

STATE OF NEW YORK

5499

2025-2026 Regular Sessions

IN ASSEMBLY

February 14, 2025

Introduced by M. of A. JACKSON, COLTON, STECK, EPSTEIN -- read once and referred to the Committee on Judiciary

AN ACT to amend the real property law, in relation to prohibiting single-agent dual agency, requiring representation agreements, allowing buyers and tenants to negotiate broker fees, and prohibiting landlords, lessors, sub-lessors, and grantors from requiring a tenant to pay brokers' fees as a condition of entering into a lease agreement

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

1 Section 1. Paragraph (a) of subdivision 1 of section 238-a of the real
2 property law, as amended by chapter 789 of the laws of 2021, is amended
3 to read as follows:
4 (a) Except in instances where statutes or regulations provide for a
5 payment, fee or charge, no landlord, lessor, sub-lessor or grantor may
6 demand any payment, fee, or charge for the processing, review or accept-
7 ance of an application, or demand any other payment, fee or charge
8 before or at the beginning of the tenancy, including but not limited to
9 broker's fees, except background checks and credit checks as provided by
10 paragraph (b) of this subdivision, provided that this subdivision shall
11 not apply to entrance fees charged by continuing care retirement commu-
12 nities licensed pursuant to article forty-six or forty-six-A of the
13 public health law, assisted living providers licensed pursuant to arti-
14 cle forty-six-B of the public health law, adult care facilities licensed
15 pursuant to article seven of the social services law, senior residential
16 communities that have submitted an offering plan to the attorney gener-
17 al, or not-for-profit independent retirement communities that offer
18 personal emergency response, housekeeping, transportation and meals to
19 their residents. Nothing in this paragraph shall prohibit a cooperative
20 housing corporation, other than a cooperative housing corporation
21 subject to the provisions of article two, article four, article five or
22 article eleven of the private housing finance law, from demanding from a

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

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1 prospective tenant any payment, fee or charge which is necessary to
2 compensate a managing agent and/or transfer agent for the processing,
3 review or acceptance of such prospective tenant's application where such
4 prospective tenant would become a dwelling unit owner or shareholder of
5 such cooperative housing corporation.

6 § 2. The real property law is amended by adding a new section 443-b to
7 read as follows:

8 § 443-b. Agency relationships. 1. Application. The agency relation-
9 ships and requirements specified in this section or in rules or regu-
10 lations promulgated by the secretary of state shall supersede any agency
11 relationships and requirements between a licensee and a party to a resi-
12 dential real estate transaction which are based upon common law princi-
13 ples of agency if such common law principles are inconsistent with those
14 specified in this section. This section shall apply only to transactions
15 involving residential real property.

16 2. Definitions. For the purposes of this section, the following terms
17 shall have the following meanings:

18 (a) "Dual agent" shall mean an agent who is acting as a buyer's agent
19 and a seller's agent or a tenant's agent and a landlord's agent in the
20 same transaction.

21 (b) "Designated sales agent" shall mean a licensed real estate sales-
22 person or associate broker, working under the supervision of a real
23 estate broker, who has been assigned to represent a client when a
24 different client is also represented by such real estate broker in the
25 same transaction.

26 (c) "Representation agreement" shall mean a written contract between a
27 buyer or tenant of residential real property and a licensee, by which
28 the licensee has been authorized to act as an agent on behalf of the
29 buyer or tenant to locate residential real property, present an offer to
30 purchase or lease to the seller, seller's agent, landlord or landlord's
31 agent, and negotiates on behalf of the buyer or tenant.

32 3. Individual dual agency prohibited. No individual real estate
33 broker, associate real estate broker, or real estate salesperson shall
34 act as a buyer's agent and seller's agent in the same transaction, or
35 act as a tenant's agent and landlord's agent in the same transaction;
36 provided, however that a real estate broker may assign a separate real
37 estate salesperson or associate broker working under their supervision
38 to act as a designated sales agent to represent a client when a differ-
39 ent client is also represented by such real estate broker in the same
40 transaction.

41 4. Buyer or tenant representation agreements. (a) A representation
42 agreement shall:

43 (i) be written in clear and unambiguous language;

44 (ii) fully set forth all material terms, including the terms of licen-
45 see compensation;

46 (iii) have a definite duration or expiration date, including dates of
47 inception and expiration; and

48 (iv) be signed by all parties to the agreement.

49 (b) No real estate broker, associate real estate broker, or real
50 estate salesperson shall locate residential real property for a tenant
51 and/or negotiate on behalf of such tenant unless such real estate
52 broker, associate real estate broker, or real estate salesperson has
53 entered into a representation agreement to represent such tenant as such
54 tenant's agent. Such representation agreement must be entered into prior
55 to or immediately after a licensee shows any property to a tenant for
56 the first time.

1 (c) No real estate broker, associate real estate broker, or real
2 estate salesperson shall present an offer to purchase residential real
3 property to a seller or seller's agent and negotiate on behalf of the
4 buyer unless such real estate broker, associate real estate broker, or
5 real estate salesperson has entered into a written representation agree-
6 ment to represent such buyer as such buyer's agent. Such representation
7 agreement must be entered into no later than when the offer to purchase
8 is made to the seller or seller's agent.

9 5. Agent compensation from buyer or tenant. (a) No real estate broker,
10 associate real estate broker, or real estate salesperson shall collect
11 or demand compensation from a tenant in connection with a residential
12 real property transaction unless such real estate broker, associate real
13 estate broker, or real estate salesperson has entered into a signed
14 representation agreement with such tenant to act as such tenant's agent
15 in the transaction.

16 (b) No real estate broker, associate real estate broker, or real
17 estate salesperson shall collect or demand compensation from a buyer in
18 connection with a residential real property transaction unless such real
19 estate broker, associate real estate broker, or real estate salesperson
20 has entered into a signed representation agreement with such buyer to
21 act as such buyer's agent in the transaction.

22 6. No discrimination. No real estate broker, associate real estate
23 broker, real estate salesperson, or landlord may discriminate or take
24 adverse action against a potential tenant or buyer based on their repre-
25 sentation status.

26 7. Written permission or authorization to offer or advertise property
27 for sale or lease required. (a) No real estate broker, associate real
28 estate broker, or real estate salesperson shall offer or advertise resi-
29 dential real property for sale or lease unless such real estate broker,
30 associate real estate broker, or real estate salesperson has the written
31 permission or authorization of the owner of such residential real prop-
32 erty or such owner's authorized representative.

33 (b) If a real estate broker, associate real estate broker, or real
34 estate salesperson offers or advertises residential real property for
35 lease with the written permission or authorization of the owner of such
36 residential real property or the owner's authorized representative
37 pursuant to paragraph (a) of this subdivision and does not have a list-
38 ing agreement with such owner or such owner's authorized representative,
39 such real estate broker, associate real estate broker, or real estate
40 salesperson shall not enter into a representation agreement with and/or
41 be compensated by any tenant in connection with such residential real
42 property.

43 § 3. Paragraphs i, p, and q of subdivision 1, paragraph f of subdivi-
44 sion 3, and subdivisions 4 and 6 of section 443 of the real property
45 law, paragraph i of subdivision 1, subdivision 4 and subdivision 6 as
46 amended by chapter 549 of the laws of 2007, and paragraphs p and q of
47 subdivision 1 and paragraph f of subdivision 3 as added and paragraphs a
48 and b of subdivision 4 as amended by chapter 443 of the laws of 2010,
49 are amended to read as follows:

50 i. [~~"Dual agent"~~] "Representation agreement" means [~~an agent who is~~
51 ~~acting as~~] a [~~buyer's agent~~] written contract between a buyer or tenant
52 of residential real property and a [~~seller's~~] licensee, by which such
53 licensee has been authorized to act as an agent on behalf of such buyer
54 or [~~a tenant's agent and a~~] tenant to locate residential real property,
55 present an offer to purchase or lease to the seller, such seller's

1 ~~agent, the landlord, or such~~ landlord's agent [~~in the same transaction~~],
 2 ~~and negotiates on behalf of such buyer or tenant.~~

3 p. [~~"Advance consent to dual agency" means written informed consent~~
 4 ~~signed by the seller/landlord or buyer/tenant that the listing agent~~
 5 ~~and/or buyer's agent may act as a dual agent for that seller/landlord~~
 6 ~~and a buyer/tenant for residential real property which is the subject of~~
 7 ~~a listing agreement.~~

8 ~~g.~~] "Advance consent to dual agency with designated sales agents"
 9 means written informed consent signed by the seller/landlord or
 10 buyer/tenant that indicates the name of the agent appointed to represent
 11 the seller/landlord or buyer/tenant as a designated sales agent for
 12 residential real property which is the subject of a listing agreement.

13 f. A seller/landlord or buyer/tenant may provide advance informed
 14 consent to [~~dual agency and~~] dual agency with designated sales agents by
 15 indicating the same on the form set forth in subdivision four of this
 16 section.

17 4. a. For buyer-seller transactions, the following shall be the
 18 disclosure form:

19 NEW YORK STATE DISCLOSURE FORM

20 FOR

21 BUYER AND SELLER

22 THIS IS NOT A CONTRACT

23 New York state law requires real estate licensees who are acting as
 24 agents of buyers or sellers of property to advise the potential buyers
 25 or sellers with whom they work of the nature of their agency relation-
 26 ship and the rights and obligations it creates. This disclosure will
 27 help you to make informed choices about your relationship with the real
 28 estate broker and its sales agents.

29 Throughout the transaction you may receive more than one disclosure
 30 form. The law may require each agent assisting in the transaction to
 31 present you with this disclosure form. A real estate agent is a person
 32 qualified to advise about real estate.

33 If you need legal, tax or other advice, consult with a professional in
 34 that field.

35 DISCLOSURE REGARDING REAL ESTATE AGENCY RELATIONSHIPS

36 SELLER'S AGENT

37 A seller's agent is an agent who is engaged by a seller to represent
 38 the seller's interests. The seller's agent does this by securing a buyer
 39 for the seller's home at a price and on terms acceptable to the seller.
 40 A seller's agent has, without limitation, the following fiduciary duties
 41 to the seller: reasonable care, undivided loyalty, confidentiality, full
 42 disclosure, obedience and duty to account. A seller's agent does not
 43 represent the interests of the buyer. The obligations of a seller's
 44 agent are also subject to any specific provisions set forth in an agree-
 45 ment between the agent and the seller. In dealings with the buyer, a
 46 seller's agent should (a) exercise reasonable skill and care in perform-
 47 ance of the agent's duties; (b) deal honestly, fairly and in good faith;
 48 and (c) disclose all facts known to the agent materially affecting the
 49 value or desirability of property, except as otherwise provided by law.

50 BUYER'S AGENT

51 A buyer's agent is an agent who is engaged by a buyer to represent the
 52 buyer's interests. The buyer's agent does this by negotiating the
 53 purchase of a home at a price and on terms acceptable to the buyer. A
 54 buyer's agent has, without limitation, the following fiduciary duties to
 55 the buyer: reasonable care, undivided loyalty, confidentiality, full
 56 disclosure, obedience and duty to account. A buyer's agent does not

1 represent the interests of the seller. The obligations of a buyer's
2 agent are also subject to any specific provisions set forth in ~~[an]~~ the
3 representation agreement between the agent and the buyer. Such represen-
4 tation agreement must be entered into prior to when the offer to
5 purchase is made to the seller or seller's agent. In dealings with the
6 seller, a buyer's agent should (a) exercise reasonable skill and care in
7 performance of the agent's duties; (b) deal honestly, fairly and in good
8 faith; and (c) disclose all facts known to the agent materially affect-
9 ing the buyer's ability and/or willingness to perform a contract to
10 acquire seller's property that are not inconsistent with the agent's
11 fiduciary duties to the buyer.

12 BROKER'S AGENTS

13 A broker's agent is an agent that cooperates or is engaged by a list-
14 ing agent or a buyer's agent (but does not work for the same firm as the
15 listing agent or buyer's agent) to assist the listing agent or buyer's
16 agent in locating a property to sell or buy, respectively, for the list-
17 ing agent's seller or the buyer agent's buyer. The broker's agent does
18 not have a direct relationship with the buyer or seller and the buyer or
19 seller can not provide instructions or direction directly to the
20 broker's agent. The buyer and the seller therefore do not have vicarious
21 liability for the acts of the broker's agent. The listing agent or
22 buyer's agent do provide direction and instruction to the broker's agent
23 and therefore the listing agent or buyer's agent will have liability for
24 the acts of the broker's agent.

25 ~~[DUAL AGENT~~

26 ~~A real estate broker may represent both the buyer and the seller if~~
27 ~~both the buyer and seller give their informed consent in writing. In~~
28 ~~such a dual agency situation, the agent will not be able to provide the~~
29 ~~full range of fiduciary duties to the buyer and seller. The obligations~~
30 ~~of an agent are also subject to any specific provisions set forth in an~~
31 ~~agreement between the agent, and the buyer and seller. An agent acting~~
32 ~~as a dual agent must explain carefully to both the buyer and seller that~~
33 ~~the agent is acting for the other party as well. The agent should also~~
34 ~~explain the possible effects of dual representation, including that by~~
35 ~~consenting to the dual agency relationship the buyer and seller are~~
36 ~~giving up their right to undivided loyalty. A buyer or seller should~~
37 ~~carefully consider the possible consequences of a dual agency relation-~~
38 ~~ship before agreeing to such representation. A seller or buyer may~~
39 ~~provide advance informed consent to dual agency by indicating the same~~
40 ~~on this form.]~~

41 DUAL AGENT

42 WITH

43 DESIGNATED SALES AGENTS

44 If the buyer and the seller provide their informed consent in writing,
45 the principals and the real estate broker who represents both parties as
46 a dual agent may designate a sales agent to represent the buyer and
47 another sales agent to represent the seller to negotiate the purchase
48 and sale of real estate. A sales agent works under the supervision of
49 the real estate broker. With the informed consent of the buyer and the
50 seller in writing, the designated sales agent for the buyer will func-
51 tion as the buyer's agent representing the interests of and advocating
52 on behalf of the buyer and the designated sales agent for the seller
53 will function as the seller's agent representing the interests of and
54 advocating on behalf of the seller in the negotiations between the buyer
55 and seller. A designated sales agent cannot provide the full range of
56 fiduciary duties to the buyer or seller. The designated sales agent must

1 explain that like the dual agent under whose supervision they function,
2 they cannot provide undivided loyalty. A buyer or seller should careful-
3 ly consider the possible consequences of a dual agency relationship with
4 designated sales agents before agreeing to such representation. A seller
5 or buyer may provide advance informed consent to dual agency with design-
6 nated sales agents by indicating the same on this form.

7 This form was provided to me by _____ (print name of
8 licensee) of _____ (print name of company, firm
9 or brokerage), a licensed real estate broker acting in the interest of
10 the:

11 () Seller as a () Buyer as a
12 (check relationship below) (check relationship below)
13 () Seller's agent () Buyer's agent
14 () Broker's agent () Broker's agent
15 [~~() Dual agent~~] () Dual agent with designated sales agents

16 For advance informed consent to [~~either dual agency or~~] dual agency
17 with designated sales agents complete section below:

18 [~~() Advance informed consent dual agency.~~]
19 () Advance informed consent to dual agency with designated sales
20 agents.

21 If dual agent with designated sales agents is indicated above:
22 _____ is appointed to represent the buyer; and
23 _____ is appointed to represent the seller in this
24 transaction.

25 (I)(We) acknowledge receipt of a copy of this disclosure form:

26 Signature of { } Buyer(s) and/or { } Seller(s):

27 _____

28 _____
29 Date: _____ Date: _____

30 b. For landlord-tenant transactions, the following shall be the
31 disclosure form:

32 NEW YORK STATE DISCLOSURE FORM
33 FOR
34 LANDLORD AND TENANT

35 THIS IS NOT A CONTRACT

36 New York state law requires real estate licensees who are acting as
37 agents of landlords and tenants of real property to advise the potential
38 landlords and tenants with whom they work of the nature of their agency
39 relationship and the rights and obligations it creates. This disclosure
40 will help you to make informed choices about your relationship with the
41 real estate broker and its sales agents.

42 Throughout the transaction you may receive more than one disclosure
43 form. The law may require each agent assisting in the transaction to
44 present you with this disclosure form. A real estate agent is a person
45 qualified to advise about real estate. If you need legal, tax or other
46 advice, consult with a professional in that field.

1 A landlord's agent is an agent who is engaged by a landlord to repre-
2 sent the landlord's interest. The landlord's agent does this by securing
3 a tenant for the landlord's apartment or house at a rent and on terms
4 acceptable to the landlord. A landlord's agent has, without limitation,
5 the following fiduciary duties to the landlord: reasonable care, undi-
6 vided loyalty, confidentiality, full disclosure, obedience and duty to
7 account. A landlord's agent does not represent the interests of the
8 tenant. The obligations of a landlord's agent are also subject to any
9 specific provisions set forth in an agreement between the agent and the
10 landlord. In dealings with the tenant, a landlord's agent should (a)
11 exercise reasonable skill and care in performance of the agent's duties;
12 (b) deal honestly, fairly and in good faith; and (c) disclose all facts
13 known to the agent materially affecting the value or desirability of
14 property, except as otherwise provided by law.

15

TENANT'S AGENT

16 A tenant's agent is an agent who is engaged by a tenant to represent
17 the tenant's interest. The tenant's agent does this by negotiating the
18 rental or lease of an apartment or house at a rent and on terms accepta-
19 ble to the tenant. A tenant's agent has, without limitation, the follow-
20 ing fiduciary duties to the tenant: reasonable care, undivided loyalty,
21 confidentiality, full disclosure, obedience and duty to account. A
22 tenant's agent does not represent the interest of the landlord. The
23 obligations of a tenant's agent are also subject to any specific
24 provisions set forth in [~~an~~] the representation agreement between the
25 agent and the tenant. Such representation agreement must be entered into
26 prior to or immediately after the tenant's agent shows any property to
27 the tenant for the first time. In dealings with the landlord, a tenant's
28 agent should (a) exercise reasonable skill and care in performance of
29 the agent's duties; (b) deal honestly, fairly and in good faith; and (c)
30 disclose all facts known to the tenant's ability and/or willingness to
31 perform a contract to rent or lease landlord's property that are not
32 inconsistent with the agent's fiduciary duties to the buyer.

33

BROKER'S AGENTS

34 A broker's agent is an agent that cooperates or is engaged by a list-
35 ing agent or a tenant's agent (but does not work for the same firm as
36 the listing agent or tenant's agent) to assist the listing agent or
37 tenant's agent in locating a property to rent or lease for the listing
38 agent's landlord or the tenant agent's tenant. The broker's agent does
39 not have a direct relationship with the tenant or landlord and the
40 tenant or landlord can not provide instructions or direction directly to
41 the broker's agent. The tenant and the landlord therefore do not have
42 vicarious liability for the acts of the broker's agent. The listing
43 agent or tenant's agent do provide direction and instruction to the
44 broker's agent and therefore the listing agent or tenant's agent will
45 have liability for the acts of the broker's agent.

46

~~[DUAL AGENT~~

47 ~~A real estate broker may represent both the tenant and the landlord if~~
48 ~~both the tenant and landlord give their informed consent in writing. In~~
49 ~~such a dual agency situation, the agent will not be able to provide the~~
50 ~~full range of fiduciary duties to the landlord and the tenant. The obli-~~

1 ~~gations of an agent are also subject to any specific provisions set~~
 2 ~~forth in an agreement between the agent, and the tenant and landlord. An~~
 3 ~~agent acting as a dual agent must explain carefully to both the landlord~~
 4 ~~and tenant that the agent is acting for the other party as well. The~~
 5 ~~agent should also explain the possible effects of dual representation,~~
 6 ~~including that by consenting to the dual agency relationship the land-~~
 7 ~~lord and tenant are giving up their right to undivided loyalty. A land-~~
 8 ~~lord and tenant should carefully consider the possible consequences of a~~
 9 ~~dual agency relationship before agreeing to such representation. A~~
 10 ~~landlord or tenant may provide advance informed consent to dual agency~~
 11 ~~by indicating the same on this form.]~~

12 DUAL AGENT
 13 WITH
 14 DESIGNATED SALES AGENTS

15 If the tenant and the landlord provide their informed consent in writ-
 16 ing, the principals and the real estate broker who represents both
 17 parties as a dual agent may designate a sales agent to represent the
 18 tenant and another sales agent to represent the landlord. A sales agent
 19 works under the supervision of the real estate broker. With the informed
 20 consent in writing of the tenant and the landlord, the designated sales
 21 agent for the tenant will function as the tenant's agent representing
 22 the interests of and advocating on behalf of the tenant and the desig-
 23 nated sales agent for the landlord will function as the landlord's agent
 24 representing the interests of and advocating on behalf of the landlord
 25 in the negotiations between the tenant and the landlord. A designated
 26 sales agent cannot provide the full range of fiduciary duties to the
 27 landlord or tenant. The designated sales agent must explain that like
 28 the dual agent under whose supervision they function, they cannot
 29 provide undivided loyalty. A landlord or tenant should carefully consid-
 30 er the possible consequences of a dual agency relationship with desig-
 31 nated sales agents before agreeing to such representation. A landlord
 32 or tenant may provide advance informed consent to dual agency with
 33 designated sales agents by indicating the same on this form.

34 This form was provided to me by _____ (print name of
 35 licensee) of _____ (print name of company, firm or broker-
 36 age), a licensed real estate broker acting in the interest of the:

- 37 () Landlord as a () Tenant as a
 38 (check relationship below) (check relationship below)
 39 () Landlord's agent () Tenant's agent
 40 () Broker's agent () Broker's agent
 41 [~~() Dual agent~~] () Dual agent with designated sales agents

42 For advance informed consent to [~~either dual agency or~~] dual agency
 43 with designated sales agents complete section below:

- 44 [~~() Advance informed consent dual agency.~~]
 45 () Advance informed consent to dual agency with designated sales
 46 agents.

47 If dual agent with designated sales agents is indicated above:
 48 _____ is appointed to represent the tenant; and
 49 _____ is appointed to represent the landlord in
 50 this transaction.

1 (I) (We) _____ acknowledge
2 receipt of a copy of this disclosure form:

3 Signature of { } Landlord(s) and/or { } Tenant(s):

4 _____

5 _____

6 Date: _____ Date: _____

7 6. [~~Nothing~~] Except as provided for in section four hundred forty-
8 three-b of this article, nothing in this section shall be construed to
9 limit or alter the application of the common law of agency with respect
10 to residential real estate transactions.

11 § 4. This act shall take effect on the one hundred eightieth day after
12 it shall have become a law.