

# STATE OF NEW YORK

536--A

Cal. No. 100

2021-2022 Regular Sessions

## IN SENATE

(Prefiled)

January 6, 2021

Introduced by Sens. KAPLAN, GAUGHRAN, JACKSON, MANNION -- read twice and ordered printed, and when printed to be committed to the Committee on Judiciary -- recommitted to the Committee on Judiciary in accordance with Senate Rule 6, sec. 8 -- reported favorably from said committee, ordered to first and second report, ordered to a third reading, passed by Senate and delivered to the Assembly, recalled, vote reconsidered, restored to third reading, amended and ordered reprinted, retaining its place in the order of third reading

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:

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:

4 REAL ESTATE BROKERS AND REAL ESTATE  
5 [~~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, subdivi-  
8 sions 3 and 5 as amended by chapter 699 of the laws of 1988, and  
9 subdivision 6 as amended by chapter 699 of the laws of 2021, 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

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

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1 associate broker shall be governed exclusively by the provisions of this  
2 article as they pertain to real estate [~~salesmen~~ salespersons. Nothing  
3 contained herein shall preclude an individual who elects to be licensed  
4 as an associate broker from also retaining a separate real estate  
5 broker's license under an individual, partnership, trade name, limited  
6 liability company or corporation.

7 3. "Real estate [~~salesman~~ salesperson" means a person associated with  
8 a licensed real estate broker to list for sale, sell or offer for sale,  
9 at auction or otherwise, to buy or offer to buy or to negotiate the  
10 purchase or sale or exchange of real estate, or to negotiate a loan on  
11 real estate other than a mortgage loan as defined in section five  
12 hundred ninety of the banking law, or to lease or rent or offer to  
13 lease, rent or place for rent any real estate, or collects or offers or  
14 attempts to collect rent for the use of real estate for or in behalf of  
15 such real estate broker, or who, notwithstanding any other provision of  
16 law, performs any of the above stated functions with respect to the  
17 resale of a condominium property originally sold pursuant to the  
18 provisions of the general business law governing real estate syndication  
19 offerings.

20 5. "Association, associated; or associated with" whenever used in this  
21 article shall be deemed to make reference to a [~~salesman's~~  
22 salesperson's relationship with [~~his or her~~ their broker. Nothing in  
23 this article shall be deemed or construed to be indicative or determina-  
24 tive of the legal relationship of a salesperson to a broker nor shall  
25 any provision of this article be deemed or construed to alter or other-  
26 wise affect the legal responsibility of a real estate broker to third  
27 parties for the acts of anyone associated with such broker pursuant to  
28 this article.

29 6. "Office manager" means a licensed associate real estate broker who  
30 shall by choice elect to work as an office manager under the name and  
31 supervision of another individual broker or another broker who is  
32 licensed under a partnership, trade name, limited liability company or  
33 corporation. An associate real estate broker shall be required to have  
34 been active as a licensed associate broker for at least two of the four  
35 years preceding appointment as an office manager. Such individual shall  
36 retain [~~his or her~~ their license as a real estate broker as provided  
37 for in this article and shall be required to exercise the same duty of  
38 supervision over [~~salesmen~~ salespersons and associate brokers as a  
39 licensed real estate broker; provided, however, that the practice of  
40 real estate sales and brokerage by such individual as an associate  
41 broker shall be governed exclusively by the provisions of this article  
42 as they pertain to real estate [~~salesmen~~ salespersons. Nothing  
43 contained in this subdivision shall preclude an individual who is  
44 licensed as an associate broker who elects to work as an office manager  
45 from also retaining a separate real estate broker's license under an  
46 individual, partnership, trade name, limited liability company or corpo-  
47 ration.

48 § 3. Section 440-a of the real property law, as amended by section 3  
49 of part V of chapter 58 of the laws of 2020, is amended to read as  
50 follows:

51 § 440-a. License required for real estate brokers and [~~salesmen~~  
52 salespersons. No person, co-partnership, limited liability company or  
53 corporation shall engage in or follow the business or occupation of, or  
54 hold [~~himself~~ themselves or itself out or act temporarily or otherwise  
55 as a real estate broker or real estate [~~salesman~~ salesperson in this  
56 state without first procuring a license therefor as provided in this

1 article. No person shall be entitled to a license as a real estate  
2 broker under this article, either as an individual or as a member of a  
3 co-partnership, or as a member or manager of a limited liability company  
4 or as an officer of a corporation, unless [~~he or she is~~] they are twenty  
5 years of age or over. No person shall be entitled to a license as a real  
6 estate [~~salesman~~] salesperson under this article unless [~~he or she is~~]  
7 they are over the age of eighteen years. No person shall be entitled to  
8 a license as a real estate broker or real estate [~~salesman~~] salesperson  
9 under this article who has been convicted in this state or elsewhere of  
10 a crime, unless the secretary makes a finding in conformance with all  
11 applicable statutory requirements, including those contained in article  
12 twenty-three-A of the correction law, that such convictions do not  
13 constitute a bar to licensure. No person shall be entitled to a license  
14 as a real estate broker or real estate [~~salesman~~] salesperson under this  
15 article who does not meet the requirements of section 3-503 of the  
16 general obligations law.

17 Notwithstanding anything to the contrary in this section, tenant asso-  
18 ciations and not-for-profit corporations authorized in writing by the  
19 commissioner of the department of the city of New York charged with  
20 enforcement of the housing maintenance code of such city to manage resi-  
21 dential property owned by such city or appointed by a court of competent  
22 jurisdiction to manage residential property owned by such city shall be  
23 exempt from the licensing provisions of this section with respect to the  
24 properties so managed.

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

27 § 440-b. Licenses in Putnam county. On and after the first day of  
28 July, nineteen hundred thirty-four, no person, copartnership or corpo-  
29 ration shall engage in or follow the business or occupation of, or hold  
30 [~~himself~~] themselves or itself out temporarily or otherwise as a real  
31 estate broker or real estate [~~salesman~~] salesperson in the county of  
32 Putnam, without first procuring a license therefor as provided in this  
33 article, except that such license in such county shall be granted and  
34 issued, without the written examination provided in this article, to a  
35 person, copartnership or corporation who was engaged in business as a  
36 real estate broker or real estate [~~salesman~~] salesperson in such county  
37 prior to the first day of January, nineteen hundred thirty-four.

38 § 5. Paragraphs (a), (b) and (c) of subdivision 1 and paragraphs (a),  
39 (b), (c), and (d) of subdivision 1-A of section 441 of the real property  
40 law, paragraph (a) of subdivision 1 as amended by chapter 324 of the  
41 laws of 1998, paragraphs (b) and (c) of subdivision 1 and paragraph (d)  
42 of subdivision 1-A as amended by chapter 183 of the laws of 2006, and  
43 paragraphs (a), (b), and (c) of subdivision 1-A as amended by chapter 81  
44 of the laws of 1995, are amended to read as follows:

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

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

1 (ii) If the applicant be a copartnership the name and residence  
2 address of each member thereof and the name under which the business is  
3 to be conducted; or, if the applicant be a limited liability company,  
4 the name of the company, and the name and residence of each of its  
5 members; or, if the applicant be a corporation, the name of the corpo-  
6 ration and the name and residence address of each of its officers.

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

9 (iv) The business or occupation theretofore engaged in by the appli-  
10 cant, or, if a copartnership, by each member thereof, or, if a limited  
11 liability company, by each member thereof, or, if a corporation, by each  
12 officer thereof, for a period of two years, immediately preceding the  
13 date of such application, setting forth the place or places where such  
14 business or occupation was engaged in and the name or names of employ-  
15 ers, if any.

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

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

53 (c) In the event the applicant shall be a licensed [~~salesman~~] sales-  
54 person under this article and shall have submitted acceptable proof  
55 pursuant to the provisions of either paragraph (d) of subdivision one-A  
56 of this section or paragraph (a) of subdivision three of this section of

1 having attended and successfully completed seventy-five hours of an  
2 approved real estate course or courses within eight years of the date of  
3 the application, the department may accept and credit same against the  
4 one hundred twenty hours required hereunder.

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

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

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

10 (iii) The business or occupation engaged in for the two years imme-  
11 diately preceding the date of the application, setting forth the place  
12 or places where such business or occupation was engaged in, and the name  
13 or names of employers if any.

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

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

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

32 (c) Each application for either a broker's or [~~salesman's~~]  
33 salesperson's license under this article shall be subscribed by the  
34 applicant; or if made by a co-partnership it shall be subscribed by a  
35 member thereof, or if made by a corporation it shall be subscribed by an  
36 officer thereof, and shall conform to the requirements of section 3-503  
37 of the general obligations law. Each application shall contain an affir-  
38 mation by the person so subscribing that the statements therein are true  
39 under the penalties of perjury. An application for a license shall be  
40 accompanied by the appropriate license fee, as hereinafter prescribed in  
41 this article.

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

1 that specified subjects or hours must be presented in a classroom  
2 setting.

3 § 6. Paragraph (b) of subdivision 1 of section 441 of the real proper-  
4 ty law, as amended by chapter 100 of the laws of 2022, is amended to  
5 read as follows:

6 (b) Such further information as the department may reasonably require  
7 shall be furnished by the applicant including sufficient proof of having  
8 taken and passed a written examination and answered such questions as  
9 may be prepared by the department to enable it to determine the trust-  
10 worthiness of the applicant if an individual, or of each member of a  
11 co-partnership or each member of a limited liability company or each  
12 officer of a corporation for whom a license as a broker is asked, and  
13 ~~[his, her or]~~ their competency to transact the business of real estate  
14 broker in such a manner as to safeguard the interests of the public. In  
15 determining competency, the department shall require proof that the  
16 person being tested to qualify to apply for a broker's license has a  
17 fair knowledge of the English language, a fair understanding of the  
18 general purposes and general legal effect of deeds, mortgages, land  
19 contracts of sale, and leases, a general and fair understanding of the  
20 obligations between principal and agent, has taken a class on cultural  
21 competency training, as well as of the provisions of this section. The  
22 applicant must also furnish proof that ~~[he or she 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. For purposes of this section, cultural  
42 competency is defined as understanding cultural norms, preferences and  
43 challenges within our diverse communities.

44 § 7. Paragraph (b) of subdivision 1 of section 441 of the real proper-  
45 ty law, as separately amended by chapters 697 of the laws of 2021 and  
46 100 of the laws of 2022, is amended to read as follows:

47 (b) Such further information as the department may reasonably require  
48 shall be furnished by the applicant including sufficient proof of having  
49 taken and passed a written examination and answered such questions as  
50 may be prepared by the department to enable it to determine the trust-  
51 worthiness of the applicant if an individual, or of each member of a  
52 co-partnership or each member of a limited liability company or each  
53 officer of a corporation for whom a license as a broker is asked, and  
54 ~~[his, her or]~~ their competency to transact the business of real estate  
55 broker in such a manner as to safeguard the interests of the public. In  
56 determining competency, the department shall require proof that the

1 person being tested to qualify to apply for a broker's license has a  
2 fair knowledge of the English language, a fair understanding of the  
3 general purposes and general legal effect of deeds, mortgages, land  
4 contracts of sale, and leases, a general and fair understanding of the  
5 obligations between principal and agent, has taken a class on cultural  
6 competency training, a general and fair understanding of the laws, rules  
7 and regulations pertaining to fair housing and discrimination in the  
8 sale or rental of real property or an interest in real property, as well  
9 as of the provisions of this section. The applicant must also furnish  
10 proof that [~~he or she has~~] they have attended for at least one hundred  
11 fifty-two hours and has successfully completed a real estate course or  
12 courses approved by the secretary of state as to method and content and  
13 supervision which approval may be withdrawn if in the opinion of the  
14 secretary of state said course or courses are not being conducted prop-  
15 erly as to method, content and supervision, and that either the appli-  
16 cant has actively participated in the general real estate brokerage  
17 business as a licensed real estate [~~salesman~~] salesperson under the  
18 supervision of a licensed real estate broker for a period of not less  
19 than two years or has had the equivalent experience in general real  
20 estate business for a period of at least three years, the nature of  
21 which experience shall be established by affidavit duly sworn to under  
22 oath and/or other and further proof required by the department of state.  
23 Computer-based and distance-learning courses may be approved by the  
24 department so long as providers demonstrate the ability to monitor and  
25 verify participation by the applicant for the specified time period.  
26 Notwithstanding the foregoing authority to approve computer-based and  
27 distance-learning courses, the department may prescribe that specified  
28 subjects or hours must be presented in a classroom setting. For purposes  
29 of this section, cultural competency is defined as understanding  
30 cultural norms, preferences and challenges within our diverse communi-  
31 ties.

32 § 8. Paragraph (c) of subdivision 1 of section 441 of the real proper-  
33 ty law, as amended by chapter 697 of the laws of 2021, is amended to  
34 read as follows:

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

45 § 8-a. Paragraphs (b) and (d) of subdivision 1-A of section 441 of the  
46 real property law, as amended by chapter 697 of the laws of 2021, are  
47 amended to read as follows:

48 (b) Each applicant for a [~~salesman's~~] salesperson's license shall  
49 provide such further information as the department may reasonably  
50 require, appearing at such time and place as may be designated by the  
51 department, to take a written examination and answer such questions as  
52 may be prepared by the department to enable it to determine the trust-  
53 worthiness of the applicant and the applicant's competence to transact  
54 the business of real estate [~~salesman~~] salesperson in such a manner as  
55 to safeguard the interests of the public, including the applicant's  
56 working knowledge of the basic concepts of law pertaining to contracts,

1 real property, agency and this article which govern conduct of such  
2 business, knowledge of laws, rules, and regulations pertaining to fair  
3 housing and discrimination in the sale or rental of real property or an  
4 interest in real property, mastery of basic skills needed to perform the  
5 applicant's duties, working knowledge of the ethical obligations of a  
6 real estate [~~salesman~~] salesperson, and knowledge of the provisions of  
7 the general obligations law pertaining to performance of the applicant's  
8 duties.

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

25 § 9. Subdivisions 1, 2, 3, 5, 6, 8, and 12 of section 441-a of the  
26 real property law, subdivisions 1 and 8 as amended by chapter 226 of the  
27 laws of 1980, subdivision 2 as amended by chapter 345 of the laws of  
28 2012, subdivisions 3 and 6 as amended by chapter 183 of the laws of  
29 2006, subdivision 5 as amended by chapter 61 of the laws 1989, and  
30 subdivision 12 as added by chapter 430 of the laws of 2008, are amended  
31 to read as follows:

32 1. The department of state, if satisfied of the competency and trust-  
33 worthiness of the applicant, shall issue and deliver to [~~him~~] them a  
34 license in such form and manner as the department shall prescribe, but  
35 which must set forth the name and principal business address of the  
36 licensee, and, in the case of a real estate [~~salesman~~] salesperson, the  
37 name and business address of the broker with whom the [~~salesman~~] sales-  
38 person is associated.

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

45 3. Place of business; business sign required. Except as otherwise  
46 provided in this article, each licensed real estate broker shall have  
47 and maintain a definite place of business within this state, and shall  
48 conspicuously post on the outside of the building in which said office  
49 is conducted a sign of a sufficient size to be readable from the side-  
50 walk indicating the name and the business of the applicant as a licensed  
51 real estate broker, unless said office shall be located in an office,  
52 apartment or hotel building, in which event the name and the words  
53 "licensed real estate broker" shall be posted in the space provided for  
54 posting of names of occupants of the building, other than the mail box.  
55 Where the applicant for a real estate broker's license maintains more  
56 than one place of business, the broker shall apply for and the depart-

1 ment shall issue a supplemental license for each branch office so main-  
2 tained upon payment to the department of state for each supplemental  
3 license so issued the same fee prescribed in this article for a license  
4 to act as a real estate broker. Each such branch office shall be under  
5 the direct supervision of the broker to whom the license is issued, or a  
6 representative broker of a corporation or partnership or manager of a  
7 limited liability company holding such license, or a duly appointed  
8 office manager. Such fee shall accompany such application and shall be  
9 non-refundable. For purposes of this subdivision, the principal resi-  
10 dence of a real estate broker or [~~salesman~~] salesperson shall not be  
11 deemed a place of business solely because such broker or [~~salesman~~]  
12 salesperson shall have included the residence telephone number in [~~his~~]  
13 their business cards.

14 5. Change of address. Notice in writing in the manner and form  
15 prescribed by the department shall be given the department at its  
16 offices in Albany by a licensed real estate broker on [~~his~~] their own  
17 behalf and on behalf of each [~~salesman~~] salesperson associated with  
18 [~~him~~] them of any change in [~~his~~] their or its principal business  
19 address. The filing fee of ten dollars for each licensee named therein  
20 shall accompany such notice. Such change by a licensee without such  
21 notification shall operate to suspend [~~his~~] their license until such  
22 suspension shall be vacated by the department.

23 6. Pocket card. The department shall prepare, issue and deliver, with  
24 the assistance of the department of motor vehicles, to each licensee a  
25 pocket card in such form and manner as the department shall prescribe,  
26 but which shall contain the photo, name and business address of the  
27 licensee, and, in the case of a real estate [~~salesman~~] salesperson, the  
28 name and business address of the broker with whom [~~he or she is~~] they  
29 are associated and shall certify that the person whose name appears  
30 thereon is a licensed real estate broker or [~~salesman~~] salesperson, as  
31 may be. Such cards must be shown on demand. In the case of loss,  
32 destruction or damage, the secretary of state may, upon submission of  
33 satisfactory proof, issue a duplicate pocket card upon payment of a fee  
34 of ten dollars.

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

54 12. Whenever any person licensed as a real estate broker or real  
55 estate [~~salesman~~] salesperson is convicted in this state or elsewhere of  
56 a felony, of a sex offense, as defined in subdivision two of section one

1 hundred sixty-eight-a of the correction law or any offense committed  
2 outside of this state which would constitute a sex offense, or a sexual-  
3 ly violent offense, as defined in subdivision three of section one  
4 hundred sixty-eight-a of the correction law or any offense committed  
5 outside this state which would constitute a sexually violent offense,  
6 such real estate broker or real estate [~~salesman~~] salesperson shall  
7 within five days of the imposition of sentence, transmit a certified  
8 copy of the judgment of conviction to the department of state.

9 § 10. Subdivisions 1 and 2 of section 441-b of the real property law,  
10 subdivision 1 as amended by chapter 91 of the laws of 2022 and subdivi-  
11 sion 2 as amended by chapter 324 of the laws of 1998, are amended to  
12 read as follows:

13 1. The fee for a license issued or reissued under the provisions of  
14 this article entitling a person, co-partnership, limited liability  
15 company or corporation to act as a real estate broker shall be one  
16 hundred fifty-five dollars plus an additional thirty dollar surcharge.  
17 Such surcharge shall be collected by the department of state and depos-  
18 ited into the anti-discrimination in housing fund established pursuant  
19 to section eighty-a of the state finance law to be used for statewide  
20 fair housing testing efforts. The fee for a license issued or reissued  
21 under the provisions of this article entitling a person to act as a real  
22 estate [~~salesman~~] salesperson shall be fifty-five dollars plus an addi-  
23 tional ten dollar surcharge. Such surcharge shall be collected by the  
24 department of state and deposited into the anti-discrimination in hous-  
25 ing fund established pursuant to section eighty-a of the state finance  
26 law to be used for statewide fair housing testing efforts. Notwithstand-  
27 ing the provisions of subdivision seven of section four hundred forty-  
28 one-a of this article, after January first, nineteen hundred eighty-six,  
29 the secretary of state shall assign staggered expiration dates for  
30 outstanding licenses that have been previously renewed on October thir-  
31 ty-first of each year from the assigned date unless renewed. If the  
32 assigned date results in a term that exceeds twenty-four months, the  
33 applicant shall pay an additional prorated adjustment together with the  
34 regular renewal fee. The secretary of state shall assign dates to exist-  
35 ing licenses in a manner which shall result in a term of not less than  
36 two years.

37 2. Corporations and co-partnerships. If the licensee be a corporation,  
38 the license issued to it shall entitle the president thereof or such  
39 other officer as shall be designated by such corporation, to act as a  
40 real estate broker. For each other officer who shall desire to act as a  
41 real estate broker in behalf of such corporation an additional license  
42 expiring on the same date as the license of the corporation shall be  
43 applied for and issued, as hereinbefore provided, the fee for which  
44 shall be the same as the fee required by this section for the license to  
45 the corporation. No license as a real estate [~~salesman~~] salesperson  
46 shall be issued to any officer of a corporation nor to any manager or  
47 member of a limited liability company nor to a member of a co-partner-  
48 ship licensed as a real estate broker. If the licensee be a co-partner-  
49 ship the license issued to it shall entitle one member thereof to act as  
50 a real estate broker, and for each other member of the firm who desires  
51 to act as a real estate broker an additional license expiring on the  
52 same date as the license of the co-partnership shall be applied for and  
53 issued, as hereinbefore provided, the fee for which shall be the same as  
54 the fee required by this section for the license to the co-partnership.  
55 If the licensee be a limited liability company, the license issued to it  
56 shall entitle one member thereof or one manager thereof to act as a real

1 estate broker, and for each other member or manager of the firm who  
2 desires to act as a real estate broker an additional license expiring on  
3 the same date as the license of the limited liability company shall be  
4 applied for and issued, as hereinbefore provided, the fee for which  
5 shall be the same as the fee required by this section for the license to  
6 the limited liability company. In case a person licensed individually as  
7 a real estate broker thereafter becomes an officer of a corporation or a  
8 member or manager of a limited liability company or a member of a  
9 co-partnership an application shall be made in behalf of such corpo-  
10 ration, limited liability company or co-partnership for a broker's  
11 license for [~~him~~] them as its representative for the remainder of the  
12 then current license term, provided that the license and pocket card  
13 previously issued to the licensee in [~~his~~] their individual capacity  
14 shall have been returned to the department whereupon the department  
15 shall cause a properly signed endorsement to be made without charge on  
16 the face of such license and pocket card as to such change of license  
17 status and return the license and pocket card to the licensee.

18 § 11. Paragraph (a) of subdivision 1, subparagraphs (i) and (iv) of  
19 paragraph (b) of subdivision 1, and subdivisions 2 and 4 of section  
20 441-c of the real property law, paragraph (a) of subdivision 1 as sepa-  
21 rately amended by chapters 687 and 696 of the laws of 2021, subpara-  
22 graphs (i) and (iv) of paragraph (b) of subdivision 1 as amended by  
23 chapter 398 of the laws of 1997, and subdivisions 2 and 4 as amended by  
24 chapter 347 of the laws of 1966, are amended to read as follows:

25 (a) The department of state may revoke the license of a real estate  
26 broker or [~~salesman~~] salesperson or suspend the same, for such period as  
27 the department may deem proper, or in lieu thereof may impose a fine not  
28 exceeding two thousand dollars payable to the department of state,  
29 provided that fifty percent of all moneys received by the department of  
30 state for such fines shall be payable to the anti-discrimination in  
31 housing fund established pursuant to section eighty-a of the state  
32 finance law, or a reprimand upon conviction of the licensee of a  
33 violation of any provision of this article, or for a violation of subdi-  
34 vision four of section four hundred forty-two-h of this article, or for  
35 a material misstatement in the application for such license, or if such  
36 licensee has been guilty of fraud or fraudulent practices, or for  
37 dishonest or misleading advertising, or has demonstrated untrustworthi-  
38 ness or incompetency to act as a real estate broker or [~~salesman~~] sales-  
39 person, or for a violation of article fifteen of the executive law  
40 committed in [~~his or her~~] their capacity as a real estate broker or  
41 [~~salesman~~] salesperson, as the case may be. In the case of a real estate  
42 broker engaged in the business of a tenant relocater, untrustworthiness  
43 or incompetency shall include engaging in any course of conduct includ-  
44 ing, but not limited to, the interruption or discontinuance of essential  
45 building service, that interferes with or disturbs the peace, comfort,  
46 repose and quiet enjoyment of a tenant.

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

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

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

26 4. Whenever the license of a real estate broker or real estate [~~sales-~~  
27 ~~man~~] salesperson is revoked by the department, such real estate broker  
28 or real estate [~~salesman~~] salesperson shall be ineligible to be reli-  
29 censed either as a real estate broker or real estate [~~salesman~~] sales-  
30 person until after the expiration of a period of one year from the date  
31 of such revocation.

32 § 12. Section 441-d of the real property law, as amended by chapter  
33 226 of the laws of 1980, is amended to read as follows:

34 § 441-d. [~~Salesman's~~] Salesperson's license suspended by revocation or  
35 suspension of employer's license. The revocation or suspension of a  
36 broker's license shall operate to suspend the license of each real  
37 estate [~~salesman~~] salesperson associated with such broker, pending a  
38 change of association of the [~~salesman~~] salesperson or the expiration of  
39 the period of suspension of the broker's license. Such suspension of the  
40 [~~salesman's~~] salesperson's license shall be deemed to be a discontin-  
41 uance of association with the broker being suspended.

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

46 1. Denial of license. The department of state shall, before making a  
47 final determination to deny an application for a license, notify the  
48 applicant in writing of the reasons for such proposed denial and shall  
49 afford the applicant an opportunity to be heard in person or by counsel  
50 prior to denial of the application. Such notification shall be served  
51 personally or by certified mail or in any manner authorized by the civil  
52 practice law and rules. If the applicant is a [~~salesman~~] salesperson or  
53 has applied to become a [~~salesman~~] salesperson, the department shall  
54 also notify the broker with whom such [~~salesman~~] salesperson is associ-  
55 ated, or with whom such [~~salesman~~] salesperson or applicant is about to  
56 become associated, of such proposed denial. If a hearing is requested,

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

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

34 § 14. Subdivision 1 and paragraph (i) of subdivision 2 of section 442  
35 of the real property law, as amended by chapter 514 of the laws of 2014,  
36 are amended to read as follows:

37 1. No real estate broker shall pay any part of a fee, commission or  
38 other compensation received by the broker to any person for any service,  
39 help or aid rendered in any place in which this article is applicable,  
40 by such person to the broker in buying, selling, exchanging, leasing,  
41 renting or negotiating a loan upon any real estate including the resale  
42 of a condominium or cooperative apartment unless such a person be a duly  
43 licensed real estate [~~salesman~~] salesperson regularly associated with  
44 such broker or a duly licensed real estate broker or a person regularly  
45 engaged in the real estate brokerage business in a state outside of New  
46 York; provided, however, that notwithstanding any other provision of  
47 this section, it shall be permissible for a real estate broker to pay  
48 any part of a fee, commission, or other compensation received to an  
49 unlicensed corporation or an unlicensed limited liability company if  
50 each of its shareholders or members, respectively, is associated as an  
51 individual with the broker as a duly licensed associate broker or  
52 [~~salesman~~] salesperson.

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

55 § 15. Section 442-a of the real property law, as amended by chapter  
56 226 of the laws of 1980, is amended to read as follows:

1 § 442-a. Compensation of [~~salesmen~~] salespersons; restrictions. No  
2 real estate [~~salesman~~] salesperson in any place in which this article is  
3 applicable shall receive or demand compensation of any kind from any  
4 person, other than a duly licensed real estate broker with whom [~~he~~]  
5 they associated, for any service rendered or work done by such [~~sales-~~  
6 ~~man~~] salesperson in the appraising, buying, selling, exchanging, leas-  
7 ing, renting or negotiating of a loan upon any real estate.

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

10 § 442-b. Discontinuance or change of [~~salesman's~~] salesperson's asso-  
11 ciation; report. When the association of any real estate [~~salesman~~]  
12 salesperson shall have been terminated for any reason whatsoever, [~~his~~]  
13 their broker shall forthwith notify the department of state thereof in  
14 such manner as the department shall prescribe. Where change of such  
15 [~~salesman's~~] salesperson's association is the basis for such termi-  
16 nation, the [~~salesman's~~] salesperson's successor broker shall forthwith  
17 notify the department of such change in such manner as the department  
18 shall prescribe, such notice to be accompanied by a fee of one dollar.  
19 No real estate [~~salesman~~] salesperson shall perform any act within any  
20 of the prohibitions of this article from and after the termination for  
21 any cause of [~~his~~] their association until [~~he~~] they thereafter shall  
22 have become associated with a licensed real estate broker.

23 § 17. Section 442-c of the real property law, as amended by chapter  
24 699 of the laws of 1988, is amended to read as follows:

25 § 442-c. Violations by [~~salesmen~~] salespersons; broker's responsibil-  
26 ity. No violation of a provision of this article by a real estate  
27 [~~salesman~~] salesperson or employee of a real estate broker shall be  
28 deemed to be cause for the revocation or suspension of the license of  
29 the broker, unless it shall appear that the broker had actual knowledge  
30 of such violation or retains the benefits, profits or proceeds of a  
31 transaction wrongfully negotiated by [~~his-salesman~~] their salesperson or  
32 employee after notice of the [~~salesman's~~] salesperson's or employee's  
33 misconduct. A broker shall be guilty of a misdemeanor for having any  
34 [~~salesman~~] salesperson associated with [~~his~~] their firm who has not  
35 secured the required license authorizing such employment.

36 § 18. Section 442-d of the real property law, as amended by chapter  
37 324 of the laws of 1998, is amended to read as follows:

38 § 442-d. Actions for commissions; license prerequisite. No person,  
39 copartnership, limited liability company or corporation shall bring or  
40 maintain an action in any court of this state for the recovery of  
41 compensation for services rendered, in any place in which this article  
42 is applicable, in the buying, selling, exchanging, leasing, renting or  
43 negotiating a loan upon any real estate without alleging and proving  
44 that such person was a duly licensed real estate broker or real estate  
45 [~~salesman~~] salesperson on the date when the alleged cause of action  
46 arose.

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

49 5. The secretary of state shall have the power to enforce the  
50 provisions of this article and upon complaint of any person, or on [~~his~~]  
51 their own initiative, to investigate any violation thereof or to inves-  
52 tigate the business, business practices and business methods of any  
53 person, firm or corporation applying for or holding a license as a real  
54 estate broker or [~~salesman~~] salesperson, if in the opinion of the secre-  
55 tary of state such investigation is warranted. Each such applicant or  
56 licensee shall be obliged, on request of the secretary of state, to

1 supply such information as may be required concerning [~~his~~] their or its  
2 business, business practices or business methods, or proposed business  
3 practices or methods.

4 § 20. Subdivisions 1, 4, and 6 of section 442-g of the real property  
5 law, subdivision 1 as amended by chapter 744 of the laws of 1978, subdivi-  
6 sion 4 as amended by chapter 482 of the laws of 1963, and subdivision  
7 6 as added by section 2 of part D of chapter 328 of the laws of 2014,  
8 are amended to read as follows:

9 1. A nonresident of this state may become a real estate broker or a  
10 real estate [~~salesman~~] salesperson by conforming to all of the  
11 provisions of this article, except that a nonresident broker regularly  
12 engaged in the real estate business as a vocation who is licensed and  
13 maintains a definite place of business in another state, which offers  
14 the same privileges to the licensed brokers of this state, shall not be  
15 required to maintain a place of business within this state. Anything to  
16 the contrary herein notwithstanding, if any state prohibits or restricts  
17 the right of a resident of this state to become a licensed nonresident  
18 real estate broker or [~~salesman~~] salesperson, then the issuance of such  
19 a license to an applicant resident in such state shall be similarly  
20 restricted. The department of state shall recognize the license issued  
21 to a real estate broker or [~~salesman~~] salesperson by another state as  
22 satisfactorily qualifying [~~him~~] them for license as broker or [~~salesman~~]  
23 salesperson, as the case may be, under this section; provided that the  
24 laws of the state of which [~~he is~~] they are a resident require that  
25 applicants for licenses as real estate brokers and [~~salesmen~~] salesper-  
26 sons shall establish their competency by written examinations but permit  
27 licenses to be issued to residents of the State of New York duly  
28 licensed under this article, without examination. If the applicant is a  
29 resident of a state which has not such requirement then the applicant  
30 must meet the examination requirement as provided herein and the depart-  
31 ment of state shall issue a license to such nonresident broker or  
32 [~~salesman~~] salesperson upon payment of the license fee and the filing by  
33 the applicant with the department of a certified copy of the applicant's  
34 license issued by such other state.

35 4. The secretary of state shall promptly send one of such copies by  
36 registered mail, return receipt requested, to the nonresident broker or  
37 nonresident [~~salesman~~] salesperson at the post office address of [~~his~~]  
38 their main office as set forth in the last application filed by him or  
39 her.

40 6. Notwithstanding any other provisions of this article, the depart-  
41 ment of state shall grant a real estate broker or a real estate [~~sales-~~  
42 ~~man~~] salesperson license to an applicant who is a member of the house-  
43 hold of a member of the armed forces of the United States, national  
44 guard or reserves and was a member of such household before such member  
45 of the armed forces relocated to the state who submits satisfactory  
46 evidence of licensure, certification or registration to practice an  
47 equivalent occupation issued by a state, territory, protectorate or  
48 dependency of the United States, provided that such license, certifi-  
49 cation or certificate of registration was current and effective within  
50 one year of the date of the individual's application for licensure in  
51 New York, was granted in compliance with standards that are, in the  
52 judgment of the secretary, no less rigorous than those required for  
53 licensure in New York. If such standards for licensure, certification or  
54 registration are deemed by the secretary to be less rigorous than those  
55 required for licensure in New York, the secretary shall permit an appli-  
56 cant to submit evidence in a form acceptable to the department of state

1 to demonstrate the applicant's competency and trustworthiness. If such  
2 evidence is sufficient in the judgment of the secretary, the secretary  
3 shall grant a real estate broker or real estate salesperson license.

4 § 21. Paragraph j of subdivision 1 of section 443 of the real property  
5 law, as amended by chapter 549 of the laws of 2007, is amended to read  
6 as follows:

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

12 § 22. This act shall take effect immediately; provided, however, the  
13 amendments to paragraph (b) of subdivision 1 of section 441 of the real  
14 property law made by section six of this act shall take effect on the  
15 same date and in the same manner as section 1 of chapter 688 of the laws  
16 of 2021, takes effect, and the amendments to such paragraph (b) made by  
17 section seven of this act shall take effect on the same date and in the  
18 same manner as section 2 of chapter 697 of the laws of 2021, takes  
19 effect; and provided, further, the amendments to paragraph (c) of subdivi-  
20 sion 1 of section 441 of the real property law made by section eight  
21 of this act shall take effect on the same date and in the same manner as  
22 section 2 of chapter 697 of the laws of 2021, takes effect; and  
23 provided, further, the amendments to paragraphs (b) and (d) of subdivi-  
24 sion 1-A of section 441 of the real property law made by section eight-a  
25 of this act shall take effect on the same date and in the same manner as  
26 section 3 of chapter 697 of the laws of 2021, takes effect.