

# STATE OF NEW YORK

2132--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 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the real property law, in relation to increasing required training for real estate brokers and real estate salespeople to prevent discrimination

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

1 Section 1. Subdivision 3 of section 441 of the real property law is  
2 amended by adding a new paragraph (e) to read as follows:

3 (e) The secretary of state shall promulgate rules establishing the  
4 content of the instruction pertaining to fair housing and/or discrimi-  
5 nation in the sale or rental of real property or an interest in real  
6 property required by paragraph (a) of this subdivision. Such instruction  
7 shall include, but not be limited to, courses on: (1) the legacy of  
8 segregation, unequal treatment, and historic lack of access to opportu-  
9 nity in housing; (2) unequal access to amenities and resources on the  
10 basis of race, disability, and other protected characteristics; (3)  
11 federal, state, and local fair housing laws; and (4) anti-bias training.

12 § 2. Paragraphs (b) and (c) of subdivision 1 of section 441 of the  
13 real property law, as amended by chapter 183 of the laws of 2006, are  
14 amended and a new paragraph (d) is added to read as follows:

15 (b) Such further information as the department may reasonably require  
16 shall be furnished by the applicant including sufficient proof of having  
17 taken and passed a written examination and answered such questions as  
18 may be prepared by the department to enable it to determine the trust-  
19 worthiness of the applicant if an individual, or of each member of a  
20 co-partnership or each member of a limited liability company or each  
21 officer of a corporation for whom a license as a broker is asked, and  
22 his or their competency to transact the business of real estate broker

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

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1 in such a manner as to safeguard the interests of the public. In deter-  
2 mining competency, the department shall require proof that the person  
3 being tested to qualify to apply for a broker's license has a fair know-  
4 ledge of the English language, a fair understanding of the general  
5 purposes and general legal effect of deeds, mortgages, land contracts of  
6 sale, and leases, a general and fair understanding of the obligations  
7 between principal and agent, a general and fair understanding of the  
8 laws, rules and regulations pertaining to fair housing and discrimi-  
9 nation in the sale or rental of real property or an interest in real  
10 property, as well as of the provisions of this section. The applicant  
11 must also furnish proof that he has attended for at least one hundred  
12 [~~twenty~~] fifty-two hours and has successfully completed a real estate  
13 course or courses approved by the secretary of state as to method and  
14 content and supervision which approval may be withdrawn if in the opin-  
15 ion of the secretary of state said course or courses are not being  
16 conducted properly as to method, content and supervision, and that  
17 either the applicant has actively participated in the general real  
18 estate brokerage business as a licensed real estate salesman under the  
19 supervision of a licensed real estate broker for a period of not less  
20 than two years or has had the equivalent experience in general real  
21 estate business for a period of at least three years, the nature of  
22 which experience shall be established by affidavit duly sworn to under  
23 oath and/or other and further proof required by the department of state.  
24 Computer-based and distance-learning courses may be approved by the  
25 department so long as providers demonstrate the ability to monitor and  
26 verify participation by the applicant for the specified time period.  
27 Notwithstanding the foregoing authority to approve computer-based and  
28 distance-learning courses, the department may prescribe that specified  
29 subjects or hours must be presented in a classroom setting.

30 (c) In the event the applicant shall be a licensed salesman under this  
31 article and shall have submitted acceptable proof pursuant to the  
32 provisions of either paragraph (d) of subdivision one-A of this section  
33 or paragraph (a) of subdivision three of this section of having attended  
34 and successfully completed [~~seventy-five~~] seventy-seven hours of an  
35 approved real estate course or courses, six hours of which have been  
36 focused on fair housing and discrimination in the sale or rental of real  
37 property or an interest in real property, within eight years of the date  
38 of the application, the department may accept and credit same against  
39 the one hundred [~~twenty~~] fifty-two hours required hereunder.

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

50 § 3. Paragraphs (b) and (d) of subdivision 1-A of section 441 of the  
51 real property law, paragraph (b) as amended by chapter 81 of the laws of  
52 1995, and paragraph (d) as amended by chapter 183 of the laws of 2006,  
53 are amended to read as follows:

54 (b) Each applicant for a salesman's license shall provide such further  
55 information as the department may reasonably require, appearing at such  
56 time and place as may be designated by the department, to take a written

1 examination and answer such questions as may be prepared by the depart-  
2 ment to enable it to determine the trustworthiness of the applicant and  
3 the applicant's competence to transact the business of real estate  
4 salesman in such a manner as to safeguard the interests of the public,  
5 including the applicant's working knowledge of the basic concepts of law  
6 pertaining to contracts, real property, agency and this article which  
7 govern conduct of such business, knowledge of laws, rules, and regu-  
8 lations pertaining to fair housing and discrimination in the sale or  
9 rental of real property or an interest in real property, mastery of  
10 basic skills needed to perform the applicant's duties, working knowledge  
11 of the ethical obligations of a real estate salesman, and knowledge of  
12 the provisions of the general obligations law pertaining to performance  
13 of the applicant's duties.

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

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

33 (c) (i) The secretary of state shall promulgate rules establishing the  
34 method, content, setting and supervision requirements of the continuing  
35 education real estate course or courses provided for in this section. In  
36 establishing the requirements for the continuing education course or  
37 courses, the secretary of state shall permit alternatives with respect  
38 to content and method of presentation in consideration of the type of  
39 brokerage practiced and the availability of the sources of such course  
40 or courses in different areas of the state. Each course shall have an  
41 established curriculum composed primarily of real estate practice and  
42 professional responsibility and ethics and properly prepared written  
43 materials of the subject matter which shall be distributed as part of  
44 the course. It shall be taught by a qualified faculty with attorneys  
45 presenting legal subjects. Credit shall be awarded on the basis of one  
46 hour for each sixty minutes of actual attendance and records shall be  
47 maintained of attendance at each session which shall be transmitted to  
48 the department at the conclusion of the course. Computer-based and  
49 distance learning courses may be approved by the department so long as  
50 providers demonstrate the ability to monitor and verify participation by  
51 the licensee for the specified time period.

52 (ii) The secretary of state shall require approved faculty to sign a  
53 document under oath, approved by and submitted to the department of  
54 state, attesting to compliance with all applicable statutory and regula-  
55 tory requirements pertaining to the instruction of the established  
56 curriculum. The secretary of state shall promulgate penalties for facul-

1 ty that fail to meet the obligations required under this section and  
2 department of state regulations including, but not limited to, the  
3 temporary suspension of their instructor certificate for the first such  
4 failure and the revocation of their instructor certificate for any  
5 subsequent failure.

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