

Standardized Operating Procedures

On December 21, 2021, New York Real Property Law section 442-h (rules of the Secretary of State relating to real estate brokers and salespersons) was amended to require, in part, that real estate brokers “institute standardized operating procedures for the prerequisites prospective homebuyers must meet prior to receiving any services.”

The December amendment to section 442-h was signed contingent upon an agreement the Governor reached with the legislature to revise the legislation (Governor’s Approval Memo #80). The bill signed in December required, after a notice and hearing by the Department, that regulations be created addressing, at minimum:

- (i) whether prospective clients shall show identification;
- (ii) whether an exclusive broker agreement is required; and
- (iii) whether pre-approval for a mortgage loan is required.

The December amendment also required that every broker file a copy of such procedures with the Department.

After the December amendment was enacted, the Legislature introduced and subsequently passed the agreed upon change that, in relevant part, **REMOVES** the requirement that brokers file such standardized operating procedures with the Department. The changes, (S.7729, same as A.9175) passed the legislature on March 15, 2022 are available [here](#).

Under Senate Bill S.7729, **starting April 20, 2022**, every real estate broker, operating within the State of New York, shall have on each publicly available website and mobile device application they maintain a list of standardized operating procedures. Additionally, each publicly available website and mobile device application operated by an associated agent or “team” of such broker, shall have posted their broker’s standardized operating procedures or a direct link to such information on their broker’s website.

Brokers must keep an archive of all standardized procedures, for as long as they are actively licensed, by having each amendment date stamped and notarized. All new procedures must be posted and made available, at each brokerage office and online, within 30 days of any changes.

Any broker or salesperson operating under a brokerage license that fails to adhere to such operating procedures shall be subject to discipline.

As of the date of this notice, the Department is not considering expanding the list of standard operating procedures.

In consideration of Governor’s Approval Memo #80 and Senate Bill S.7729, the Department **will not** require brokers to submit their standardized operating procedures and no discipline will be taken against any broker who failed to file such procedures after December 21, 2021. **Brokers must have such procedures in place, and publicly available, no later than April 20, 2022.**