



**CENTER FOR
REAL ESTATE
EDUCATION**

NYS TEST STUDY GUIDE

For New Jersey Real Estate Agents

ABSTRACT

This is a proprietary study guide created by the Alexander Anderson Center for Real Estate Education. This guide is intended for New Jersey real estate agents who wish to take their New York State real estate license exam.

Written by Coura
Gaye-Sow

Edited by Noelle
Frieson



First, Congratulations! You are taking the first steps towards becoming a dual licensed agent in both New Jersey and New York states. To take your New York State exam you must mail in the necessary forms for your New York Real Estate Education Waiver along with your certificate of completion from your original real estate school. The NY forms are located in the back of this book. Please read all of the requirements and directions provided by New York State before sending in the forms. Upon successful completion of the NY required steps you will receive an education waiver which will allow you to take the NY State exam.

Please note, you must be a licensed NJ real estate agent before you can request the education waiver for New York State.

This packet contains the following:

- A study packet for the NYS State Test. We here at the Center for Real Estate Education have compiled out the information from the NYS text book that is NYS specific. This is information that may differ from the State of New Jersey or may not be emphasized as much in the New Jersey textbook. Please note that we have tried to be as extensive as possible, however, the only way to get ALL of the information taught in the NYS course is to read the NYS text book.
- The New York State licensing application and instructions.

Instructions to Obtaining Your NY Sales Person License.

To obtain the NYS Education Waiver for the 75 Hour Licensing Course, you must

1. Submit a written request stating the waiver you are applying for.
2. A detailed outline listing topics and hours, and a course description.
3. Original proof of course completion:
 - a. If you are not a graduate from the Center for Real Estate Education, you must contact your original 75 Hour Course school to obtain an extra certificate.
4. Send a completed NYS application for Sales Persons and fees to the Department of Licensing Services. Please see the application and instructions in this packet.

If you have any questions, feel free to email, The Center for Real Estate Education, at info@recareercenter.com.



Table of Contents

1. LICENSING LAW & REGULATIONS
2. THE LAW OF AGENCY
3. AGENCY RELATIONSHIPS AND DISCLOSURE
4. ESTATES AND INTERESTS
5. LIENS AND EASEMENTS
6. REAL ESTATE INSTRUMENTS: DEEDS
7. REAL ESTATE INSTRUMENTS: LEASES
8. REAL ESTATE INSTRUMENTS - CONTRACTS
9. TITLE AND CLOSING COSTS
10. MORTGAGES
11. REAL ESTATE FINANCE
12. MORTGAGE BROKERAGE
13. LAND USE AND REGULATIONS
14. MUNICIPAL AGENCIES
15. INTRODUCTION TO CONSTRUCTION
16. VALUATION PROCESS
17. HUMAN RIGHTS AND FAIR HOUSING
18. ENVIRONMENTAL ISSUES
19. INDEPENDENT CONTRACTOR / EMPLOYEE
20. INCOME TAX ISSUES IN REAL ESTATE TRANSACTIONS
21. COMMERCIAL AND INVESTMENT PROPERTIES
22. PROPERTY MANAGEMENT
23. TAXES AND ASSESSMENTS
24. CONDOMINIUMS AND COOPERATIVES
25. PROPERTY INSURANCE
26. **NYS LICENSING FORMS**

LICENSING LAW & REGULATIONS

New York License Law:

Through real estate brokerage, New York License Law protects and prevents economic loss for the general public while maintaining high standards.

The **Department of State (DOS)** establishes the laws that govern the real estate profession and implement the rules and regulations of those laws. (<http://www.dos.ny.gov/licensing/index.html>)

The **salesperson or associate broker** transacts business in the name of the broker in conjunction with all.

Article 12-A relates to the licensing of real estate services. Any violation is considered to be at minimum a misdemeanor.

Violations are punishable by a fine of up to \$10,000, up to 1 year in jail, in case of administrative discipline, the licensee may be fined or reprimanded, or their license suspended or revoked. The most common violations are a substantial misrepresentation, failure to account or remit monies belonging to others, failure to appropriate property defect disclosure, obtaining a license fraudulently, interfering with the agency relationship of another, discrimination, and interruption of essential building service by real estate brokers providing tenant relocation services.

Licensees are entitled to a hearing with DOS and can be represented by legal counsel.

License Exemptions May Be Provided For:

- Attorneys licensed to practice in New York, they do not have to take the licensing examination but must request a broker's license from DOS and pay the required fees
- Public officials performing official public duties
- Under a court order
- Resident managers
- Tenant organizations and not-profit-organizations

Licensure Basic Requirements:

Salesperson:

- 18 years old
- Honest and trustworthy
- Never have been convicted of a felony or sexual offense
- Legal right to work in the USA
- 75 hours of pre-licensing course
- Pass the state exam
- Have a sponsoring licensed broker
- Pay a \$50 license fee (A pocket card will be issued to the licensee.)

Broker:

- 20 years old
- 45 hours of broker course
- For broker associates - Have a sponsoring broker
- Two years of experience and 3,500 points or three years of equivalent experience and 5,250 points
- Pay a \$150 license fee
- The broker keeps the licenses of salespersons and associate brokers

Changes In Business:

DOS must be notified online within five days of a change of name or place of business. The fees are \$10 per license and \$150 for a new license.

Termination: The broker must return the license to the licensee and file a termination of association with DOS. Between sponsors, the licensee cannot perform any work. The new broker must notify DOS and pay a \$20 fee.

Commissions:

- *The sponsoring broker for associated salespersons or brokers only pay **commissions**.*
- *A **kickback** refers to a situation in which a real estate agent improperly shares or receives money from a company for referral services.*
- *A **rebate** can be given to seller, buyer, landlord, or tenant as a business incentive and under the authority of the sponsoring broker.*
- *Interest in a property listed by a licensee for their own account is acceptable only if the licensee makes their position known to the owners involved.*

Advertising Rules:

- Name of the broker's firm must clearly indicate it is a real estate broker, full address or phone number must be included, and salesperson name may not be displayed more prominently than the broker's or firm name.
- The consent of the owner must be obtained before putting a real estate sign on the property.

Continuing Education:

Requirements are **22.5 hours of approved continuing education** with at least 3 hours that cover Fair Housing and 1 hour of Agency. Failure to complete the CE requirements may require a licensee to requalify for a license. Extensions are rarely approved.

Exemptions are granted to NY attorneys and brokers who are licensed for at least 15 consecutive years. Failure to renew will terminate permanently the exemption.

A licensee who does not renew within 2 years of expiration must retake the licensing examination.

General Rules for Operating a Brokerage Business in NY:

The place of business must be in New York.

Signs must be readily identifiable and principal broker's name printed on it.

The branch office must be under the supervision of the broker to whom the license to operate a branch office was issued. An associate broker may operate a branch office as an office manager under the principal broker's supervision. Each branch must have an original separate license and pay a \$150 fee.

Documents related to a real estate transaction must be kept on file for at least 3 years.

The broker must maintain a separate escrow account and avoid interest-bearing accounts unless with the written agreement of the parties who will receive the interest.

An unlicensed real estate assistant may engage in administrative activities only. They may NOT list, sell, hold open houses alone, or answer buyers' questions.

Property Condition Disclosure is required to be completed and signed by every seller. Delivery of the disclosure document must occur before the buyer signs a binding contract of sale.

- Once signed by the seller and the buyer a copy must be attached to the real estate contract. Failure to provide entitles the buyer to a \$500 credit against the purchase price.
- Uncapped natural well gas, if known by the seller, has to be disclosed before entering into a contract.

THE LAW OF AGENCY

The Law of Agency governs the business activity of a Brokerage.

An agency is a relationship based on trust and confidence between an agent and a principal or client. An agency relationship may also be called a fiduciary relationship. It is defined in **Article 12-A**.

The agency relationship can be expressed by oral or written agency agreement or implied from actions of the parties.

It can be created after the fact, by ratification, when one party continues to accept what was bargained for, after the parties realize that a mistake or misrepresentation occurred, or by estoppel when there is no express agreement, and someone claims to be an agent.

The broker is the agent of the client and sponsored licensees are a subagent of the client.

A cooperating broker that represents a buyer is not a subagent of the seller.

A client or principal working with an agent is entitled to **CCLOAD**.

A customer working with an agent is entitled to **reasonable skill and care, and disclosure of material facts and accounting of all monies**.

Dual agency is legal in New York with full disclosure and informed consent of all parties in writing.

If the agent offers real estate advice and counsel to someone other than the client, it can create an implied agency and possibly an undisclosed and unconsented dual agency that could be a breach of fiduciary duty to the original client.

Self-dealing occurs when a broker lists a property and then decides to buy it and collect the agreed commission. It may create an undisclosed dual agency and is **forbidden by NY laws** without informing the seller or the purchaser of their interest.

Major Categories of Agency Relationship

A **Universal Agent** has a wide range of authority delegated by the client. NYS law requires a signed and notarized power of attorney.

A **General Agent** handles tasks under detailed instructions; a power of attorney may be involved.

A **Special Agent** is the most restrictive form of agency with a specific task on behalf of the client under detailed instructions.

An **Agent with Interest** has some interest or ownership in the transaction. He/she cannot be fired, nor can the relationship be terminated.

The source of compensation does not determine agency.

More than one party to a transaction can compensate a broker with the informed consent of all parties.

Listing Agreements

NY statute of frauds requires that **listing agreements** with duration of 1 year or more be in writing to be enforceable.

Exclusive listings for a 1 to 3 family home have to attach the paragraphs defining the terms of exclusive right to sell or exclusive agency. They have to be in writing regardless of the duration.

All offers must be presented to the seller as soon as possible up to until the time the transaction closes.

Commissions:

Commissions are always negotiable and are typically an agreed upon percentage but can be a set fee and a sliding scale. Any agreement for commission should be in writing and signed by all parties.

The broker must be actively licensed, be the procuring cause, produce a ready willing and able buyer, and bring about a meeting of the minds.

Misrepresentation:

Misrepresentation is the most common complaint against licensees.

The agent gives wrong information in the listing, or when asked, states an opinion as a fact. *Please note: Not clearly stating that an opinion is an opinion, even without intent to deceive, is itself a misrepresentation.*

Puffing is an obvious exaggeration of the benefits of a property and is not illegal.

Actual or active fraud is an intentional misstatement or concealment of a material defect.

Constructive fraud is when the misstatement or concealment was unintentional, but the result is negligence or incompetence.

Antitrust Laws:

The Sherman Antitrust Act was passed in 1890 and enhanced in 1914 by the Clayton Act . This was the same year the Federal Trade Commission (FTC) was created.

Antitrust laws prohibit price fixing, group boycotting, market allocation, and tie-in arrangements (real and personal properties must be bought together).

Antitrust violations are felonies and penalties include fines and even imprisonment.

AGENCY RELATIONSHIPS AND DISCLOSURE

A precisely worded **agency disclosure** must be provided at the first substantive contact. Clients and customers should sign it, if not the agent must complete it and keep an affidavit.

It applies to all residential transactions (sale or lease within a building containing four or fewer dwelling units).

It does not apply to commercial transactions, but the law of agency does.

Anytime an agency relationship changes, a new form must be presented and signed.

The **NYS Agency Disclosure Form** does not create an agency relationship. Dual agency is permissible only with written consent of the parties. In-house sales are a risky type of accidental or implied dual agency.

Undisclosed dual agency can result in loss of license, disciplinary actions, and loss of commission.

Designated agency occurs when a broker designates two different salespersons to separately represent each party in a transaction.

A **broker-agent** is an agent of the listing broker but not a subagent of the seller. Broker-agents have fiduciary duties to the seller, but the seller is not liable for the acts of the broker-agent. This is intended to eliminate a seller's vicarious liability.

A seller does not have to offer **sub agency** to MLS members but can still gain exposure through the MLS.

The seller, buyer, or both may compensate a **buyer's agent**.

The broker must retain all signed forms and affidavits for 3 years.

NYS DOS requires that every listing contract contain an explanation of the difference between an exclusive right to sell and an exclusive agency.

New York statute of fraud requires that listing agreements of one year or more be in writing to be enforceable.

Net listings are illegal in New York.

Disclosures Required:

- **Property Condition Disclosure.** By the seller. If the disclosure is not available, a \$500 credit is due to the buyer at closing against the purchase price.
- **Lead Paint Disclosure.** Tenants and buyers are offered an opportunity to test for lead paint and to withdraw from the transaction if it is found. Failure to comply carries an \$11,000 penalty for each violation.
- A Lead Paint Disclosure is required for any property built before 1978. Buyers must be allowed 10 days in which to investigate potential lead-based paint hazards before the contract becomes binding.
- **Truth-in-Heating Disclosure.** NYS requires that sellers of one or two family dwellings make available two-year history of heating and air conditioning bills.
- **Sprinkler-System Disclosure.** NYS requires the landlord to disclose whether or not the rental property has sprinklers.
- **Bedbug Disclosure Law.** New York City (NYC) requires landlord or property managers to provide a one-year history of any bed-bug infestation.
- **Window Guard Disclosure.** New York City requires the tenant to disclose any children under 11. The landlord must provide the installation of window guards.

**If a property was the scene of a suicide or violent crime, there are paranormal activities, or sex offenders in the vicinity; the licensee need not disclose unless the sellers chose to do so.*

Any unsigned listing is equivalent to an open listing.

An **exclusive agency** or **exclusive right to sell** must be in writing and signed by the principal.

A verbal exclusive listing is not binding, and the principal may or may not honor it.

ESTATES AND INTERESTS

Land:

“**Land**” includes the surface, under the surface, and the air space above it. Ownership may be held by deed, by one or several different owners.

“**Real Estate**” includes the land and man-made improvements attached to it.

“**Real Property**” includes real estate and the bundle of legal rights.

Personal property or **chattels** become a fixture when it is permanently attached to the land and can be included in the real estate.

The basic economic characteristics of the land influence its value:

- Scarcity
- Improvements
- Permanence
- An area of preference

The physical characteristics of the land are:

- Immobility,
- Indestructibility
- Non-homogeneity

Estates:

An **estate** is a kind of ownership interest someone holds.

Freehold estates may be held indefinitely: fee simple, life estate, fee on condition, and fee qualified.

Leasehold estates have a definite length: rental tenancy.

New York is not a community property state and does not recognize *dower* and *curtesy*.

Homestead is not an estate in New York.

The tenancies recognized in New York are:

- Severalty
- In common
- By the entirety
- Joint

A **title** is held in trust when the trustor (original owner) conveys the title of the property to a trustee to administer the property on behalf of a beneficiary.

A business may own real estate through a **limited liability company, a corporation, a syndicate, or a joint venture**.

A **cooperative** creates house rules with their bylaws and individual owners hold shares of a proprietary lease.

A **condominium owner** has a fee simple title, pays common charges, and is responsible for its own real estate taxes.

A **condop** is a building with residential units owned as co-op and commercial units owned by the sponsor as condominium units.

Bodies of Water:

- Bodies of water are owned in a different way.
- **Riparian rights** refer to non-navigable water. The waterway is owned to the center.
- **Littoral rights** refer to large bodies of water. The landowner owns the land up to the high-water mark.

LIENS AND EASEMENTS

Liens:

A lien is a financial claim against a debtor. **Specific liens** cover one parcel of real estate while **general liens** cover real and personal property.

Real estate taxes are always the first lien.

The priority of liens is established in the order they are recorded. This priority can change subject to a subordination agreement between lienholders.

The different types of liens are:

- Mechanic liens
- Real estate tax lien that become a lien on the property in NYC on July 1st of each year
- Judgments
- Lis Pendens
- Federal estate taxes
- State inheritance taxes

A **vendor lien** is a claim by a seller against a buyer who failed to pay the entire purchase price.

A **vendee lien** is a claim by a buyer in the context of an installment contract, and the seller failed to convey title.

Easements:

An **Easement by Grant** happens when a property owner retains the right of ownership to the property. It may include clauses such as limited liability, limited access restoration rights, and revisionary rights of the property owner. These rights will not interfere with the easement holder's rights to use the property but will protect the owner's rights.

An **easement by prescription** in New York gives permanent rights to use another's property after 10 years.

A **party wall easement** is shared by two buildings and constructed in the boundary line between two owner's lots.

REAL ESTATE INSTRUMENTS: DEEDS

A **metes-and-bounds** description uses the physical location of monuments to describe an enclosed tract. They always end back at the point of beginning.

The **government survey** was established by congress and is seldom used in New York and the other original 12 states.

Recorded plats are filed in the recorder's office of the county.

The **block and lot** is considered the legal description and is assigned by the tax assessor. They are certified by a survey.

Latches are a type of statute of limitation (6 years) on a person's right to enforce their rights in a contract. After 6 years the rights are forfeited.

The **geodetic datum survey** uses New York Harbor for describing elevations of air lots, condominiums, and other vertical elevations. Benchmarks can be used to further supplement and refine the description of vertical elevations based on datum points.

A **deed** is a device by which an owner voluntary transfers title. To be valid it is subject to all requirements of a valid deed and must be delivered by the grantor and accepted by the grantee for the title to be considered transferred. It must occur during the lifetime of the grantor. A grantor cannot deliver a better deed than the one he has.

The different types of deeds are:

- Warranty Deed
- Bargain and Sale Deed (with covenant against the grantor's act)
- Bargain and Sale Deed (without covenants)
- Quit Claim Deed.

The **referee deed** is awarded by an auctioneer (the referee) when a property is bought at an auction and is the equivalent of a bargain and sale deed without covenants.

An **executor's deed** is delivered when an heir inherits real property and would be the equivalent of whatever the deed of the deceased person had to the property.

REAL ESTATE INSTRUMENTS: LEASES

If properly acknowledged, a lease of 3 years or more may be recorded to the public records.

NY statute of fraud requires that a lease of 1 year or more be in writing to be enforceable. Leasehold is classified as personal property.

All security deposit must be held in trust if the owner owns six or more residential units. The funds must be kept in a New York bank, with all interest, less a 1% fee, payable to the tenant.

For rent-stabilized apartment, no more than one-month rent may be charged for security deposit.

Under New York law, any building with four or more residential units, tenants have the right to sublet, but must first obtain the landlord consent. Leases are not terminated by the death of the tenant, the landlord, or the sale of the rented property.

A **novation** is the substitution of a new contract (or lease). The existing lease may be terminated, and a new lease substituted for it.

Some rules protecting the tenant in New York are:

- A landlord may not legally retaliate because a tenant joins a tenants' organization.
- If the landlord fails to furnish heat, the tenant may pay the utility company directly and deduct the sum from the rent.
- In a multiple dwelling at least one third of the tenants may start a court proceeding to use their rent money to remedy conditions dangerous to life, health, and safety.

Residential leases are based on a set rent for the premises.

Commercial leases are based on an annual dollar-per-square-foot rate.

REAL ESTATE INSTRUMENTS - CONTRACTS

A **contract** is a voluntary agreement between competent parties, supported by consideration, involving some lawful action or activity.

A contract can be express, implied, bilateral, or unilateral.

An **executed contract** has been fully performed.

An **executory contract** still has terms to be fulfilled.

In a real estate transaction, the attorneys for the seller and the buyer prepare the contract.

New York DOS does not confer the right to a real estate broker to draft legal documents or give legal advice. By doing so, the broker may lose his commission, his license, and face penalties or damages.

A party to a contract may transfer his rights and obligations to another by:

- **Assignment** - the written transfer of a party's interest to another who steps into the original party's position.
- **Novation** - the substitution of a new contract or parties in place of the original.

Legal remedies for an injured party in the event of a default are:

- The vendee may rescind the contract and recover their earnest money if the vendor defaults.
- The vendee may sue for specific performance and force the defaulting party (the vendor) to complete the transaction.
- The vendor may sue for liquidated damages and keep the deposit money to cover losses.

A contract will specifically state all the agreed upon terms and conditions of the transaction.

Additional information pertinent and included in a real estate contract of sale:

- **Lien Law:** New York lien law establishes that, where particular funds are to be received by owners, contractors, and subcontractors in connection with any improvements of real property, those individuals or entities become statutory trustees to the holding of statutory trust assets.
- The **merger clause:** covers the avoidance of precontract discussions and negotiations to survive the written contract and agreement.
- **No survival:** the contract and responsibilities of the parties cease at closing and transfer of the title.

Any person or entity with trust powers can hold **earnest money**, including but not limited to the broker or the lawyer.

- In **Downstate New York**, the seller's attorney holds the earnest deposit
- In **Upstate New York**, it is not uncommon for the broker to act as escrow and closing agent.

The **New York State Lawyer's Fund** protects the client from dishonest conduct in the practice of law, safeguards the good name of a lawyer for their honesty, promotes the general public's confidence in the administering of the justice system in the State of New York.

A **Flip Tax** may be required for co-op owners selling their units. It is an amount, or a percentage of the sales price based on their share, and the funds are put into a reserve account to help pay for future maintenance costs on the building. It is a way to have owners contribute their share of the costs for their use, enjoyment, and maintenance of the building.

An **option agreement** gives the optionee the exclusive right for a specific period of time to buy or lease the optionor property or some rights to the property.

The option may or may not be exercised. The optionee pays a fee for his right and has no other obligation.

In a **land contract** (also called Installment sales contract) the buyer takes possession of the property and is responsible for all expenses including real estate taxes but does not receive the deed until the purchase price has been fully paid.

TITLE AND CLOSING COSTS

A **deed** does not prove the grantor has an actual interest in the property. A **title search** is necessary to establish what interest if any, the party holds in any real property.

A **constructive notice** is given to the world by the act of recording in the public records.

An **actual notice** refers to real knowledge, information obtained by firsthand observation or investigation.

The forms of title used in New York are:

- Abstract of title and lawyer's opinion
- Owner's title
- Insurance policy
- Certificate of title

Torrens certificates are not used in New York State.

Closing may be held at a number of locations including a title company, lender, attorney, broker or county clerk's office. The attendees might include any interested party.

A broker may make arrangements for **appraisals, termite inspection, repairs, or might suggest the sources** of these services. An agent can arrange for and accompany a **walkthrough**.

Homeowner insurance policy protects the homeowner against loss from fire, theft, and liability.

A **coinsurance clause** requires the policyholder to insure for at least 80% of the property replacement cost.

Flood insurance is required in order to obtain a federally related mortgage loan for properties located in or near a floodplain.

Personal property insurance is optional for individuals who live in a condominium, co-op, or apartment, in addition to a homeowner's policy

The **Real Estate Settlement Procedure Act (RESPA)** is a federal law that applies when a using a federally related mortgage loan.

RESPA prohibits payment of kickbacks and unearned fees. Lenders are required to use the **Uniform Settlement Statement (HUD-1)** that includes the mandatory financial disclosures.

TILA-RESPA Integrated Disclosure (TRID) streamlines disclosure requirements during the loan application (Loan Estimate within 3 days of application) and closing process (Closing Disclosure Form at least 3 days before closing date).

The typical seller closing costs are:

- transfer taxes
- broker's commission
- attorney fees
- recording fees
- satisfaction of existing liens

The typical buyer closing costs are:

- Appraisal
- Credit report fees
- Inspection,
- Mortgage recording tax
- Title insurance premium
- Attorney fees
- Recording fees
- Mortgage insurance premium

The method of proration is determined by agreement of the parties. In New York, in case not specified, the custom suggests the 360/30 method of proration.

MORTGAGES

The **mortgagor (borrower)** executes a note (that set the interest, principal, and repayment schedule) agreeing to repay the debt.

The Mortgagor executes a mortgage, which allows the **mortgagee (lender)** to place a lien on the property as security for the note.

The **mortgage** is recorded and gives constructive notice and establishes the lien priority. A satisfaction or release is also recorded when the mortgage has been paid in full.

Mortgage payments are made in arrears.

The **acceleration clause** in the note allows the lender in case of a default to demand immediate payment of the entire balance. The mortgagee may initiate a foreclosure suit and seek a deficiency judgment in case the proceeds of the foreclosure sale are insufficient to satisfy the debt.

In New York, foreclosure is a judicial process. A notice of lis pendens is filed. If the borrower does not answer within 20 days, the lender will receive a summary judgment.

The auction date of the foreclosure sale must be advertised before the auction. The borrower is not allowed to bid at the auction. There is no right of redemption in New York State. Filing a bankruptcy generally does not stop a foreclosure.

In **Rem Property Tax Foreclosure** the bank will most likely either pay the taxes or buy the property at the auction.

Many large cities in New York no longer foreclose on property tax delinquencies. New York City has a tax lien sale every year in bulk.

If the owner does not pay the complete tax debt, the company that now owns the lien forecloses the property and it is either sold or auctioned off.

A debtor in possession is defined as a person who filed for bankruptcy but remained in possession of a property on which a creditor (a bank) has a lien.

Non-Conventional loans are sponsored by a government agency (FHA) or (VA).

A **recourse loan** is a deficiency judgment enabling the lender to go after personal property owned by the borrower.

Subsequent owners liable for outstanding deficiency judgments:

- Yes - if the new owner assumes the loan.
- No - if the new owner acquires the property subject to the mortgage.
- No - if bought at a foreclosure auction. The subsequent owner receives a clean title.

The **usury ceiling** floats in New York; the New York State Banking Board adjusts it periodically.

Loans to corporations and loans greater than \$2.5 million are exempt from the **statutory usury ceiling**.

New York is a **lien theory state**. The definition of hypothecation was originally understood to mean the pledge of property as collateral for a loan. This is exactly how a modern mortgage works in a lien theory state.

REAL ESTATE FINANCE

A mortgage loan can be structured in different ways such as:

- Shared equity loan
- Package loan
- Open-end mortgage
- Blanket mortgage
- Wraparound mortgage
- Graduated payment loan
- Reverse mortgage
- Purchase money mortgage
- Home equity loan
- Land contract
- Sale-and-lease back agreement

The most common mortgage loans available to homebuyers are:

- Conventional loans
- Fixed-rate mortgage loans
- Adjustable-rate mortgage loans
- FHA-insured loans
- VA-guaranteed loans

VA and FHA do not lend money themselves but rather insure or guarantee the loans. FHA charges an insurance fee (MIP) and VA a funding fee.

Lenders are permitted to charge reasonable discount points. Each point is equivalent to 1% of the loan amount.

In case of **negative amortization**, the monthly payment fails to cover the interest payment due, and the total debt increases after each payment is made.

In the *secondary market*, **Fannie Mae** and **Freddie Mac** create guidelines that designate which loans they are prepared to buy from the banks. They purchase the loans from the originators and warehouse them until investors are available to purchase them.

Ginnie Mae guarantees only securities that are backed by single and multifamily homes. These securities are used as collateral for the issuance of securities on Wall Street that are bought by investors.

Sonny Mae or the State of **New York Mortgage Agency (SONYMA)** provides low-interest loans and low down payment to mostly first-time homebuyers.

These loans use government money but are made through local lenders. Income and price limits vary from one region to another but are usually in the moderate category.

Regulation Z or **truth in lending law** requires lenders disclose all financial charges and closing information within 72 hours before closing. The law also provides strict regulations about advertising of credit terms.

The main concerns in underwriting a loan are:

- Value of the property
- Income
- Debt
- Credit history
- Employment history
- Liquid assets
- Cash to close

The **loan to value (LTV)** is the ratio of debt to value of the property. The lower the ratio of debt, the higher the down payment.

PMI is required for any loan with less than 20% down payment. The PMI (private mortgage insurance) insures the difference between the buyer's down payment and the required 20%.

Two ratios are applied to determine the sufficiency of a borrower income:

- A borrower may not spend typically more than 28% of their gross income on housing expenses.
- A borrower may not spend typically more than 36% of their gross income on housing expenses and other long-term debt payment combined.

The characteristics of **predatory lending** are loans with high-interest rates, large closing costs and urging the borrower to refinance again and again.

New York State Law defines **predatory lending** for loans with interest rates eight or more percentage points over the yield on comparable treasury notes. Closing costs of 5% or more of the amount borrowed and also unreasonable balloon payment arrangements.

The characteristics of subprime loans are:

- High interest rates
- High closing costs
- Hidden fees
- Balloon payments
- Unqualified buyers
- High foreclosure rates

MORTGAGE BROKERAGE

A **mortgage broker** introduces a borrower to a lender for a fee. He is registered with the NYS Banking Department and has the ability to place, negotiate, solicit and process residential and commercial loans. He will also carefully explain loans and payment options.

He is required to have at least 2 years of experience in the analysis of credit, have underwriting experience or education (licensed real estate brokers or attorneys do not need to have two years experience), supply credit reports, supply fingerprints for a background check. License renewal is annual.

A **mortgage banker** will use their money to originate a loan

The NYS requirements for licensing as a mortgage banker are as follow:

- Net worth of no less than \$250,000
- Open line of credit of no less than \$1,000,000
- Posting a surety bond no less than \$50,000
- Five years experience
- Honest and trustworthy character
- Fingerprint and background check

The license is issued for one-year term.

Any financing with less than a 20% down payment requires a PMI for residential properties.

A usual 30% of the purchase price or the appraised value for commercial properties, whichever is less, requires PMI.

Equity financing, also known as mezzanine financing, is where borrowed funds are used as part of the down payment. In commercial real estate, a property will often appraise at a lower value and the buyer will pay a premium or will make an offer based on anticipated revenue.

Dual agency occurs when a real estate agent also acts as a mortgage broker. Disclosure and consent are required. The customer must be provided with a **mortgage broker dual agency disclosure form**.

LAND USE AND REGULATIONS

Private land-use controls are the only way owners maintain the character or control the use of subdivisions they have for sale. They are exercised through deed restrictions, registered in the county records office and may be enforced in court.

Public land-use control arises from the state's police power regarding zoning, health, fire and building codes, and environmental regulations and city planning through ordinance and city planning.

Government rights also include taxation, escheat, eminent domain, and police powers.

The public ownership ensures the availability of land for necessary public purposes such as parks, roads, and schools.

Zoning boards of appeal are established to consider applications for (and to grant or deny) special-use permits and variances and to allow nonconforming uses.

A use variance requires evidence of "unnecessary hardship". Owner applicant must show they are deprived of all economic use or benefit, the hardship is unique to the area, the variance will not change essential character of the neighborhood, and the alleged hardship is not self-created.

An area variance requires evidence of practical difficulty affecting the health, safety or welfare of the community.

The building codes are local ordinances that control the quality of new and existing construction by setting specific standard for material, sanitary equipment, electrical wiring, fire prevention standards and the like. When a building meets these standards a Certificate of Occupancy will be issued.

Article 9-A of the Real Property Law governs subdivided lands and includes requirements set by the **Interstate Land Sale Full Disclosure Act** and the environmental impact statement mandated by the state **Environment Quality Review Act (SEQRA)**. Most communities have also adopted subdivision regulations, often as part of a master plan.

State and federal agencies are empowered to preserve natural resources through legislation and control such as **CERCLA** and **SARA** and make landowners responsible for environmental cleanups.

MUNICIPAL AGENCIES

The **New York City Council** organization has 51 members representing 51 council districts in all five boroughs. They enact laws and make land-use decisions. In different municipalities, the number of council or board members varies, as do the powers that the council or board has. This is an elected body. City or town councils and village boards of trustees adopt new laws and ordinances on behalf of their constituents.

Each council has a list of committees and subcommittees.

Separate tax rates may be established for different homestead and non-homestead real estate. The residential tax rate may be higher than the commercial property tax rate. The assessed value by the tax assessor may or may not be the latest sales price or true market value of a property.

Government, schools, religious organizations, hospitals, senior citizens, and veterans qualify for full or partial property tax exemptions.

In New York City tax payments are made to the **New York City Department of Finance**, other municipalities have a receiver of taxes who collect taxes.

The law requires that all similar properties in a neighborhood be assessed at the same rate.

State and local government bodies control most subdivisions. A subdivision must comply with the overall master plan developed by the planning board. The master plan balances the need for growth and economic development and aesthetic issues and provides for infrastructure development.

By filing an **article 78 proceeding** with the New York State Supreme Court, a property owner may challenge decisions of the board for a variance of special use permit.

A property owner may gain relief from hardship due to zoning ordinances by:

- Special use permit: the use must provide a benefit that is otherwise unavailable in the area
- Variance: for owners that suffer a hardship that is not self-created and does not conform to the zoning regulation. That hardship has to be unique and not change the essential character of the neighborhood, the requested variance is not substantial, and there will be no adverse environmental effect

The **architectural review board** approves new constructions, major renovations, and signs.

The **wetland commission** requires that improvements on wetlands may be only made after obtaining a state permit. Most agricultural uses are exempt from wetland regulations.

The **landmark preservation commission** enacts regulations that protect buildings, areas, and neighborhoods that have historic or architectural significance by restricting the owner's right to alter the exterior of the building.

The **building department** is responsible for the safe and lawful use of property and buildings. It creates and enforces building codes and issue permits, trade licenses, and certificates of occupancy.

New York State has a **statewide building code** that applies wherever no code exists, if in conflict with a local municipality code the stricter code prevails.

Planning departments are responsible for land-use regulations and environmental review, preparation of plans and policies and providing planning information to public officials and government agencies. In New York City it is called the **Planning Commission**.

The **municipal engineer** is responsible for ensuring that construction for projects are executed properly and comply with the building code.

He is also responsible for the municipal infrastructures including streets, water mains, sewers, and that parks are in good repair.

A **septic system permit** can be obtained provided the soil has been tested (percolation test), the size of the septic tank is adequate for the number of bedrooms, the septic system plan is submitted by an architect or engineer to the NYS Department of Health.

INTRODUCTION TO CONSTRUCTION

The quality of materials and construction are established by state and local building codes to preserve health and safety in construction projects. Working drawings and written specifications are provided.

For foundations, concrete slab and pier-and-beam are most common. Slab on grade is a permanent foundation built on footing or a floating foundation made of concrete slab reinforced with steel.

The most common type of construction in NYS is wood-frame single-family homes.

The three different types of exterior wall framing are:

- Platform framing with each floor serving as a platform for the next story
- Balloon framing with continuous wall studs to the top of the next floor
- Post-and-beam framing uses interior posts to support ceiling planks and offers more potential for open plan space

The different **styles of windows** are casement, slider, sash, and jalousie.

The different **styles of doors** are panel, slab and hollow core.

A **skeleton roof framing** is either conventional or truss and is covered with plywood and shingles made of fiberglass or asphalt.

The **home interior** is finished with drywall panels and wall finishing is installed last.

The **electrical system** uses 110 volts for most outlets, and **NYS energy code** requires a minimum of 100 amps on all new construction. Lines underground or power poles can supply electrical power. Wiring materials include BX, Romex, conduit and Greenfield.

Ventilation systems provide fresh air to breathe, prevent the accumulation of moisture, and eliminate harmful and offensive gases and odor.

Heating systems used are hot air, hot water baseboard, and steam heat. They are powered with electricity, oil (above or underground tanks), or natural gas.

NYS Home Improvement Law requires that improvements made over \$500 be performed and guaranteed by a licensed contractor.

New homebuyers warranties by NYS law are:

- 1 year for construction and material
- 2 years for plumbing, electrical, heating and cooling, and ventilation systems
- 6 years for structural defects

Protective systems required by law in every residence are: carbon monoxide, smoke detector in every one or two-family house, condo and co-op

*NYC law in residences requires **window guards** with children under 10*

Sprinklers must be installed in offices buildings of 100 feet or higher by July 1st, 2019. High-rise residential and landmark buildings are exempt. All nursing homes must be protected by a supervised automatic sprinkler system.

VALUATION PROCESS

- Future: The value of a property is determined by the present worth of future benefits.
- Present: The marketplace determines the price.
- Past: The cost is the price paid when the owners bought it.

Types of value

Market value is the asking price in an open market in an arm's length transaction between a seller and buyer without duress.

Assessed value applies to taxation and may or may not reflect the market value.

Investment value takes into account the risk, capital loss, rate of return and management involvement.

Insurable value determines the amount of insurance required.

Value in use is derived from a property when its current use is not the property highest and best.

The **principle of substitution** applies in a market comparison approach and value is based on what someone will pay to acquire a similar property.

The **principle of anticipation** applies to the value of the present worth of future benefits. It is risky due to changing market conditions that can affect property values.

The **principle of conformity** exists when there is uniform and consistent construction style of properties.

Regression and progression principles involve the surrounding homes of a property.

External property influences are economies, which are direct results of the addition of area amenities or diseconomies, which result from non-local reasons or events.

Increasing return occurs when improvement causes the overall value to increase and **decreasing returns** when a property is over improved.

An **appraisal** is an unbiased estimate of value by studying the subject property through all three appraisal methods.

The **direct sales comparison** approach or market data approach compare similar properties that have sold.

The **cost approach** estimates the cost to rebuild the structure minus any loss due to physical, functional or external depreciation or obsolescence.

In appraisal, the life of a building is estimated at 40 years.

The **income capitalization approach** is most appropriate for income producing property and determined by the revenue generated by the property

The **GRM (gross rent multiplier)** is the ratio of the property sales price to the annual rental income.

The steps in the appraisal process:

- Definition of the assignment by identifying the real estate, the rights included and established the date of value.
- Preliminary analysis through selection and collection of value necessary for the observation of market and environmental conditions.
- Analysis of highest and best use as vacant or as improved.
- Estimation of land value against comparable land sales.
- Application of the three approaches to value: sales, cost and income capitalization.
- Reconciliation gives the most weight to the approach most appropriate for the subject property.
- Appraisal report is communicating the final value. Types of a report are oral, form and narrative (for large commercial properties).

The appraiser license depends on education and experience.

HUMAN RIGHTS AND FAIR HOUSING

Administrative relief under the Fair Housing Act for discriminatory actions include:

- Injunction
- \$11,000 for a first violation
- \$27,500 for a second violation within five years
- \$55,000 for a third violation within seven years

Federal district court under the Fair Housing Act includes: injunction, actual and punitive monetary damages with no dollar limit, legal fees and court costs

Civil Rights Act of 1866 provides injunctive relief and monetary damages with no dollar limit. New York's three years statute of limitations for torts applies.

If violence is threatened or occurs, under the Federal Fair Housing Act of 1968, it should be immediately reported to the police or the FBI.

If the offender is licensed, a complaint may be filed with the DOS.

A complaint may be filed with the **New York State Division of Human Rights** within a one-year period.

Non-compliance to ADA requirements will result in a fine of \$55,000 for a first violation and \$110,000 for the second.

ADA regulations affect most commercial real estate. Landlords must make all reasonable accommodation including and not limited to pet services, and all new constructions must comply with the ADA.

Protected classes added in New York State to the federal classes are:

- age (over18)
- sexual orientation
- marital status
- military status
- domestic violence victims
- gender identity.

Protected classes added in New York City are:

- partnership status
- lawful source of income
- legal occupation
- citizenship

Some local governments have additional laws.

In April 2016, both HUD and NYS indicated that in some cases refusing tenancy because of a criminal history might be considered discrimination.

NYS exemptions to fair housing laws are:

- Public housing aimed at a specific age group
- Rental in tow family owner-occupied
- Rooms rented to the member of the same sex
- Room rented in one’s own home
- Rental to persons 62 or older and to families with one person 55 or older.

No Licensees may participate in these transactions, or the exception is voided.

NYS Prohibitions and Limitations on Soliciting Business

The NYS secretary of state may issue a non-solicitation order if deemed necessary due to blockbusting. There are no current non-solicitation orders due to the questions of constitutionality. Alternatively, the homeowners may put their names on a cease-and-desist list, which would ban licensees from contacting them.

Eligibility Requirements for Subsidized Housing

Eligibility entry age is determined by the government program under which the development’s construction was financed. HUD and RD will typically specify that the head of the household be age 62 or older. NYS agencies will often specify that the head of the household be 55 years or older.

Private pay housing to advertise themselves as “senior housing” must follow the guidelines of the **1988 Amendments to the Fair Housing Act** which states that either all tenants have to be 62 years or older, or at least 80% of the units be occupied by at least one person 55 years or older with the 20% being younger than 55.

ENVIRONMENTAL ISSUES

Long-standing environmental issues in real estate include drinking water and groundwater contamination, pollution and wood destroying insects.

Contemporary environmental issues in real estate are lead (in paint with a 10 days period allowed to buyers to have the property tested or pipes), radon, indoor air quality (sick buildings syndrome and building related illness), mold, polychlorinated biphenyls (PCBs used in electrical equipment, principally transformers), chlordane (pesticide) and underground storage tanks.

*Environmental assessment phases required by **SEQRA**:*

- Phase 1: general investigation
- Phase 2: sample testing and evaluation
- Phase 3 remedying the contamination
- Phase 4: management of environmental hazards

CERCLA established the superfund and owner liability for the cost of clean up.

SARA provided more funding for the superfund and clarified the lender liability issues. The innocent landowner defense exempts past or present owners from liability.

The Federal Resource Conservation and Recovery Act and the New York Underground Storage Tank Act regulates underground storage tanks over 1,100 gallons

INDEPENDENT CONTRACTOR / EMPLOYEE

The categorization derived directly from IRS determination.

Most real estate licensees work as independent contractors and qualify for tax deduction expenses. Independent contractors must file and pay quarterly income tax returns based on estimated earnings in addition to annual tax returns. This status limits the ability of the broker to control the activity of their salesperson even if he is legally liable for their actions.

A written agreement, the manner of compensation, tax, and social security withdrawals, employer-funded health care, work hours, and termination terms are used to determine whether a licensee is an employee or an independent contractor.

Safe harbor guidelines provide that the IRS will not challenge independent contractor status when the associate is a licensed real estate agent when the income is based solely on sales output, and the associate performs services pursuant to a written contract.

If these 3 tests are not met, the working relationship is by default that of an employer and employee.

Errors and omissions insurance may be carried by the broker on all salespersons regardless of whether they are employees or independent contractors.

Income reporting responsibilities of the broker to employees are obtaining their social security numbers, filling out a W4 form and preparing W2 or W3 forms at year end and distributing them to the employees.

INCOME TAX ISSUES IN REAL ESTATE TRANSACTIONS

The **Tax Relief Act of 1997** lowered the capital gains rate on taxes due on sale of a primary residence from 28% to 20% and now long-term capital gain is taxable at 15%.

The **tax deductions for mortgage interest payment** on loans to *purchase or build* are limited to \$500,000 if filing as single and \$1,000,000 if married filing jointly.

The **tax deductions for mortgage interest payment** on *home equity loans* are limited to \$50,000 if filing as single and \$100,000 if married filing jointly.

Closing costs are not deductible at the time of purchase but added to the cost and recovered when the property is sold for owner occupied. On investment property they are included in the basis for depreciation.

Second home and vacation homes are treated like primary residences as long as they are not rented for more than 14 days per year.

As part of the **2010 Health Care Act** there is a new **Medicare surtax of 3.8%** that does not apply to an owner occupant selling their home but applies to vacation homes, investment properties and commercial properties. The tax will apply to taxpayers with an income of over \$200,000 (\$250,00 for married filing jointly).

Three categories of income:

- Active (salaries, commissions)
- Passive (rents, stocks and bonds)
- Portfolio (dividends, interests, royalties)

Depreciation is a loss in value due to deterioration, functional obsolescence, and external obsolescence. An owner of a principal residence may not benefit from depreciation deductions. The tax rate of recaptured depreciation at the time of sale is 25%.

Low income housing incentives are offered to builders and developers that build or include low income housing in their construction through federal, state and municipal programs

COMMERCIAL AND INVESTMENT PROPERTIES

Three categories of risk in real investment:

- **Business risk** is analyzed to determine events that could undermine an investor's pro forma statement that is the projection and estimate of NOI (net operating income)
- **Capital risk:** does an investor have the ability to secure capital at an affordable rate?
- **Financial risk:** how much leverage can the investor utilize to achieve the return they expected to obtain?

Types of investment property:

- Unimproved land that produces little or no income and has a future potential value
- Commercial properties with office buildings, retail space, shopping centers/malls, hotels
- Single and multifamily residential. There will always be a demand in this category
- Multiuse (mixed use) property with generally the ground floor retail space
- Manufacturing properties with heavy or light industrial and warehouse building

The cash world is where the property is bought and sold. The tax world involves the tax consequences of buying and selling property.

Net operating income: projected income after all operational expenses but before deducting mortgage and taxes payments ($EGI - OE = NOI$)

Cash flow: cash in hand after deducting all expenses but not debt service

Potential gross income (PGI): potential income if the property was 100% leased

Vacancy and collection loss (V&C): a smart investor will include a 5% V&C loss when calculating NOI

Other income (IO): from parking, laundry room, personal storage ...

Effective gross income (EGI): is calculated after deductions have been made for vacancy and collection losses. ($PGI - V\&C + NOI = EGI$)

Operating expenses (OE) have three basic categories:

- Fixed expenses remain constant such as taxes, insurance premiums.
- Variable expenses depend on occupancy and vacancies such as management fees, repairs, payroll, utilities, and trash removal.
- Reserves are set aside for anticipated or unanticipated major capital improvements.

Cap rates are market driven because investors buy the income streams and cash flow that buildings generate. The before-tax cash flow (BTFC) is calculated by subtracting the debt service to the NOI. The equity dividend rate is the percentage of profit based on the investor's own cash and does not include borrowed funds. The after-tax cash flow is the remaining cash after deductions are made from the before-tax cash flow for income taxes resulting from the property's income activity.

The lender is only entitled to timely mortgage payments while the investor enjoys all the profits, the appreciation of the property, and the tax benefits. Leverage is used by the investor to buy properties without having to invest all their cash.

In commercial property, the rentable area is the total square footage or area of a space in an office that is used in calculating the annual rent. It can be calculated from the exterior or interior walls there no set rules.

The usable area is rentable area minus the loss factor and account for the space taken by personnel and office furniture and equipment.

The **loss factor** is usually expressed in percentage.

Loss factor = (rentable area – usable area) / rentable area. In office space, the loss factor will include a percentage of the hallways, lobby, elevator, and staircases even if the tenant does not have the exclusive use of these areas.

Common lease types:

- Gross lease: tenant will pay a fixed monthly rent (residential)
- Net leases: fixed rent plus utilities, maintenance, taxes and fuel cost (commercial/industrial)
- Percentage lease: fixed rent plus a percentage of gross monthly sales above a preset level (stores in mall)
- Loft lease: usually same as a net lease for storage and warehousing
- Graduated lease: long term the rent is increased annually based on some agreed-upon index

Lease Clauses:

- Use clause defines allowable use
- Attornment defines who the rent must be paid to
- Estoppel clause in case of a sale notification to the new owner of lease terms and rent payments
- Sublease and assignment the landlord must consent and have the right of recapture if the tenant charges a higher amount for sublease.

- On disturbance clause protects the tenant's lease in case of foreclosure and the bank has to recognize the lease and accept the tenant.
- Subordination clause can force the tenant out in case of foreclosure and can be catastrophic for a business and happen mostly in down times.

The three electric services in New York:

- Direct metered service in a residential household where each tenant has their own meter and pay their own electric bill
- Sub metered service. The landlord gets one bill and bills tenants their proportionate share.
- Rent inclusion electric service. Each tenant pays a fixed monthly fee based on the square footage of the space rented

A **lease escalation clause** defines how the rent will increase over the term of the lease. There will usually include a real property tax, operation expense, and escalation clauses. This is in addition to the annual rent increase.

A **base year** determines when increases go in effect and what it will be based on. Power wage escalation is when any employee who services a property has a raise in their salary or benefit. It is then passed on to the tenant. Rent increases may be based on a percentage increase or on the CPI (consumer price index) or any other agreed upon method.

PROPERTY MANAGEMENT

A person who performs property management, rent collection or places tenants must be a licensed broker. If the services are strictly maintenance, they do not need a real estate license.

Management services are used in residential, office, retail, and industrial properties

Management Agreement:

Creates an agency where the property manager is the general agent of the principal and as such owes loyalty.

The agreement contains the identification of the parties, description of the property, the length of the agreement, and the responsibilities and extent of the property manager's authority. It also includes, management fees, allocation of costs and property expenses that will be paid for by the owner.

Operation Responsibilities

Day to day operation, interior and exterior preventive care (to prevent future problems), corrective care (to take care of existing problems) or maintenance to renovate, inspections required by law, mechanical systems, janitorial services, landscaping, and parking.

A property manager should preserve the value of the investment and generate income for the owner and control operating income to maximize income.

Financial Reporting

Includes budgeting and controlling expenses, keeping accounts, reporting income and expenses, and conducting income analysis. The owner should expect monthly reports for receipts, expenses and cash flow.

Management Proposal

Includes:

- Market analysis (supply and demand and local competition)
- Knowledge of demographic
- Availability of government services
- Local wages and employment levels
- Transportation

Relevant data must be collected to assess if the property satisfies the needs in the neighborhood and their decision must be made based on attracting new tenants, collecting higher rents, assessing whether all available space is used effectively and if rental space generates the maximum rental income.

An **operating budget** based on anticipated revenue and expenses should reflect the long-term goals of the property owner. The budget should cover fixed expenses, capital reserve, salaries, renovation, and building maintenance. Insurance coverage must be sufficient to protect the owner from catastrophic loss.

A **marketing plan** will depend on the type of property and the best tool is a satisfied current tenant.

A property manager must be familiar with the laws and regulations regarding rental units, especially in residential properties

Section 8 Housing

It is an option for low and moderate-income housing. The property must meet certain standards and the qualified tenants pay no more than 30% of their income for rent and HUD will pay the balance.

Rental Rates

Rent levels are based on the supply and demand for vacancies and prevailing rental rates in comparable buildings. Annual rent adjustment is generally warranted. Occupancy will indicate if rents are too high or too low.

Types of leases:

- Net lease: commercial and industrial, generally based on a square foot per year basis
- Percentage lease: retail and mall, based on a fixed rent and a percentage of gross sales per month
- Gross lease: residential
- Graduated lease: escalation clause general based on the living index rate

A property manager's investigation for prospective tenants:

- Commercial tenant should include annual reports, local credit bureaus and previous landlord check in their lease application.
- Residential tenants investigations should be done to check references, credit, and previous landlord.

Tenant's Rights

In New York City and Buffalo, a tenant is entitled to a “habitable dwelling”, health and safety requirements according to the law and tenants should be informed about lead paint hazards. Regulations may vary in different municipalities.

The ***Office of Rent Administration - New York State Division of Housing and Community Renewal (DHCR)*** administers rent regulations in New York City.

Rent control regulations have been in effect since the end of WW II and regulate rent in residential properties with 3 or more units built before February 1947, apartment continuously occupied by the current tenant since July 1, 1971, tenants who have been in continuous residence since May 1, 1953 in a single or two family dwelling.

When an apartment is vacated, it becomes rent stabilized or is removed from the regulation.

DHCR determine maximum allowable rent increases outside NYC.

In New York City a ***maximum base rent (MBR)*** is established for every apartment and adjusted every two years. The tenants can challenge it if the landlord fails to provide or reduces essential services.

A landlord may increase rents if services are increased, major capital improvements are installed, or the landlord has a hardship or incurs a higher labor and fuel costs.

Rent stabilization Regulations Application:

- In New York City:
 - Buildings with six or more units that were built between February 1, 1947, and January 1, 1974.
 - In older buildings, if tenants move in before January 1, 1971.
 - Buildings built or extensively renovated since 1974 with special tax benefits.
 - Outside NYC: where communities have adopted the ETPA where the local rent stabilization boards set the rent increases annually. Tenants may choose a one or two-year renewal leases.

Luxury Decontrol:

Extended through June 2019, under the new rent law when a stabilized unit reaches a legal \$2700 or more monthly rent, the landlord may petition the DHCR and New York City Department of Finances to receive a determination of the occupant's household income. If the income is in excess of \$200,000 for the past two year the landlord may move to decontrol the apartment or if the apartment is not the primary residence of the occupant.

TAXES AND ASSESSMENTS

General real estate tax (ad valorem tax) is based on the value that may or may not reflect the market value and special assessment (improvement tax) that are paid only by those who would benefit from the improvement. They are levied against specific parcels of property. They have priority over all other liens.

The budget is created and appropriation authorizes the expenditures and provides the funds.

Taxing Process:

The tax assessor determines the taxable value of all real properties. Tax assessments rolls are open for public inspection. NYS real estate is assessed on a uniform value basis (except for NYC and Long Island). The assessed value is determined every time a property is sold and a deed recorded. The value and tax of neighboring properties can be affected.

Illegal improvements that are not reported to the tax assessor are subject to severe penalties. Upon completion of legal improvements, the tax assessor will reassess the property.

The **property tax bill** is based on the land and the improvement on the land values.

Tax abatements are offered to companies that build new buildings or improve existing buildings and hire additional employees. It is for a limited period of time and may be for as long as 15 years. In NYC property taxes cannot increase more than 20% per year and can be added at an incremental rate of 20 per year over the first five years of ownership.

The **NYS Board of Equalization and Assessments** determine an equalization rate for each municipality based on sales price. This does not apply when the property is assessed at full value.

The **mill rate or tax rate** is applied to each parcel of real estate property in a jurisdiction. All similar properties in a neighborhood must be taxed at the same rate.

Homestead properties include no more than four units, owner-occupied mobile homes, and condominium.

Non-homestead properties include industrial, commercial and most vacant lands.

Main reasons to qualify a property for tax reductions:

- Over assessment
- Disagreement on full value
- Unequal assessment ratio

- Examination of public records may show factual errors
- Property's value may be less than the estimated by the tax assessor

The tax assessor's decision could result in:

- Full grievance assessment reduction
- Partial grievance assessment reduction 3/ no reduction.

A meeting with the assessor may resolve the problem.

A small claim procedure is available in NYS for owner-occupied, one to four family dwellings, if the equalized value is less than \$150,000 or if the reduction sought is less than 25%.

Assessment protest can also be taken to the regular court system in a tax certiorari proceeding.

There is no statutory redemption if a property is sold at a tax sale auction. The previous owner's rights are terminated.

Veterans:

Tax exemptions are available for veterans in New York State.

All properties have to be occupied by the veteran and are based on the assessed value.

15% for veterans who served during wartime or received an expeditionary medal with an additional:

- 10% to combat zone veterans
- Disabled veterans equal to one half of their service-connected disability ratings

Maximum exemptions for veterans specified in law are:

- \$12,000 for wartime veterans
- \$8,000 for combat zone veterans
- \$40,000 disabled veterans

Towns may increase or decrease these exemptions.

New York City may increase the maximum incrementally to as high as \$54,000, \$36,000 and \$180,000 respectively.

CONDOMINIUMS AND COOPERATIVES

Co-op:

A co-op owner receives a stock certificate and a proprietary lease. The monthly maintenance fee includes all maintenance expenses plus underlying mortgage payment if any. The board of directors establishes the rules for admission. Co-op owners are entitled to receive the same real estate tax benefits as homeowners as they pay interest on the underlying mortgage and real estate taxes.

If a co-op owner defaults on the co-op loan payment or maintenance fees he may be evicted.

Documents involved in the sale or purchase of a co-op:

- Proprietary lease: Occupancy agreement
- Stock certificate: The number of shares is calculated based on the size of the unit, the floor, and the view. It determines the monthly maintenance amount and the number of votes when electing board members
- Offering plan: Also known as the black book is passed down at every resale. It is a legal requirement in New York State. It provides a full and complete disclosure of all pertinent information required by a buyer to make an informed decision
- House rules: Rules that govern all shareholders
- Alteration agreement: Written approval to make renovations. Shareholder may be required to post a bond
- Credit report authorization: Credit report and background check may be required
- Documentation and personal information
- Contract of sale and signed bank commitment

A board is under no obligation to give an applicant a reason for refusal of admittance. Timing is everything as the board generally meets once a month. Financing a co-op for investment is very difficult

Three types of shares in a co-op:

- Sponsor shares: Held by the original sponsor. The board has no control over them. The sponsor may sell without the board approval
- Unsold shares: An entity is designated by the sponsor to hold them and has the same rights as the sponsor. A holder of unsold shares may not reside in the unit.
- Sold shares: Owned by parties who reside in a unit of the co-op.

Condominiums:

The unit owner receives a deed and a fee simple. They are subject to the covenants, conditions, and restrictions (CC&R) in the bylaws of the owner's association, which may have the first right of refusal. Ownership does not necessarily include ownership of the land they will be buying and airspace.

Condos and Co-ops Conversion:

In New York City any shared housing is considered a public offering and falls under the jurisdiction of the office of the attorney general of New York State.

For condominiums, the offering plan must be filed with the attorney general office. After review of the preliminary prospectus or red herring by the attorney general, they will be made available to the current tenants of the property. Any alteration or amendments made to the initial offering plan must be filed with the attorney general office, and a copy should be given to every current owner and be included in the black book. For new constructions, the buyer should exercise due diligence. Once the decision is made the buyer will issue a nonbinding letter of intent to reserve the unit.

The ***plan or black book*** is offered to all potential buyers.

The ***non-eviction plan co-op conversion*** protects a tenant who decides not to buy but remain as a tenant.

In Nassau, Westchester, and Rockland counties at least 15% of the tenants must agree to buy their units for the plan to be effective.

In New York City, 15% or more of the units can be sold to tenants or non-tenants for the plan to become effective.

The ***eviction plan co-op conversion*** requires that the sponsor who wants to evict the tenants who do not want to buy their unit must have 51% of the tenants buy their units or the plan will not be effective.

Any condominium purchase of \$1,000,000 or more is subject to mansion taxes.

Condops:

It is a combination of condominiums and co-ops in one building. The sponsor or developer retains ownership of passive income (professional or retail space).

There is condominium ownership of the land by the residential unit owners and by the developer for commercial units. The residential units are owned as co-ops and are subject to the condominium bylaws. The co-op owner receives flexibility on matters concerning sales and subletting.

PROPERTY INSURANCE

The purpose of property insurance is to protect the integrity of the property against all major risk factors such as fire, theft, vandalism, and liability. Any financing with less than 20% down payment requires an escrow of property insurance and real estate taxes. The borrower will make **PITI (principal, interest, taxes, and insurance)** payments to the banks all included in the monthly payment.

An insurance company may refuse to renew a policy depending on the loss run schedule, which shows the claim history. Insurance policies usually last for a one-year period.

2 types of risk:

- Dynamic risk (uninsurable items)
- Static risk (insurable items).

Either the property manager or the owner is responsible for assessing the required insurance coverage and getting effective coverage in place.

For residential property, owners can buy a policy directly from an insurance company or independent insurance agents. For commercial properties, the insurance companies prefer that the coverage be placed through an insurance broker.

Types of insurance coverage available:

- Coverage type, limits, and price will vary depending on the property type being covered
- Homeowners: Insures against fire, vandalism and other property damage. It also includes liability insurance. A buyer must have a homeowner policy in effect on the date of closing that covers at least the mortgage loan amount. A certificate of insurance will be enough proof for the lender that coverage is in effect. The coverage must be sufficient to protect the lender against loss of the loan amount and must name the lender as the lienholder and copayee in the event of a claim being filed. It does not apply to income producing and commercial properties. Insurance premiums are higher on investment properties because they are considered a higher risk.
- Fire and hazard: Covers loss and damage due to fire and also caused by wind, hail, smoke and civil insurrection.
- Business interruption: Loss of income
- Content and personal property: Building contents, personal property and personal property that has been removed from the premises.
- Liability: All risks and medical expenses due to the landlord or owner negligence, and injuries to employees who are doing their jobs (see workers' compensation).
- Casualty: Covers theft, burglary, vandalism, and machinery damage.

- Surety bonds: Covers the owner against financial loss due to illegal or negligent activities of employees while performing their duties.
- Boiler and machinery: Covers repair or replacement of major equipment
- Umbrella: Available for personal and commercial properties and is designed to fill the gaps and will cover almost anything that is not already covered.
- Flood insurance: For properties located in a flood zone. Flood damages or loss are not covered by other insurance coverage. It is required for federally related mortgages and only available from the **Federal Emergency Management Agency (FEMA)** but may be bought through insurance brokers designated by FEMA. Flood zones and maps are identified by the Army Corps of Engineers throughout the US.
- Life insurance: Insures payment of mortgage balance should the owner die. When there is a tenant in common ownership, only the balance of their share of the mortgage will be paid off in the event of death.
- Lower premiums: Apply to properties that qualify as HPR (highly protected risk). The building would be fireproof, have sprinklers, alarm and security systems, camera, fence, dogs.
- A monocline policy restricts coverage to one line or area of coverage
- A package policy offers a variety of coverage types.

Property Value Determination in an Insurance Claim:

Insurance companies use the cost approach when a claim is made. They may either use the depreciated value or the replacement value of the property when settling a claim.

The replacement cost is what the builder will charge to rebuild the damaged property, including materials.

Coinsurance Clause: requires coverage for up to 80% of the property replacement value. Federal tax laws state the land is never depreciated and represents 20% of the property value.

The maximum coverage a property owner can get is the purchase price or the appraised value whichever is less. Property cannot be over insured, but the coverage may increase over time to cover appreciated value

Six kinds of Homeowner policy packages:

- HO-1 basic coverage
- HO-2 Broad form; offers increased coverage
- HO-3 comprehensive coverage
- HO-4 specifically cover apartment tenants and condominium and co-op owners
- HO-5 comprehensive policy that covers all except flood, earthquake, war and nuclear attack
- HO-6 broad policy form specifically designed for condominium owners.



Date

To Whom It May Concern:

This letter is to certify that _____ successfully completed the 75 Hour Real Estate Salesperson Pre-Licensing Course for the State of New Jersey at the Alexander Anderson Center for Real Estate Education, located at 66 Moore Street, Hackensack, NJ 07601.

The Alexander Anderson Center for Real Estate Education, also referred to the Center for Real Estate Education, is licensed through the State of New Jersey Department of Banking and Insurance, Real Estate Commission. Our License Reference Number is 1862604.

This course included topics on:

Real Estate Licensing	Leases: Landlord Tenant
Commission Rules and Regulations	Mortgages
Agency, Brokerage and Ethical Considerations	Financing
Fair Housing	Appraisals
What is Real Estate	Investment and Business Brokerage
Estates and Interest	Subdivision and Development
Ownership of Real Estate	Legal Descriptions and Deeds
Real Estate Taxes	Transfer of Title
Land-Use Regulations and Environmental Issues	Public Records, Titles, and Closings
Listing Agreements	Real Estate Math
Real Estate Contracts	

Please grant said student a Real Estate Licensing Education Waiver.

Student's Full Name:

Date of Licensing Course Completion:

If you have any questions about the education of the student listed above, please feel free to contact Noelle Frieson, School Administrative Director, at info@recareercenter.com or 201.343.6640.

A handwritten signature in black ink that reads "Noelle Frieson".

Noelle Frieson
School Administrative Director
Center for Real Estate Education
NJ License Reference Number 1862604



Real Estate Salesperson Application - Instructions

For faster service, apply online at:
www.dos.ny.gov

Please take the time to read the instructions carefully before beginning the application form. Incomplete forms will be returned, delaying licensure. Any omission, inaccuracy or failure to make full disclosure in an application may be deemed sufficient reason to deny a license or could result in the suspension or revocation, if one is issued.

What is in this package?

This package includes all the information and forms you will need to apply for licensure as a Real Estate Salesperson in New York State.

A completed application will include the application form, the nonrefundable \$55 application fee, and the appropriate documentation as it applies.

Please note: If you intend to be associated with more than one Real Estate Broker, you must file separate applications and fees for each such association, and consent from all your sponsoring brokers must be obtained prior to submission of this application. If you terminate association or change association, your principal broker must perform these transactions through the online services at www.dos.ny.gov.

What is a Real Estate Salesperson?

Under the supervision of a licensed real estate broker (with the exception of associate brokers), a real estate salesperson facilitates the purchase and sale of property on behalf of customers, obtains lists of property for sale with employing broker; assists buyers (customers) of real estate to locate and purchase property (listed with employing brokers or another broker). A real estate salesperson is associated with a real estate broker to list and negotiate the sale, lease, or rental of real property for others for compensation, under the direction and guidance of a responsible broker. A salesperson cannot operate independently.

Who must apply for a Real Estate Salesperson license?

Any person acting as a Real Estate Salesperson as described above is required by law to have a Real Estate Salesperson license.

Who cannot apply for a Real Estate Salesperson license?

A person is ineligible to file this application if s/he is a member of the partnership, or is an officer or owns voting stock in the corporation that is the sponsoring broker.

What qualifications do I need for licensure?

To apply for licensure you must:

- be at least 18 years of age at the time you apply
- have successfully completed a Department of State approved 75-hour qualifying course. If you have completed the 45-hour salesperson qualifying course prior to July 1, 2008, you may complete the 30-hour remedial course in order to qualify for licensure.
- be sponsored by a NYS licensed real estate broker
- pass the NYS real estate salesperson examination

What do I need to do before applying for my license?

You must successfully complete a 75-hour New York State approved course of study and pass a qualifying written examination administered by the Department before applying for a license to operate as a Real Estate Salesperson in this state.

If you have completed the 45-hour salesperson qualifying course prior to July 1, 2008, you may complete the 30-hour remedial course in order to qualify for licensure. As proof of successful completion of schooling, you must have the **Sales/Remedial Course Certification** section of the application completed by the Department of State approved school coordinator or you may submit a copy of your course completion certificate.

The 75 hour salesperson qualifying and 30 hour remedial courses are only valid for 8 years past the course completion date and must be used to obtain a license or will expire and must be retaken. Once either of these courses have been applied towards a license, they will not expire and can be used for upgrade.

What if I completed my education outside of New York State?

We may waive the 75-hour real estate education requirement if you can document an equivalent level of schooling. You must submit the following documents:

- An official transcript from an accredited college or University indicating satisfactory completion of the course(s) you would like us to consider, or an original Certificate of Course Completion from a recognized real estate school.
- An official description of the subject matter. This can usually be obtained from a school catalogue.

Send these, along with a letter requesting a waiver of the qualifying education requirements to:

Department of State
Division of Licensing Services
Bureau of Educational Standards
P.O. Box 22001
Albany, NY 12201-2001

Real Estate Salesperson Application - Instructions

As a matter of policy, the following courses will not be approved:

- Continuing education courses
- Correspondence courses
- Paralegal

Upon approval of your education, you will find information on how to register and schedule your examination on our website at www.dos.ny.gov.

After you pass the examination, you must submit the application form, original waiver letter and fee. This must be done within two years of the date you passed the examination.

Can I obtain a Real Estate Salesperson license based on my licensure in another state?

An applicant who holds a Real Estate Salesperson license in another jurisdiction **having a reciprocal agreement with New York State** may be qualified to obtain a Real Estate Salesperson license in New York if they meet certain criteria.

For information on the specific state you are inquiring about, visit our website at www.dos.ny.gov.

What are the continuing education requirements for a renewal license?

A renewal license will not be issued unless you complete 22.5 hours of Department of State approved continuing education within the two-year period immediately preceding such renewal. The 22.5 hours must include at least three 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.

What are the fees, terms of licensure?

- \$55 — two-year license
- \$15 — written examination

What forms of payment do you accept?

You may pay by check or money order made payable to the Department of State or charge any fee to Mastercard or Visa, using a credit card authorization form. Do not send cash.

Application fees are nonrefundable. A \$20 fee will be charged for any check returned by your bank.

Child Support Statement

A Child Support Statement is mandatory in New York State (General Obligations Law) regardless of whether or not you have children or any Support obligation. **Any person who is four months or more in arrears in child support may be subject to having his or her business, professional and driver's licenses suspended.** The intentional submission of a false written statement for the purpose of frustrating or defeating the lawful enforcement of support obligations is punishable under §175.35 of the Penal Law. It is a class E felony to offer a false instrument for filing with a state or local government with the intent to defraud.

Where do I get the office license number requested on the application?

The number assigned to the principal or to the branch office can be obtained from your broker. It can also be located on the Department's website. It is important for the processing of your application that you fill in the office license number and indicate whether the location is the principal office or a branch office. Please note that a license number is the same as a unique ID number.

Information on Online Services

Can I apply for a salesperson license online?

Applicants who are applying for a first time salesperson license based on taking the state licensing examination may apply for a salesperson license online. If you have never signed up to take an examination, the first step is to establish an account at the following web address www.dos.ny.gov. Once established into the system, you should apply to take the salesperson examination of your choice. Upon passing the state examination, you may log in to your established account and complete the online salesperson application.

What qualifications will require a salesperson application to be submitted to our office rather than applying online?

If you are applying based on reciprocity, attorney status, requesting an additional salesperson license or were previously licensed, you must submit your application to our Licensing office for processing. If you completed education outside of New York State and have received an education waiver, you must pass the state examination and submit your application to our Licensing office for processing.

What are the steps involved in applying for a salesperson license online?

- Step 1: Log in to your established account.
- Step 2: Enter required information.
- Step 3: Select sponsoring broker by entering their
- Step 4: Unique ID number

The application will remain in the in-box of your sponsoring broker until the broker approves your application as a new hire.

Upon broker approval, your license will be generated by Licensing that week and mailed to the office location indicated on your application.

Why do I need to provide my e-mail address on the application?

In order to perform online transactions, you must provide your current email address on the top portion of page 4 of the application. Your email address will be used by our office to establish your online account. If you have already established an account by signing up to take the state examination, it is important that you utilize the same email address. If you change your email address in the future, you must log in to your account and update it with the new email address.

If you are submitting an application to our office, you should indicate if your email address has changed since taking the examination.

Real Estate Salesperson Application - Instructions

What is my User ID for the real estate online system and how do I update my online account information?

The email address of a licensee is the User ID for each online account in the real estate online system. Each User ID must be unique, therefore, you will not be able to share an email address with anyone else in the system. If you have not already established an account, your password will be emailed to you upon approval of your application by our office. You will utilize your User ID (email address), along with this temporary assigned password, to access your online account and change your password.

Do I need to be terminated by a broker who I no longer work for?

Yes, in accordance with statute, brokers are required to terminate all salespersons who are no longer working for them. All terminations must be completed by the broker through the online real estate system. The principal broker for the salesperson must log in to their personal online real estate account to perform the transaction.

Once licensed, how do I change my association from one broker to another?

All change of associations must be completed through the online system. If you have been previously working for another company, the first step is to ensure that the previous broker has already performed a termination on you. Once the termination is complete, your new representative broker should log in to their own personal online real estate account and complete the appropriate online transaction to associate you with their company. Your new broker will need your license number in order to perform the transaction.

What transactions and information are available online to salespersons?

- Complete initial Salesperson application
- Change residence address
- Renew license
- Request duplicate license print
- Examination results
- Application status
- License status

For further information pertaining to Licensing web based application procedures, please refer to our Frequently Asked Questions on our website at www.dos.ny.gov.

PRIVACY NOTIFICATION

Do I need to provide my Social Security and Federal ID numbers on the application?

Yes, if you have a social security number or Federal ID number, you are required to provide this number. If you do not have a social security number or Federal ID number, please provide a written explanation.

The Department of State is required to collect the federal Social Security and Employer Identification numbers of all licensees. The authority to request and maintain such personal information is found in §5 of the Tax Law and §3-503 of the General Obligations Law. Disclosure by you is mandatory. The information is collected to enable the Department of Taxation and Finance to identify individuals, businesses and others who have been delinquent in filing tax returns or may have underestimated their tax liabilities and to generally identify persons affected by the taxes administered by the Commissioner of Taxation and Finance. It will be used for tax administration purposes and any other purpose authorized by the Tax Law and may also be used by child support enforcement agencies or their authorized representatives of this or other states established pursuant to Title IV-D of the Social Security Act, to establish, modify or enforce an order of support, but will not be available to the public. A written explanation is required where no number is provided. This information will be maintained in the Licensing Information System by the Director of Administration and Management, at One Commerce Plaza, 99 Washington Avenue, Albany, NY 12231-0001.

WOULD YOU LIKE TO REGISTER TO VOTE?

Please visit the NY State Board of Elections at www.elections.ny.gov/votingregister.html or call **1-800-FOR-VOTE** to request a NYS Voter Registration form.

To register online, please visit www.ny.gov/services/register-vote.

(For Office Use Only)

(For Revenue Use Only)

License Number

Eff. Date: _____



Division of Licensing Services

New York State
Department of State
Division of Licensing Services
P.O. Box 22001
Albany, NY 12201-2001
Customer Service: (518) 474-4429
www.dos.ny.gov

Real Estate Salesperson Application

FEE \$55

If you do not complete all required responses, your application will be returned.

I am applying based on the following qualification * (X only one):

Attorney Admitted to NYS Bar

Previously Licensed

Additional Salesperson License

DOS Approved Qualifying Education

Reciprocity State of _____ and have provided a current certification (dated within 6 months) from the Real Estate Commission where my license was obtained.

Please TYPE or PRINT all responses in ink

APPLICANT INFORMATION

* Required Responses

Applicant's Last Name *

First Name *

M.I.

Suffix

Home Address – Number & Street (Physical address required) *

Apt/Suite

City *

State *

Zip + 4 *

County *

Applicant's SOCIAL SECURITY NUMBER * (See Privacy Notification)

Applicant's DATE OF BIRTH *

Applicant's Phone Number *

Applicant's EMAIL ADDRESS *

Applicant's New York State nine digit DMV ID # *

Note: Non NYS residents please see Page 7 "Checklist" →

If you previously or currently hold a NYS real estate license issued by the state of New York, please enter the UID/License #. * →

BUSINESS INFORMATION

* Required Responses

Business Name * (Exactly as it appears on your sponsoring broker's license)

Office License/Unique ID Number

PR 1099

BO 1039

Business Address - Number & Street

(Physical address where you will be permanently stationed is required) *

Daytime Phone Number

City *

State *

Zip + 4 *

County *

Real Estate Salesperson Application

* Required Responses

Association Statement — I am sponsoring this application in accordance with the Real Property Law, §441.1(d).

Broker License/Unique ID Number

Broker Print Name

Broker Signature _____ Date _____

1. Have you ever been convicted of a crime that is a misdemeanor or felony? * **YES NO**
➔ **IF “YES,”** you must submit a written explanation and provide a copy of the court records detailing the allegations of the offense and how the case was resolved. If you have received a Certificate of Relief from Disabilities, Certificate of Good Conduct or Executive Pardon, you must submit a copy with this application.
2. Are there any criminal charges (misdemeanor or felonies) pending against you in any court? * **YES NO**
➔ **IF “YES,”** you must submit a written explanation and provide a copy of the court records detailing the allegations of the offense.
3. Has any license or permit issued to you or a company in which you are or were a principal ever been revoked, suspended or denied? * **YES NO**
➔ **IF “YES,”** you must provide all relevant documents, including the agency determination if any.
-

Child Support Statement

By signing this application, I certify that as of the date of this application, I am not under an obligation to pay child support **OR** if I am under an obligation to pay child support, I am not four or more months in arrears in the payment of child support, or I am making payments by income execution or by court agreed payment or repayment plan or by a plan agreed to by the parties or my child support obligation is the subject of a pending court proceeding, or I am receiving public assistance or supplemental security income.

Applicant Affirmation— I affirm, under the penalties of perjury, that the statements made in this application are true and correct. I further affirm that I have read and understand the provisions of Article 12-A of the Real Property Law and the rules and regulations promulgated there under.

If you are currently a NYS Licensed Real Estate Salesperson and are submitting this application for an ***additional*** Real Estate Salesperson license, by signing this application you are affirming all sponsoring brokers have provided their consent.

In addition, I hereby authorize the NYS Department of State and NYS Department of Motor Vehicles to produce an ID card bearing my DMV photo. I understand that DOS and DMV will use my DMV photo to produce all subsequent ID Cards for as long as I maintain my license with the Department of State and that I may withdraw my consent to use my DMV photo by submitting a request in writing to the Department of State.

Applicant Print Name *

*Applicant Signature**

Date

Education

Applicants must have completed 75 hours of NYS Department of State/Division of Licensing Services approved qualifying education in the form of:

75 hour salesperson course **OR**

45 hour salesperson course (completed prior to 07/01/08) and 30 hour remedial course.

The 75 hour salesperson qualifying and 30 hour remedial courses are only valid for 8 years and must be used to obtain a license or will expire and must be retaken.

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

Sales Course Certification - Complete only if not currently licensed as a salesperson

Certification of Satisfactory Completion - 75hr Salesperson Course or 45hr Salesperson Course

This section must be completed by the school coordinator OR you may submit a copy of your course certificate(s).

Name of School

This certifies _____ has satisfactorily completed the Real Estate 75 hour
salesperson course (Code) #F - _____ or 45 hour salesperson course #S - _____

This course was completed on

School Coordinator's Signature _____ Date _____

Sales Remedial Course Certification

Certification of Satisfactory Completion – 30 hr Salesperson Remedial Course

This section must be completed by the school coordinator OR you may submit a copy of your course certificate.

Name of School

This certifies _____ has satisfactorily completed a 30 hour
salesperson remedial qualifying course (Code) #R - _____

This course was completed on

School Coordinator's Signature _____ Date _____

(This section should only be completed if the 45 hr Salesperson Course was taken prior to 7/1/2008).

If you received a Course Waiver from Educational Standards at the Department of State, please submit a copy with this application.

A COMPLETED APPLICATION MUST INCLUDE:
(Use this checklist to ensure you have included/completed all requirements.)

**You must complete all required *responses.
If you do not complete all required responses, your application will be returned.**

Page 4

You must check one of the five options for **"I am applying based on the following qualification."**

Applicant Information:

- Complete "Applicant Information" required (*) responses. You must complete this section. If you do not complete required responses, your application will be returned.

Non New York State Residents:

- If you have a residence address outside NYS and do not possess a NYS DMV ID number you must enter nine (9) zeroes for your DMV ID number in the space provided as well as include a clear copy of a government issued photo ID (ex. out of state driver license or non-driver ID, US Passport, US Passport Card, etc).

Business Information:

- Complete "**Business Name**" required (*) responses. Clearly print or type the business name exactly as it appears on your sponsoring broker's license.
- Complete "**Business Address**": All applicants **MUST** provide a business address where the applicant will be permanently stationed.
- Complete "**Office license/unique ID number**" **and** indicate if it is a Principal or Branch office. If the address is the principal office your sponsoring broker can provide this number. If the address is a Branch Office you may obtain the license number from the license. In either case you may visit Licensing's webpage for the license number associated with the address.

Page 5

Association Statement:

- Your sponsoring broker must complete this section.

If you answered YES to questions 1, 2 or 3:

- Question #1 – court documentation which **MUST** be submitted: A copy of the certificate of disposition from the court **AND** a copy of the accusatory instrument* from the court.
- Question #2 – court documentation which **MUST** be submitted: A copy of the accusatory instrument* from the court **AND** adjournment notice(s) indicating future court date(s) from the court.
- Question #3- you must provide all relevant documents, including the agency determination, (if any).

**An accusatory instrument is a document that is used by prosecutors and the criminal courts to charge and prosecute someone accused of a crime(s) and details the facts and circumstances surrounding the crime(s). This could be an Indictment, Superior Court Information, Criminal Complaint, etc.*

Child Support Statement: *Please read*

Applicant Affirmation: Please print and sign your name and date the application.

Page 6

Education: These sections must be completed by the School Coordinator (unless you are applying for an additional salesperson license, reciprocal salesperson license or are an attorney admitted to the NYS Bar Association) **OR** you may submit copies of your course certificates.

Application fee: \$55.00 payable to the NYS Department of State. (*see instructions for acceptable payment methods*).