the name of the company, and the name and residence of each of its

1 members; or, if the applicant be a corporation, the name of the corpo-
2 ration and the name and residence address of each of its officers.

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

5 (iv) The business or occupation theretofore engaged in by the appli-
6 cant, or, if a copartnership, by each member thereof, or, if a limited
7 liability company, by each member thereof, or, if a corporation, by each
8 officer thereof, for a period of two years, immediately preceding the
9 date of such application, setting forth the place or places where such
10 business or occupation was engaged in and the name or names of employ-
11 ers, if any.

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

14 (b) Such further information as the department may reasonably require
15 shall be furnished by the applicant including sufficient proof of having
16 taken and passed a written examination and answered such questions as
17 may be prepared by the department to enable it to determine the trust-
18 worthiness of the applicant if an individual, or of each member of a
19 co-partnership or each member of a limited liability company or each
20 officer of a corporation for whom a license as a broker is asked, and
21 ~~[his or]~~ their competency to transact the business of real estate broker
22 in such a manner as to safeguard the interests of the public. In deter-
23 mining competency, the department shall require proof that the person
24 being tested to qualify to apply for a broker's license has a fair know-
25 ledge of the English language, a fair understanding of the general
26 purposes and general legal effect of deeds, mortgages, land contracts of
27 sale, and leases, a general and fair understanding of the obligations
28 between principal and agent, as well as of the provisions of this
29 section. The applicant must also furnish proof that ~~[he has]~~ they have
30 attended for at least one hundred twenty hours and has successfully
31 completed a real estate course or courses approved by the secretary of
32 state as to method and content and supervision which approval may be
33 withdrawn if in the opinion of the secretary of state said course or
34 courses are not being conducted properly as to method, content and
35 supervision, and that either the applicant has actively participated in
36 the general real estate brokerage business as a licensed real estate
37 ~~[salesman]~~ salesperson under the supervision of a licensed real estate
38 broker for a period of not less than two years or has had the equivalent
39 experience in general real estate business for a period of at least
40 three years, the nature of which experience shall be established by
41 affidavit duly sworn to under oath and/or other and further proof
42 required by the department of state. Computer-based and distance-learn-
43 ing courses may be approved by the department so long as providers
44 demonstrate the ability to monitor and verify participation by the
45 applicant for the specified time period. Notwithstanding the foregoing
46 authority to approve computer-based and distance-learning courses, the
47 department may prescribe that specified subjects or hours must be
48 presented in a classroom setting.

49 (c) In the event the applicant shall be a licensed ~~[salesman]~~ sales-
50 person under this article and shall have submitted acceptable proof
51 pursuant to the provisions of either paragraph (d) of subdivision one-A
52 of this section or paragraph (a) of subdivision three of this section of
53 having attended and successfully completed seventy-five hours of an
54 approved real estate course or courses within eight years of the date of
55 the application, the department may accept and credit same against the
56 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. Paragraph (b) of subdivision 1 of section 441 of the real property law, as amended by chapter 100 of the laws of 2022, is amended 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, her 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, has taken a class on cultural competency training, as well as of the provisions of this section. The applicant must also furnish proof that ~~[he or she 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. For purposes of this section, cultural competency is defined as understanding cultural norms, preferences and challenges within our diverse communities.

§ 7. Paragraph (b) of subdivision 1 of section 441 of the real property law, as separately amended by chapters 697 of the laws of 2021 and 100 of the laws of 2022, is amended 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, her 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, has taken a class on cultural

competency training, 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 or she has]~~ they have attended for at least one hundred 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]~~ 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. For purposes of this section, cultural competency is defined as understanding cultural norms, preferences and challenges within our diverse communities.

§ 8. Paragraph (c) of subdivision 1 of section 441 of the real property law, as amended by chapter 697 of the laws of 2021, is amended to read as follows:

(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-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 fifty-two hours required hereunder.

§ 8-a. Paragraphs (b) and (d) of subdivision 1-A of section 441 of the real property law, as amended by chapter 697 of the laws of 2021, are amended to read as follows:

(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, 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

1 real estate [~~salesman~~] salesperson, and knowledge of the provisions of
2 the general obligations law pertaining to performance of the applicant's
3 duties.

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

20 § 9. Subdivisions 1, 2, 3, 5, 6, 8, and 12 of section 441-a of the
21 real property law, subdivisions 1 and 8 as amended by chapter 226 of the
22 laws of 1980, subdivision 2 as amended by chapter 345 of the laws of
23 2012, subdivisions 3 and 6 as amended by chapter 183 of the laws of
24 2006, subdivision 5 as amended by chapter 61 of the laws 1989, and
25 subdivision 12 as added by chapter 430 of the laws of 2008, are amended
26 to read as follows:

27 1. The department of state, if satisfied of the competency and trust-
28 worthiness of the applicant, shall issue and deliver to [~~him~~] them a
29 license in such form and manner as the department shall prescribe, but
30 which must set forth the name and principal business address of the
31 licensee, and, in the case of a real estate [~~salesman~~] salesperson, the
32 name and business address of the broker with whom the [~~salesman~~] sales-
33 person is associated.

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

40 3. Place of business; business sign required. Except as otherwise
41 provided in this article, each licensed real estate broker shall have
42 and maintain a definite place of business within this state, and shall
43 conspicuously post on the outside of the building in which said office
44 is conducted a sign of a sufficient size to be readable from the side-
45 walk indicating the name and the business of the applicant as a licensed
46 real estate broker, unless said office shall be located in an office,
47 apartment or hotel building, in which event the name and the words
48 "licensed real estate broker" shall be posted in the space provided for
49 posting of names of occupants of the building, other than the mail box.
50 Where the applicant for a real estate broker's license maintains more
51 than one place of business, the broker shall apply for and the depart-
52 ment shall issue a supplemental license for each branch office so main-
53 tained upon payment to the department of state for each supplemental
54 license so issued the same fee prescribed in this article for a license
55 to act as a real estate broker. Each such branch office shall be under
56 the direct supervision of the broker to whom the license is issued, or a

1 representative broker of a corporation or partnership or manager of a
2 limited liability company holding such license, or a duly appointed
3 office manager. Such fee shall accompany such application and shall be
4 non-refundable. For purposes of this subdivision, the principal resi-
5 dence of a real estate broker or ~~[salesman]~~ salesperson shall not be
6 deemed a place of business solely because such broker or ~~[salesman]~~
7 salesperson shall have included the residence telephone number in ~~[his]~~
8 their business cards.

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

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

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

49 12. Whenever any person licensed as a real estate broker or real
50 estate ~~[salesman]~~ salesperson is convicted in this state or elsewhere of
51 a felony, of a sex offense, as defined in subdivision two of section one
52 hundred sixty-eight-a of the correction law or any offense committed
53 outside of this state which would constitute a sex offense, or a sexual-
54 ly violent offense, as defined in subdivision three of section one
55 hundred sixty-eight-a of the correction law or any offense committed
56 outside this state which would constitute a sexually violent offense,

1 such real estate broker or real estate [~~salesman~~] salesperson shall
2 within five days of the imposition of sentence, transmit a certified
3 copy of the judgment of conviction to the department of state.

4 § 10. Subdivisions 1 and 2 of section 441-b of the real property law,
5 subdivision 1 as amended by chapter 91 of the laws of 2022 and subdivi-
6 sion 2 as amended by chapter 324 of the laws of 1998, are amended to
7 read as follows:

8 1. The fee for a license issued or reissued under the provisions of
9 this article entitling a person, co-partnership, limited liability
10 company or corporation to act as a real estate broker shall be one
11 hundred fifty-five dollars plus an additional thirty dollar surcharge.
12 Such surcharge shall be collected by the department of state and depos-
13 ited into the anti-discrimination in housing fund established pursuant
14 to section eighty-a of the state finance law to be used for statewide
15 fair housing testing efforts. The fee for a license issued or reissued
16 under the provisions of this article entitling a person to act as a real
17 estate [~~salesman~~] salesperson shall be fifty-five dollars plus an addi-
18 tional ten dollar surcharge. Such surcharge shall be collected by the
19 department of state and deposited into the anti-discrimination in hous-
20 ing fund established pursuant to section eighty-a of the state finance
21 law to be used for statewide fair housing testing efforts. Notwithstand-
22 ing the provisions of subdivision seven of section four hundred forty-
23 one-a of this article, after January first, nineteen hundred eighty-six,
24 the secretary of state shall assign staggered expiration dates for
25 outstanding licenses that have been previously renewed on October thir-
26 ty-first of each year from the assigned date unless renewed. If the
27 assigned date results in a term that exceeds twenty-four months, the
28 applicant shall pay an additional prorated adjustment together with the
29 regular renewal fee. The secretary of state shall assign dates to exist-
30 ing licenses in a manner which shall result in a term of not less than
31 two years.

32 2. Corporations and co-partnerships. If the licensee be a corporation,
33 the license issued to it shall entitle the president thereof or such
34 other officer as shall be designated by such corporation, to act as a
35 real estate broker. For each other officer who shall desire to act as a
36 real estate broker in behalf of such corporation an additional license
37 expiring on the same date as the license of the corporation shall be
38 applied for and issued, as hereinbefore provided, the fee for which
39 shall be the same as the fee required by this section for the license to
40 the corporation. No license as a real estate [~~salesman~~] salesperson
41 shall be issued to any officer of a corporation nor to any manager or
42 member of a limited liability company nor to a member of a co-partner-
43 ship licensed as a real estate broker. If the licensee be a co-partner-
44 ship the license issued to it shall entitle one member thereof to act as
45 a real estate broker, and for each other member of the firm who desires
46 to act as a real estate broker an additional license expiring on the
47 same date as the license of the co-partnership shall be applied for and
48 issued, as hereinbefore provided, the fee for which shall be the same as
49 the fee required by this section for the license to the co-partnership.
50 If the licensee be a limited liability company, the license issued to it
51 shall entitle one member thereof or one manager thereof to act as a real
52 estate broker, and for each other member or manager of the firm who
53 desires to act as a real estate broker an additional license expiring on
54 the same date as the license of the limited liability company shall be
55 applied for and issued, as hereinbefore provided, the fee for which
56 shall be the same as the fee required by this section for the license to

1 the limited liability company. In case a person licensed individually as
2 a real estate broker thereafter becomes an officer of a corporation or a
3 member or manager of a limited liability company or a member of a
4 co-partnership an application shall be made in behalf of such corpo-
5 ration, limited liability company or co-partnership for a broker's
6 license for ~~[him]~~ them as its representative for the remainder of the
7 then current license term, provided that the license and pocket card
8 previously issued to the licensee in ~~[his]~~ their individual capacity
9 shall have been returned to the department whereupon the department
10 shall cause a properly signed endorsement to be made without charge on
11 the face of such license and pocket card as to such change of license
12 status and return the license and pocket card to the licensee.

13 § 11. Paragraph (a) of subdivision 1, subparagraphs (i) and (iv) of
14 paragraph (b) of subdivision 1, and subdivisions 2 and 4 of section
15 441-c of the real property law, paragraph (a) of subdivision 1 as sepa-
16 rately amended by chapters 687 and 696 of the laws of 2021, subpara-
17 graphs (i) and (iv) of paragraph (b) of subdivision 1 as amended by
18 chapter 398 of the laws of 1997, and subdivisions 2 and 4 as amended by
19 chapter 347 of the laws of 1966, are amended to read as follows:

20 (a) The department of state may revoke the license of a real estate
21 broker or ~~[salesman]~~ salesperson or suspend the same, for such period as
22 the department may deem proper, or in lieu thereof may impose a fine not
23 exceeding two thousand dollars payable to the department of state,
24 provided that fifty percent of all moneys received by the department of
25 state for such fines shall be payable to the anti-discrimination in
26 housing fund established pursuant to section eighty-a of the state
27 finance law, or a reprimand upon conviction of the licensee of a
28 violation of any provision of this article, or for a violation of subdi-
29 vision four of section four hundred forty-two-h of this article, or for
30 a material misstatement in the application for such license, or if such
31 licensee has been guilty of fraud or fraudulent practices, or for
32 dishonest or misleading advertising, or has demonstrated untrustworthi-
33 ness or incompetency to act as a real estate broker or ~~[salesman]~~ sales-
34 person, or for a violation of article fifteen of the executive law
35 committed in ~~[his or her]~~ their capacity as a real estate broker or
36 ~~[salesman]~~ salesperson, as the case may be. In the case of a real estate
37 broker engaged in the business of a tenant relocater, untrustworthiness
38 or incompetency shall include engaging in any course of conduct includ-
39 ing, but not limited to, the interruption or discontinuance of essential
40 building service, that interferes with or disturbs the peace, comfort,
41 repose and quiet enjoyment of a tenant.

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

51 (iv) Notwithstanding any inconsistent provision of this article or of
52 any other provision of law to the contrary, the license of a real estate
53 broker or ~~[salesman]~~ salesperson shall be suspended if at the hearing,
54 provided for by subparagraph ~~[two]~~ (ii) of this paragraph, the licensee
55 fails to present proof of payment as required by such subdivision. Such
56 suspension shall not be lifted unless the court or the support

1 collection unit, where the court order is payable to the support
2 collection unit designated by the appropriate social services district,
3 issues notice to the department that full payment of all arrears of
4 support established by the order of the court to be due have been paid.

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

20 4. Whenever the license of a real estate broker or real estate [~~sales-~~
21 ~~man~~] salesperson is revoked by the department, such real estate broker
22 or real estate [~~salesman~~] salesperson shall be ineligible to be reli-
23 censed either as a real estate broker or real estate [~~salesman~~] sales-
24 person until after the expiration of a period of one year from the date
25 of such revocation.

26 § 12. Section 441-d of the real property law, as amended by chapter
27 226 of the laws of 1980, is amended to read as follows:

28 § 441-d. [~~Salesman's~~] Salesperson's license suspended by revocation or
29 suspension of employer's license. The revocation or suspension of a
30 broker's license shall operate to suspend the license of each real
31 estate [~~salesman~~] salesperson associated with such broker, pending a
32 change of association of the [~~salesman~~] salesperson or the expiration of
33 the period of suspension of the broker's license. Such suspension of the
34 [~~salesman's~~] salesperson's license shall be deemed to be a discontin-
35 uance of association with the broker being suspended.

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

40 1. Denial of license. The department of state shall, before making a
41 final determination to deny an application for a license, notify the
42 applicant in writing of the reasons for such proposed denial and shall
43 afford the applicant an opportunity to be heard in person or by counsel
44 prior to denial of the application. Such notification shall be served
45 personally or by certified mail or in any manner authorized by the civil
46 practice law and rules. If the applicant is a [~~salesman~~] salesperson or
47 has applied to become a [~~salesman~~] salesperson, the department shall
48 also notify the broker with whom such [~~salesman~~] salesperson is associ-
49 ated, or with whom such [~~salesman~~] salesperson or applicant is about to
50 become associated, of such proposed denial. If a hearing is requested,
51 such hearing shall be held at such time and place as the department
52 shall prescribe. If the applicant fails to make a written request for a
53 hearing within thirty days after receipt of such notification, then the
54 notification of denial shall become the final determination of the
55 department. The department, acting by such officer or person in the
56 department as the secretary of state may designate, shall have the power

1 to subpoena and bring before the officer or person so designated any
2 person in this state, and administer an oath to and take testimony of
3 any person or cause ~~[his]~~ their deposition to be taken. A subpoena
4 issued under this section shall be regulated by the civil practice law
5 and rules. If, after such hearing, the application is denied, written
6 notice of such denial shall be served upon the applicant personally or
7 by certified mail or in any manner authorized by the civil practice law
8 and rules, and if the applicant is a ~~[salesman]~~ salesperson, or has
9 applied to become a ~~[salesman]~~ salesperson, the department shall notify
10 the broker with whom such applicant is associated.

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

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

31 1. No real estate broker shall pay any part of a fee, commission or
32 other compensation received by the broker to any person for any service,
33 help or aid rendered in any place in which this article is applicable,
34 by such person to the broker in buying, selling, exchanging, leasing,
35 renting or negotiating a loan upon any real estate including the resale
36 of a condominium or cooperative apartment unless such a person be a duly
37 licensed real estate ~~[salesman]~~ salesperson regularly associated with
38 such broker or a duly licensed real estate broker or a person regularly
39 engaged in the real estate brokerage business in a state outside of New
40 York; provided, however, that notwithstanding any other provision of
41 this section, it shall be permissible for a real estate broker to pay
42 any part of a fee, commission, or other compensation received to an
43 unlicensed corporation or an unlicensed limited liability company if
44 each of its shareholders or members, respectively, is associated as an
45 individual with the broker as a duly licensed associate broker or
46 ~~[salesman]~~ salesperson.

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

49 § 15. Section 442-a of the real property law, as amended by chapter
50 226 of the laws of 1980, is amended to read as follows:

51 § 442-a. Compensation of ~~[salesmen]~~ salespersons; restrictions. No
52 real estate ~~[salesman]~~ salesperson in any place in which this article is
53 applicable shall receive or demand compensation of any kind from any
54 person, other than a duly licensed real estate broker with whom ~~[he]~~
55 they associated, for any service rendered or work done by such ~~[sales-~~

1 ~~man~~] salesperson in the appraising, buying, selling, exchanging, leasing,
2 ing, renting or negotiating of a loan upon any real estate.

3 § 16. Section 442-b of the real property law, as amended by chapter
4 226 of the laws of 1980, is amended to read as follows:

5 § 442-b. Discontinuance or change of [~~salesman's~~] salesperson's association;
6 report. When the association of any real estate [~~salesman~~]
7 salesperson shall have been terminated for any reason whatsoever, [~~his~~]
8 their broker shall forthwith notify the department of state thereof in
9 such manner as the department shall prescribe. Where change of such
10 [~~salesman's~~] salesperson's association is the basis for such termination,
11 the [~~salesman's~~] salesperson's successor broker shall forthwith
12 notify the department of such change in such manner as the department
13 shall prescribe, such notice to be accompanied by a fee of one dollar.
14 No real estate [~~salesman~~] salesperson shall perform any act within any
15 of the prohibitions of this article from and after the termination for
16 any cause of [~~his~~] their association until [~~he~~] they thereafter shall
17 have become associated with a licensed real estate broker.

18 § 17. Section 442-c of the real property law, as amended by chapter
19 699 of the laws of 1988, is amended to read as follows:

20 § 442-c. Violations by [~~salesmen~~] salespersons; broker's responsibility.
21 No violation of a provision of this article by a real estate
22 [~~salesman~~] salesperson or employee of a real estate broker shall be
23 deemed to be cause for the revocation or suspension of the license of
24 the broker, unless it shall appear that the broker had actual knowledge
25 of such violation or retains the benefits, profits or proceeds of a
26 transaction wrongfully negotiated by [~~his-salesman~~] their salesperson or
27 employee after notice of the [~~salesman's~~] salesperson's or employee's
28 misconduct. A broker shall be guilty of a misdemeanor for having any
29 [~~salesman~~] salesperson associated with [~~his~~] their firm who has not
30 secured the required license authorizing such employment.

31 § 18. Section 442-d of the real property law, as amended by chapter
32 324 of the laws of 1998, is amended to read as follows:

33 § 442-d. Actions for commissions; license prerequisite. No person,
34 copartnership, limited liability company or corporation shall bring or
35 maintain an action in any court of this state for the recovery of
36 compensation for services rendered, in any place in which this article
37 is applicable, in the buying, selling, exchanging, leasing, renting or
38 negotiating a loan upon any real estate without alleging and proving
39 that such person was a duly licensed real estate broker or real estate
40 [~~salesman~~] salesperson on the date when the alleged cause of action
41 arose.

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

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

55 § 20. Subdivisions 1, 4, and 6 of section 442-g of the real property
56 law, subdivision 1 as amended by chapter 744 of the laws of 1978, subdivi-

1 vision 4 as amended by chapter 482 of the laws of 1963, and subdivision
2 6 as added by section 2 of part D of chapter 328 of the laws of 2014,
3 are amended to read as follows:

4 1. A nonresident of this state may become a real estate broker or a
5 real estate [~~salesman~~] salesperson by conforming to all of the
6 provisions of this article, except that a nonresident broker regularly
7 engaged in the real estate business as a vocation who is licensed and
8 maintains a definite place of business in another state, which offers
9 the same privileges to the licensed brokers of this state, shall not be
10 required to maintain a place of business within this state. Anything to
11 the contrary herein notwithstanding, if any state prohibits or restricts
12 the right of a resident of this state to become a licensed nonresident
13 real estate broker or [~~salesman~~] salesperson, then the issuance of such
14 a license to an applicant resident in such state shall be similarly
15 restricted. The department of state shall recognize the license issued
16 to a real estate broker or [~~salesman~~] salesperson by another state as
17 satisfactorily qualifying [~~him~~] them for license as broker or [~~salesman~~]
18 salesperson, as the case may be, under this section; provided that the
19 laws of the state of which [~~he is~~] they are a resident require that
20 applicants for licenses as real estate brokers and [~~salesmen~~] salesper-
21 sons shall establish their competency by written examinations but permit
22 licenses to be issued to residents of the State of New York duly
23 licensed under this article, without examination. If the applicant is a
24 resident of a state which has not such requirement then the applicant
25 must meet the examination requirement as provided herein and the depart-
26 ment of state shall issue a license to such nonresident broker or
27 [~~salesman~~] salesperson upon payment of the license fee and the filing by
28 the applicant with the department of a certified copy of the applicant's
29 license issued by such other state.

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

35 6. Notwithstanding any other provisions of this article, the depart-
36 ment of state shall grant a real estate broker or a real estate [~~sales-~~
37 ~~man~~] salesperson license to an applicant who is a member of the house-
38 hold of a member of the armed forces of the United States, national
39 guard or reserves and was a member of such household before such member
40 of the armed forces relocated to the state who submits satisfactory
41 evidence of licensure, certification or registration to practice an
42 equivalent occupation issued by a state, territory, protectorate or
43 dependency of the United States, provided that such license, certifi-
44 cation or certificate of registration was current and effective within
45 one year of the date of the individual's application for licensure in
46 New York, was granted in compliance with standards that are, in the
47 judgment of the secretary, no less rigorous than those required for
48 licensure in New York. If such standards for licensure, certification or
49 registration are deemed by the secretary to be less rigorous than those
50 required for licensure in New York, the secretary shall permit an appli-
51 cant to submit evidence in a form acceptable to the department of state
52 to demonstrate the applicant's competency and trustworthiness. If such
53 evidence is sufficient in the judgment of the secretary, the secretary
54 shall grant a real estate broker or real estate salesperson license.

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

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

9 § 22. This act shall take effect immediately; provided, however, the
10 amendments to paragraph (b) of subdivision 1 of section 441 of the real
11 property law made by section six of this act shall take effect on the
12 same date and in the same manner as section 1 of chapter 688 of the laws
13 of 2021, takes effect, and the amendments to such paragraph (b) made by
14 section seven of this act shall take effect on the same date and in the
15 same manner as section 2 of chapter 697 of the laws of 2021, takes
16 effect; and provided, further, the amendments to paragraph (c) of subdivi-
17 sion 1 of section 441 of the real property law made by section eight
18 of this act shall take effect on the same date and in the same manner as
19 section 2 of chapter 697 of the laws of 2021, takes effect; and
20 provided, further, the amendments to paragraphs (b) and (d) of subdivi-
21 sion 1-A of section 441 of the real property law made by section eight-a
22 of this act shall take effect on the same date and in the same manner as
23 section 3 of chapter 697 of the laws of 2021, takes effect.