

# STATE OF NEW YORK

2131--A

2021-2022 Regular Sessions

## IN SENATE

January 19, 2021

Introduced by Sens. SKOUFIS, KAVANAGH, THOMAS -- read twice and ordered printed, and when printed to be committed to the Committee on Judiciary -- reported favorably from said committee and committed to the Committee on Rules -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the real property law, in relation to requiring the secretary of state to promulgate regulations requiring real estate brokers to institute standardized operating procedures for the prerequisites prospective homebuyers shall meet prior to receiving any services

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

1 Section 1. Section 442-h of the real property law is amended by adding  
2 a new subdivision 4 to read as follows:

3 4. (a) The secretary of state, upon notice and a public hearing, shall  
4 promulgate rules and regulations requiring real estate brokers to insti-  
5 tute standardized operating procedures for the prerequisites prospective  
6 homebuyers must meet prior to receiving any services. Such rules and  
7 regulations shall include but not be limited to the following:

8 (i) whether prospective clients shall show identification;

9 (ii) whether an exclusive broker agreement is required; and

10 (iii) whether pre-approval for a mortgage loan is required.

11 (b) Real estate brokers shall submit such standardized operating  
12 procedures to the department of state and the department of state shall  
13 maintain a file of such standardized operating procedures while the  
14 broker's license is active and for at least five years thereafter. If  
15 any alterations are made to the standardized operating procedures subse-  
16 quent to such submission, real estate brokers shall notify and submit  
17 such new standard operating procedures within thirty days. Any sales-  
18 person operating under a brokerage license that fails to adhere to such

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

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1 operating procedures shall be subject to the penalties imposed by  
2 section four hundred forty-one-c of this article.

3 § 2. Paragraph (a) of subdivision 1 of section 441-c of the real prop-  
4 erty law, as amended by chapter 131 of the laws of 2020, is amended to  
5 read as follows:

6 (a) The department of state may revoke the license of a real estate  
7 broker or salesman or suspend the same, for such period as the depart-  
8 ment may deem proper, or in lieu thereof may impose a fine not exceeding  
9 one thousand dollars payable to the department of state, or a reprimand  
10 upon conviction of the licensee of a violation of any provision of this  
11 article, or for a violation of subdivision four of section four hundred  
12 forty-two-h of this article, or for a material misstatement in the  
13 application for such license, or if such licensee has been guilty of  
14 fraud or fraudulent practices, or for dishonest or misleading advertis-  
15 ing, or has demonstrated untrustworthiness or incompetency to act as a  
16 real estate broker or salesman, or for a violation of article fifteen of  
17 the executive law committed in his or her capacity as a real estate  
18 broker or salesman, as the case may be. In the case of a real estate  
19 broker engaged in the business of a tenant relocater, untrustworthiness  
20 or incompetency shall include engaging in any course of conduct includ-  
21 ing, but not limited to, the interruption or discontinuance of essential  
22 building service, that interferes with or disturbs the peace, comfort,  
23 repose and quiet enjoyment of a tenant.

24 § 3. This act shall take effect immediately.