

# STATE OF NEW YORK

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8077--A

2021-2022 Regular Sessions

## IN ASSEMBLY

June 11, 2021

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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.

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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-

vision 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.

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.