



https://www.dos.ny.gov/licensing/re_salesperson/re_sales_broker_faq.html#2

FAQ - Real Estate Salesperson and Broker

Do I need to be licensed?

Generally, Article 12-A of the Real Property Law provides that anyone who, on behalf of another and for a fee, 1) negotiates a sale, exchange or rental of real property, 2) collects rent, or 3) negotiates a commercial loan secured by a mortgage must be licensed as a real estate broker.

What is the difference between a real estate broker and a real estate salesperson?

A real estate broker is responsible for the supervision and conduct of the real estate brokerage business. He or she applies for and holds the license on behalf of the brokerage. This person is known as the "representative broker." A real estate salesperson works for and is supervised by the representative broker. The salesperson acts as the representative broker's agent. All listings, although perhaps negotiated by a salesperson, are accepted by the representative broker.

How do I become a real estate salesperson or broker?

Real Estate Salesperson:

In order to qualify for licensure as a real estate salesperson, an applicant must have satisfactorily completed a 75-hour salesperson qualifying education course in real estate approved by the Secretary of State, and have passed a qualifying examination administered by the Department of State. An applicant who completed the 45-hour salesperson qualifying course prior to July 1, 2008 may complete the 30-hour remedial course in order to qualify for licensure.

Real Estate Broker:

In order to qualify for licensure as a real estate broker, an applicant must have at least two years of experience as a licensed real estate salesperson or at least three years of experience in the general real estate field, or a combination of the both, meet the minimum points required for the experience type, (e.g., buying and selling your own property, managing property owned by your employer), have satisfactorily completed both the qualifying salesperson course of 75 hours and an additional 45-hour real estate broker course as approved by the Secretary of State, and have passed a qualifying examination administered by the Department of State. Please see application instructions for more detailed information. Please see application instructions for more detailed information.

NOTE: The 75 hour salesperson qualifying and 30 hour remedial courses are valid for 8 years past the course completion date and must be used to obtain a license or will expire and must be retaken.

Please note, that completion of a school administered proctored examination is required in addition to the qualifying examination administered by the Department of State. If you have any questions about the school proctored examination, please contact your school provider.

Once either of these courses have been applied towards a license, they will not expire and can be used for upgrade.

How do I manage my real estate license on line by using eAccessNY?

eAccessny is a secure, password-protected occupational licensing management system available online 24/7. [See eAccessNY FAQ](#)

How do I obtain a waiver from the 75-hour salesperson or 120-hour broker course requirement?

You must submit a written request stating the waiver you are applying for along with ORIGINAL proof of course completion, a detailed outline listing topics and hours, and a course description. (Home-study/correspondence courses are not accepted.) *The prelicensing salesperson's course must be at least 75 hours of classroom instruction and the broker's course, 120 hours.*

In addition, if you have a Bachelor's Degree with a concentration in real estate, you may qualify for a 120-hour qualifying course requirement waiver. Please submit an official transcript with your waiver request.

What are the Continuing Education Requirements?

All licensees submitting a renewal prior to July 1, 2021 are required to successfully complete 22.5 hours of approved continuing education, including at least 3 hours of instruction pertaining to fair housing and/or discrimination in the sale or rental of real property or an interest in real property and at least one hour of instruction pertaining to the law of agency except in the case of the initial two-year licensing term for real estate salespersons, two hours of agency related instruction must be completed within the two-year period immediately preceding a renewal.

Any salesperson who successfully completes an approved broker qualifying course (which requires passing the final exam), within their current term, will receive

continuing education credit for completion of that course. **Please note: The broker course does not satisfy the mandatory 3 hour fair housing requirement.**

Exemptions prior to July 1, 2021

Either of the below are exempt from the continuing education requirements:

- Any licensed real estate broker who is engaged full time in the real estate business and who has been licensed prior to July 1, 2008 for at least 15 consecutive years and has maintained continuous licensure (no breaks in licensure for reasons such as late renewal submission) or
- An attorney admitted to the New York State Bar who holds a real estate broker's license.

What are the Newly Adopted Continuing Education Requirements effective July 1, 2021?

All licensees will be required to successfully complete 22.5 hours of approved continuing education. The education must include at least 2.5 hours on the subject of ethical business practices, at least 1 hour of recent legal matters, at least 3 hours of instruction pertaining to fair housing and/or discrimination in the sale or rental of real property or an interest in real property and at least 1 hour of instruction pertaining to the law of agency except in the case of the initial two-year licensing term for real estate salespersons, 2 hours of agency related instruction must be completed within the two-year period immediately preceding a renewal.

The amendment also **REMOVES** the 15-year real estate broker continuing education exemption and **now requires all brokers who are currently exempted to complete continuing education starting July 1, 2021.**

Exemption

- Attorneys admitted to the New York State bar remain exempted for the continuing education requirement.

Who licenses mortgage brokers?

The license is issued by the Department of State. Anyone who negotiates or attempts to negotiate any mortgage loan other than a mortgage loan on residential property, in the state of New York, is required to be licensed as a real estate broker, or as a salesperson associated with a real estate broker.

When is registration with the Department of Financial Services Necessary?

To negotiate a mortgage loan on residential property (one to four family building) registration with the Department of Financial Services is required.

If I am a real estate management company, do I need a real estate broker's license?

That depends on what services you provide. If you collect rent or place tenants in vacant spaces on behalf of your landlord client, the answer is yes. If, on the other hand, your services are strictly maintenance, the answer is no. you are not acting as a fiduciary (not handling another person's money).

Whom do I call if I am not sure whether I completed my 22.5 hours of continuing education during my license term?

Contact the school(s) you attended. Schools are required by law to maintain course completion records for three years. You may request duplicate certificates from the school(s) in the event you are audited.

In order to renew my salesperson license, I completed the 45-hour broker qualifying course. Can I apply the extra 22.5 hours to my next license term?

No. The law clearly states that continuing education must be completed within each license term.

I could not complete the continuing education, but I wish to renew my license anyway. Can I apply for an extension?

Please refer to §177.6 in the real estate law booklet. Extensions will only be granted in *bona fide* hardship cases. You must submit the following, preferably prior to your license expiration: a written request for the extension, completed renewal form, fee, and original documentation demonstrating your hardship; *i.e.*, medical documentation.

What happens if I do not renew my license?

If you do not renew your license, you cannot conduct any real estate activities that require a New York State real estate license in accordance with Article 12-A of the Real Property Law. There are no grace periods that allow you to continue working while not licensed. You have two years from the date your license expires to renew your license. If you fail to renew within that period, you will be required to pass the state written

examination. No continuing education will be required to repeat the licensing process again.

When you submit your new salesperson application, you must include the following: your new examination results, application fee, and a copy of your expired license/pocket card or ORIGINAL proof of completing the salesperson course. If possible, it is better to submit original proof of your salesperson course. If you do not have an original certificate, then call the school where you took the course to request another certificate.

If you are applying for your broker's license, you must submit ORIGINAL proof of your 75-hour salesperson course and 45-hour broker course, or a copy of your expired broker's license.

I have been a real estate licensee for many years. Am I exempt from the continuing education requirements?

The law does currently provide for an exemption from this requirement for any licensed real estate broker who is engaged full time in the real estate business and who has been licensed for at least 15 consecutive years and has maintained continuous licensure (no breaks in licensure for reasons such as late renewal submission). This exemption must have been met prior to July 1, 2008. An attorney admitted to the New York State bar is also exempt from the continuing education requirement.

Effective July 1, 2021 all real estate brokers, with the exception of Attorneys admitted to the New York State Bar, must complete 22.5 hours of continuing education.

What Commission Rate Should I Expect to Pay?

The commission or compensation of a real estate broker is not regulated by statute or regulation, therefore the amount and terms are negotiable. A real estate broker shall never offer a property for sale or lease without the authorization of the owner.

Therefore, prior to the listing or marketing of a client's real property, it is incumbent upon the real estate broker and the client to mutually agree on a reasonable rate of compensation.

Can brokers pay rebates to customers and offer other incentives?

The payment of cash or offering an incentive to encourage a consumer to do business with a broker is permitted. The Real Property Law prohibits brokers from sharing commissions with unlicensed individuals. It is often misinterpreted as prohibiting the payment of cash or offering another business generating incentive to a consumer. This law prohibits a broker from sharing a commission as compensation for activity that would require a real estate license.

Can real estate brokers keep records in electronic format?

19 NYCRR § 175.23 which requires, inter alia, that real estate brokers maintain certain records for at least 3 years, also provides that such records may be maintained electronically. Specifically, Section 175.23 provides in relevant part “[e]ach licensed broker shall keep and maintain for a period of three years, paper and/or electronic records...” N.Y. Comp. Codes R. & Regs. tit. 19, § 175.23 (emphasis added). Accordingly, electronic records are not per se prohibited