

STATE OF NEW YORK

536

2021-2022 Regular Sessions

IN SENATE

(Prefiled)

January 6, 2021

Introduced by Sens. KAPLAN, JACKSON -- read twice and ordered printed,
and when printed to be committed to the Committee on Judiciary

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 Assem-
bly, do enact as follows:

1 Section 1. The article heading of article 12-a of the real property
2 law, as amended by chapter 107 of the laws of 1927, is amended to read
3 as follows:

REAL ESTATE BROKERS AND REAL ESTATE

[~~SALESMEN~~] **SALESPERSONS**

6 § 2. Subdivisions 2, 3, 5, and 6 of section 440 of the real property
7 law, subdivision 2 as amended by chapter 324 of the laws of 1998, subdi-
8 visions 3 and 5 as amended by chapter 699 of the laws of 1988, and
9 subdivision 6 as added by chapter 183 of the laws of 2006, are amended
10 to read as follows:

11 2. "Associate real estate broker" means a licensed real estate broker
12 who shall by choice elect to work under the name and supervision of
13 another individual broker or another broker who is licensed under a
14 partnership, trade name, limited liability company or corporation. Such
15 individual shall retain [~~his or her~~] **their** license as a real estate
16 broker as provided for in this article; provided, however, that the
17 practice of real estate sales and brokerage by such individual as an
18 associate broker shall be governed exclusively by the provisions of this
19 article as they pertain to real estate [~~salesmen~~] **salespersons**. Nothing
20 contained herein shall preclude an individual who elects to be licensed
21 as an associate broker from also retaining a separate real estate
22 broker's license under an individual, partnership, trade name, limited
23 liability company or corporation.

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

LBD04895-01-1

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. 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 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 years of age or over. No person shall be entitled to a license as a real estate [~~salesman~~ salesperson] under this article unless [~~he or she is~~ they are] over the age of eighteen years. No person shall be entitled to a license as a real estate broker or real estate [~~salesman~~ salesperson] under this article who has been convicted in this state or elsewhere of a crime, unless the secretary makes a finding in conformance with all applicable statutory requirements, including those contained in article

1 twenty-three-A of the correction law, that such convictions do not
2 constitute a bar to licensure. No person shall be entitled to a license
3 as a real estate broker or real estate [~~salesman~~] salesperson under this
4 article who does not meet the requirements of section 3-503 of the
5 general obligations law.

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

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

16 § 440-b. Licenses in Putnam county. On and after the first day of
17 July, nineteen hundred thirty-four, no person, copartnership or corpo-
18 ration shall engage in or follow the business or occupation of, or hold
19 [~~himself~~] themselves or itself out temporarily or otherwise as a real
20 estate broker or real estate [~~salesman~~] salesperson in the county of
21 Putnam, without first procuring a license therefor as provided in this
22 article, except that such license in such county shall be granted and
23 issued, without the written examination provided in this article, to a
24 person, copartnership or corporation who was engaged in business as a
25 real estate broker or real estate [~~salesman~~] salesperson in such county
26 prior to the first day of January, nineteen hundred thirty-four.

27 § 5. Paragraphs (a), (b) and (c) of subdivision 1 and paragraphs (a),
28 (b), (c), and (d) of subdivision 1-A of section 441 of the real property
29 law, paragraph (a) of subdivision 1 as amended by chapter 324 of the
30 laws of 1998, paragraphs (b) and (c) of subdivision 1 and paragraph (d)
31 of subdivision 1-A as amended by chapter 183 of the laws of 2006, and
32 paragraphs (a), (b), and (c) of subdivision 1-A as amended by chapter 81
33 of the laws of 1995, are amended to read as follows:

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

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

46 (ii) If the applicant be a copartnership the name and residence
47 address of each member thereof and the name under which the business is
48 to be conducted; or, if the applicant be a limited liability company,
49 the name of the company, and the name and residence of each of its
50 members; or, if the applicant be a corporation, the name of the corpo-
51 ration and the name and residence address of each of its officers.

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

54 (iv) The business or occupation theretofore engaged in by the appli-
55 cant, or, if a copartnership, by each member thereof, or, if a limited
56 liability company, by each member thereof, or, if a corporation, by each

1 officer thereof, for a period of two years, immediately preceding the
2 date of such application, setting forth the place or places where such
3 business or occupation was engaged in and the name or names of employ-
4 ers, if any.

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

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

42 (c) In the event the applicant shall be a licensed ~~[salesman]~~ sales-
43 person under this article and shall have submitted acceptable proof
44 pursuant to the provisions of either paragraph (d) of subdivision one-A
45 of this section or paragraph (a) of subdivision three of this section of
46 having attended and successfully completed seventy-five hours of an
47 approved real estate course or courses within eight years of the date of
48 the application, the department may accept and credit same against the
49 one hundred twenty hours required hereunder.

50 (a) Every application for a real estate ~~[salesman's]~~ salesperson's
51 license shall set forth:

52 (i) The name and residence address of the applicant.

53 (ii) The name and principal business address of the broker with whom
54 ~~[he is]~~ they are to be associated.

55 (iii) The business or occupation engaged in for the two years imme-
56 diately preceding the date of the application, setting forth the place

1 or places where such business or occupation was engaged in, and the name
2 or names of employers if any.

3 (iv) The length of time [~~he has~~] they have been engaged in the real
4 estate business.

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

7 (b) Each applicant for a [~~salesman's~~] salesperson's license shall
8 provide such further information as the department may reasonably
9 require, appearing at such time and place as may be designated by the
10 department, to take a written examination and answer such questions as
11 may be prepared by the department to enable it to determine the trust-
12 worthiness of the applicant and the applicant's competence to transact
13 the business of real estate [~~salesman~~] salesperson in such a manner as
14 to safeguard the interests of the public, including the applicant's
15 working knowledge of the basic concepts of law pertaining to contracts,
16 real property, agency and this article which govern conduct of such
17 business, mastery of basic skills needed to perform the applicant's
18 duties, working knowledge of the ethical obligations of a real estate
19 [~~salesman~~] salesperson, and knowledge of the provisions of the general
20 obligations law pertaining to performance of the applicant's duties.

21 (c) Each application for either a broker's or [~~salesman's~~]
22 salesperson's license under this article shall be subscribed by the
23 applicant; or if made by a co-partnership it shall be subscribed by a
24 member thereof, or if made by a corporation it shall be subscribed by an
25 officer thereof, and shall conform to the requirements of section 3-503
26 of the general obligations law. Each application shall contain an affir-
27 mation by the person so subscribing that the statements therein are true
28 under the penalties of perjury. An application for a license shall be
29 accompanied by the appropriate license fee, as hereinafter prescribed in
30 this article.

31 (d) Anything to the contrary herein notwithstanding, on and after the
32 effective date of this paragraph, no [~~salesman's~~] salesperson's license
33 or conditional license shall be issued by the department unless the
34 application therefor has been accompanied by proof that prior to such
35 application the applicant has attended at least seventy-five hours and
36 successfully completed a real estate course or courses approved by the
37 secretary of state as to method and content and supervision, which
38 approval may be withdrawn if in the opinion of the secretary of state
39 said course or courses are not properly conducted as to method, content
40 and supervision. Computer-based and distance-learning courses may be
41 approved by the department so long as providers demonstrate the ability
42 to monitor and verify participation by the applicant for the specified
43 time period. Notwithstanding the foregoing authority to approve compu-
44 ter-based and distance-learning courses, the department may prescribe
45 that specified subjects or hours must be presented in a classroom
46 setting.

47 § 6. Subdivisions 1, 2, 3, 5, 6, 8, and 12 of section 441-a of the
48 real property law, subdivisions 1 and 8 as amended by chapter 226 of the
49 laws of 1980, subdivision 2 as amended by chapter 345 of the laws of
50 2012, subdivisions 3 and 6 as amended by chapter 183 of the laws of
51 2006, subdivision 5 as amended by chapter 61 of the laws 1989, and
52 subdivision 12 as added by chapter 430 of the laws of 2008, are amended
53 to read as follows:

54 1. The department of state, if satisfied of the competency and trust-
55 worthiness of the applicant, shall issue and deliver to [~~him~~] them a
56 license in such form and manner as the department shall prescribe, but

1 which must set forth the name and principal business address of the
2 licensee, and, in the case of a real estate [~~salesman~~] salesperson, the
3 name and business address of the broker with whom the [~~salesman~~] sales-
4 person is associated.

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

11 3. Place of business; business sign required. Except as otherwise
12 provided in this article, each licensed real estate broker shall have
13 and maintain a definite place of business within this state, and shall
14 conspicuously post on the outside of the building in which said office
15 is conducted a sign of a sufficient size to be readable from the side-
16 walk indicating the name and the business of the applicant as a licensed
17 real estate broker, unless said office shall be located in an office,
18 apartment or hotel building, in which event the name and the words
19 "licensed real estate broker" shall be posted in the space provided for
20 posting of names of occupants of the building, other than the mail box.
21 Where the applicant for a real estate broker's license maintains more
22 than one place of business, the broker shall apply for and the depart-
23 ment shall issue a supplemental license for each branch office so main-
24 tained upon payment to the department of state for each supplemental
25 license so issued the same fee prescribed in this article for a license
26 to act as a real estate broker. Each such branch office shall be under
27 the direct supervision of the broker to whom the license is issued, or a
28 representative broker of a corporation or partnership or manager of a
29 limited liability company holding such license, or a duly appointed
30 office manager. Such fee shall accompany such application and shall be
31 non-refundable. For purposes of this subdivision, the principal resi-
32 dence of a real estate broker or [~~salesman~~] salesperson shall not be
33 deemed a place of business solely because such broker or [~~salesman~~]
34 salesperson shall have included the residence telephone number in [~~his~~]
35 their business cards.

36 5. Change of address. Notice in writing in the manner and form
37 prescribed by the department shall be given the department at its
38 offices in Albany by a licensed real estate broker on [~~his~~] their own
39 behalf and on behalf of each [~~salesman~~] salesperson associated with
40 [~~him~~] them of any change in [~~his~~] their or its principal business
41 address. The filing fee of ten dollars for each licensee named therein
42 shall accompany such notice. Such change by a licensee without such
43 notification shall operate to suspend [~~his~~] their license until such
44 suspension shall be vacated by the department.

45 6. Pocket card. The department shall prepare, issue and deliver, with
46 the assistance of the department of motor vehicles, to each licensee a
47 pocket card in such form and manner as the department shall prescribe,
48 but which shall contain the photo, name and business address of the
49 licensee, and, in the case of a real estate [~~salesman~~] salesperson, the
50 name and business address of the broker with whom [~~he or she is~~] they
51 are associated and shall certify that the person whose name appears
52 thereon is a licensed real estate broker or [~~salesman~~] salesperson, as
53 may be. Such cards must be shown on demand. In the case of loss,
54 destruction or damage, the secretary of state may, upon submission of
55 satisfactory proof, issue a duplicate pocket card upon payment of a fee
56 of ten dollars.

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

12. Whenever any person licensed as a real estate broker or real estate [~~salesman~~] salesperson is convicted in this state or elsewhere of a felony, of a sex offense, as defined in subdivision two of section one hundred sixty-eight-a of the correction law or any offense committed outside of this state which would constitute a sex offense, or a sexually violent offense, as defined in subdivision three of section one hundred sixty-eight-a of the correction law or any offense committed outside this state which would constitute a sexually violent offense, such real estate broker or real estate [~~salesman~~] salesperson shall within five days of the imposition of sentence, transmit a certified copy of the judgment of conviction to the department of state.

§ 7. Subdivisions 1 and 2 of section 441-b of the real property law, subdivision 1 as amended by section 1 of part S of chapter 58 of the laws of 2017, and subdivision 2 as amended by chapter 324 of the laws of 1998, are amended to read as follows:

1. The fee for a license issued or reissued under the provisions of this article entitling a person, co-partnership, limited liability company or corporation to act as a real estate broker shall be one hundred fifty-five dollars. The fee for a license issued or reissued under the provisions of this article entitling a person to act as a real estate [~~salesman~~] salesperson shall be fifty-five dollars. Notwithstanding the provisions of subdivision seven of section four hundred forty-one-a of this article, after January first, nineteen hundred eighty-six, the secretary of state shall assign staggered expiration dates for outstanding licenses that have been previously renewed on October thirty-first of each year from the assigned date unless renewed. If the assigned date results in a term that exceeds twenty-four months, the applicant shall pay an additional prorated adjustment together with the regular renewal fee. The secretary of state shall assign dates to existing licenses in a manner which shall result in a term of not less than two years.

2. Corporations and co-partnerships. If the licensee be a corporation, the license issued to it shall entitle the president thereof or such other officer as shall be designated by such corporation, to act as a real estate broker. For each other officer who shall desire to act as a real estate broker in behalf of such corporation an additional license expiring on the same date as the license of the corporation shall be

1 applied for and issued, as hereinbefore provided, the fee for which
2 shall be the same as the fee required by this section for the license to
3 the corporation. No license as a real estate ~~[salesman]~~ salesperson
4 shall be issued to any officer of a corporation nor to any manager or
5 member of a limited liability company nor to a member of a co-partner-
6 ship licensed as a real estate broker. If the licensee be a co-partner-
7 ship the license issued to it shall entitle one member thereof to act as
8 a real estate broker, and for each other member of the firm who desires
9 to act as a real estate broker an additional license expiring on the
10 same date as the license of the co-partnership shall be applied for and
11 issued, as hereinbefore provided, the fee for which shall be the same as
12 the fee required by this section for the license to the co-partnership.
13 If the licensee be a limited liability company, the license issued to it
14 shall entitle one member thereof or one manager thereof to act as a real
15 estate broker, and for each other member or manager of the firm who
16 desires to act as a real estate broker an additional license expiring on
17 the same date as the license of the limited liability company shall be
18 applied for and issued, as hereinbefore provided, the fee for which
19 shall be the same as the fee required by this section for the license to
20 the limited liability company. In case a person licensed individually as
21 a real estate broker thereafter becomes an officer of a corporation or a
22 member or manager of a limited liability company or a member of a
23 co-partnership an application shall be made in behalf of such corpo-
24 ration, limited liability company or co-partnership for a broker's
25 license for ~~[him]~~ them as its representative for the remainder of the
26 then current license term, provided that the license and pocket card
27 previously issued to the licensee in ~~[his]~~ their individual capacity
28 shall have been returned to the department whereupon the department
29 shall cause a properly signed endorsement to be made without charge on
30 the face of such license and pocket card as to such change of license
31 status and return the license and pocket card to the licensee.

32 § 8. Paragraph (a) of subdivision 1, subparagraphs (i) and (iv) of
33 paragraph (b) of subdivision 1, and subdivisions 2 and 4 of section
34 441-c of the real property law, paragraph (a) of subdivision 1 as
35 amended by chapter 131 of the laws of 2020, subparagraphs (i) and (iv)
36 of paragraph (b) of subdivision 1 as amended by chapter 398 of the laws
37 of 1997, and subdivisions 2 and 4 as amended by chapter 347 of the laws
38 of 1966, are amended to read as follows:

39 (a) The department of state may revoke the license of a real estate
40 broker or ~~[salesman]~~ salesperson or suspend the same, for such period as
41 the department may deem proper, or in lieu thereof may impose a fine not
42 exceeding one thousand dollars payable to the department of state, or a
43 reprimand upon conviction of the licensee of a violation of any
44 provision of this article, or for a material misstatement in the appli-
45 cation for such license, or if such licensee has been guilty of fraud or
46 fraudulent practices, or for dishonest or misleading advertising, or has
47 demonstrated untrustworthiness or incompetency to act as a real estate
48 broker or ~~[salesman]~~ salesperson, or for a violation of article fifteen
49 of the executive law committed in ~~[his or her]~~ their capacity as a real
50 estate broker or ~~[salesman]~~ salesperson, as the case may be. In the case
51 of a real estate broker engaged in the business of a tenant relocater,
52 untrustworthiness or incompetency shall include engaging in any course
53 of conduct including, but not limited to, the interruption or discontin-
54 uance of essential building service, that interferes with or disturbs
55 the peace, comfort, repose and quiet enjoyment of a tenant.

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

(iv) Notwithstanding any inconsistent provision of this article or of any other provision of law to the contrary, the license of a real estate broker or [~~salesman~~] salesperson shall be suspended if at the hearing, provided for by subparagraph [~~two~~] (ii) of this paragraph, the licensee fails to present proof of payment as required by such subdivision. Such suspension shall not be lifted unless the court or the support collection unit, where the court order is payable to the support collection unit designated by the appropriate social services district, issues notice to the department that full payment of all arrears of support established by the order of the court to be due have been paid.

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

4. Whenever the license of a real estate broker or real estate [~~salesman~~] salesperson is revoked by the department, such real estate broker or real estate [~~salesman~~] salesperson shall be ineligible to be relicensed either as a real estate broker or real estate [~~salesman~~] salesperson until after the expiration of a period of one year from the date of such revocation.

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

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

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

1. Denial of license. The department of state shall, before making a final determination to deny an application for a license, notify the

1 applicant in writing of the reasons for such proposed denial and shall
2 afford the applicant an opportunity to be heard in person or by counsel
3 prior to denial of the application. Such notification shall be served
4 personally or by certified mail or in any manner authorized by the civil
5 practice law and rules. If the applicant is a ~~[salesman]~~ salesperson or
6 has applied to become a ~~[salesman]~~ salesperson, the department shall
7 also notify the broker with whom such ~~[salesman]~~ salesperson is associ-
8 ated, or with whom such ~~[salesman]~~ salesperson or applicant is about to
9 become associated, of such proposed denial. If a hearing is requested,
10 such hearing shall be held at such time and place as the department
11 shall prescribe. If the applicant fails to make a written request for a
12 hearing within thirty days after receipt of such notification, then the
13 notification of denial shall become the final determination of the
14 department. The department, acting by such officer or person in the
15 department as the secretary of state may designate, shall have the power
16 to subpoena and bring before the officer or person so designated any
17 person in this state, and administer an oath to and take testimony of
18 any person or cause ~~[his]~~ their deposition to be taken. A subpoena
19 issued under this section shall be regulated by the civil practice law
20 and rules. If, after such hearing, the application is denied, written
21 notice of such denial shall be served upon the applicant personally or
22 by certified mail or in any manner authorized by the civil practice law
23 and rules, and if the applicant is a ~~[salesman]~~ salesperson, or has
24 applied to become a ~~[salesman]~~ salesperson, the department shall notify
25 the broker with whom such applicant is associated.

26 2. Revocation, suspension, reprimands, fines. The department of state
27 shall, before revoking or suspending any license or imposing any fine or
28 reprimand on the holder thereof or before imposing any fine upon any
29 person not licensed pursuant to this article who is deemed to be in
30 violation of section four hundred forty-two-h of this article, and at
31 least ten days prior to the date set for the hearing, notify in writing
32 the holder of such license or such unlicensed person of any charges made
33 and shall afford such licensee or unlicensed person an opportunity to be
34 heard in person or by counsel in reference thereto. Such written notice
35 may be served by delivery of same personally to the licensee, or by
36 mailing same by certified mail to the last known business address of
37 such licensee or unlicensed person, or by any method authorized by the
38 civil practice law and rules. If said licensee be a ~~[salesman]~~ salesper-
39 son, the department shall also notify the broker with whom ~~[he is]~~ they
40 are associated of the charges by mailing notice by certified mail to the
41 broker's last known business address. The hearing on such charges shall
42 be at such time and place as the department shall prescribe.

43 § 11. Subdivision 1 and paragraph (i) of subdivision 2 of section 442
44 of the real property law, as amended by chapter 514 of the laws of 2014,
45 are amended to read as follows:

46 1. No real estate broker shall pay any part of a fee, commission or
47 other compensation received by the broker to any person for any service,
48 help or aid rendered in any place in which this article is applicable,
49 by such person to the broker in buying, selling, exchanging, leasing,
50 renting or negotiating a loan upon any real estate including the resale
51 of a condominium or cooperative apartment unless such a person be a duly
52 licensed real estate ~~[salesman]~~ salesperson regularly associated with
53 such broker or a duly licensed real estate broker or a person regularly
54 engaged in the real estate brokerage business in a state outside of New
55 York; provided, however, that notwithstanding any other provision of
56 this section, it shall be permissible for a real estate broker to pay

1 any part of a fee, commission, or other compensation received to an
2 unlicensed corporation or an unlicensed limited liability company if
3 each of its shareholders or members, respectively, is associated as an
4 individual with the broker as a duly licensed associate broker or
5 ~~[salesman]~~ salesperson.

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

8 § 12. Section 442-a of the real property law, as amended by chapter
9 226 of the laws of 1980, is amended to read as follows:

10 § 442-a. Compensation of ~~[salesmen]~~ salespersons; restrictions. No
11 real estate ~~[salesman]~~ salesperson in any place in which this article is
12 applicable shall receive or demand compensation of any kind from any
13 person, other than a duly licensed real estate broker with whom ~~[he]~~
14 they associated, for any service rendered or work done by such ~~[sales-~~
15 ~~man]~~ salesperson in the appraising, buying, selling, exchanging, leas-
16 ing, renting or negotiating of a loan upon any real estate.

17 § 13. Section 442-b of the real property law, as amended by chapter
18 226 of the laws of 1980, is amended to read as follows:

19 § 442-b. Discontinuance or change of ~~[salesman's]~~ salesperson's asso-
20 ciation; report. When the association of any real estate ~~[salesman]~~
21 salesperson shall have been terminated for any reason whatsoever, ~~[his]~~
22 their broker shall forthwith notify the department of state thereof in
23 such manner as the department shall prescribe. Where change of such
24 ~~[salesman's]~~ salesperson's association is the basis for such termi-
25 nation, the ~~[salesman's]~~ salesperson's successor broker shall forthwith
26 notify the department of such change in such manner as the department
27 shall prescribe, such notice to be accompanied by a fee of one dollar.
28 No real estate ~~[salesman]~~ salesperson shall perform any act within any
29 of the prohibitions of this article from and after the termination for
30 any cause of ~~[his]~~ their association until ~~[he]~~ they thereafter shall
31 have become associated with a licensed real estate broker.

32 § 14. Section 442-c of the real property law, as amended by chapter
33 699 of the laws of 1988, is amended to read as follows:

34 § 442-c. Violations by ~~[salesmen]~~ salespersons; broker's responsibil-
35 ity. No violation of a provision of this article by a real estate
36 ~~[salesman]~~ salesperson or employee of a real estate broker shall be
37 deemed to be cause for the revocation or suspension of the license of
38 the broker, unless it shall appear that the broker had actual knowledge
39 of such violation or retains the benefits, profits or proceeds of a
40 transaction wrongfully negotiated by ~~[his-salesman]~~ their salesperson or
41 employee after notice of the ~~[salesman's]~~ salesperson's or employee's
42 misconduct. A broker shall be guilty of a misdemeanor for having any
43 ~~[salesman]~~ salesperson associated with ~~[his]~~ their firm who has not
44 secured the required license authorizing such employment.

45 § 15. Section 442-d of the real property law, as amended by chapter
46 324 of the laws of 1998, is amended to read as follows:

47 § 442-d. Actions for commissions; license prerequisite. No person,
48 copartnership, limited liability company or corporation shall bring or
49 maintain an action in any court of this state for the recovery of
50 compensation for services rendered, in any place in which this article
51 is applicable, in the buying, selling, exchanging, leasing, renting or
52 negotiating a loan upon any real estate without alleging and proving
53 that such person was a duly licensed real estate broker or real estate
54 ~~[salesman]~~ salesperson on the date when the alleged cause of action
55 arose.

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

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

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

1 equivalent occupation issued by a state, territory, protectorate or
2 dependency of the United States, provided that such license, certifi-
3 cation or certificate of registration was current and effective within
4 one year of the date of the individual's application for licensure in
5 New York, was granted in compliance with standards that are, in the
6 judgment of the secretary, no less rigorous than those required for
7 licensure in New York. If such standards for licensure, certification or
8 registration are deemed by the secretary to be less rigorous than those
9 required for licensure in New York, the secretary shall permit an appli-
10 cant to submit evidence in a form acceptable to the department of state
11 to demonstrate the applicant's competency and trustworthiness. If such
12 evidence is sufficient in the judgment of the secretary, the secretary
13 shall grant a real estate broker or real estate salesperson license.

14 § 18. Paragraph j of subdivision 1 of section 443 of the real property
15 law, as amended by chapter 549 of the laws of 2007, is amended to read
16 as follows:

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

22 § 19. This act shall take effect immediately.