

**From:** NYSAR nyrealtors@nysar.org  
**Subject:** Video Flash Update: Standard Operating Procedure Law effective April 20, 2022 impacts all brokerages  
**Date:** March 21, 2022 at 9:39 AM  
**To:** jrpanu27@gmail.com



[View this email in your browser](#)



**March 21, 2022**

Dear NYSAR members,

Recently, a number of laws have been passed in New York State pertaining to Fair Housing and these laws have significant impact for real estate licensees. One of these laws requires real estate brokers who service residential homebuyers to create and publish “Standardized Operating Procedures” (the “SOP Law”) for their brokerage offices so that prospective purchasers understand what will be required from them when working with a real estate broker. There is some confusion surrounding the “SOP Law” because it was amended by a “Chapter Amendment” that was signed into law on March 18, 2022.

The Chapter Amendment for the SOP Law gives the New York State Department of State (the “DOS”) the ability to hold public hearings and provide further regulatory guidance on the requirements of the SOP Law. At this time, the DOS has elected not to hold public hearings or to add additional requirements to the SOP Law (but the DOS has reserved the right to do so in the future). The Chapter Amendment also extends the effective date of the law to April 20, 2022.

**Brokers and their associated licensees (including teams) must be in compliance with the SOP Law by April 20, 2022 or be subject to discipline by the DOS.** In addition, the Chapter Amendment removed the requirement for brokers to submit and file their standardized operating procedures with the DOS.

The SOP Law requires a real estate broker to provide specific guidance to prospective purchasers regarding three questions: (1) whether prospective clients shall show identification, (2) whether an exclusive broker agreement is required, and (3) whether pre-approval for a mortgage loan is required. To be clear, a real estate broker is not required to ask for any of these three things. The real estate broker is simply required to let purchasers know whether or not they will require any one, two or three of these items.

For example, a real estate broker can create a policy (the "Broker's Procedures") that states the following: "Please be advised that prior to showing a purchaser a property: (1) we do not require identification from a prospective purchaser, (2) we do not require a purchaser to sign an exclusive brokerage agreement and (3) we do not require a pre-approval for a mortgage loan in order to show a purchaser properties."

Accordingly, we are recommending that a real estate broker: (i) decide what, if any, of the above items they will require from every prospective purchaser, (ii) make the Broker's Procedures available to the public by posting them on any public facing websites and/or mobile applications the broker maintains, (iii) ensure that any of the broker's individual agents or teams that have public facing websites or mobile applications also post the Broker's Procedures on such platforms, (iv) should create a "hardcopy" of the Broker's Procedures at every office location and provide them to prospective purchasers upon request, and (v) retain all copies of the various iterations of the Broker's Procedures indefinitely, in order to demonstrate what procedures had been required from time to time and when such procedures had been changed. If alterations or updates are made to the Broker's Procedures, they must be date stamped, notarized and posted to public facing websites and mobile applications within 30 days of the alteration.

There is currently no information as to where on the real estate broker's website and/or mobile application the Broker's Procedures are to be posted. The DOS has always adopted a "clear and conspicuous" standard in other laws and regulations related to required postings on websites and/or mobile applications. As a best practice, the posting of the Broker's Procedures should follow the same standard.

Situations may arise where the instructions of a seller or another real estate broker may vary from the Broker's Procedures (i.e. the Broker's Procedures may not require a purchaser to provide identification, but the seller may request identification). Accordingly, this possibility should be explained to prospective purchasers and the fact that the broker may be obligated to follow the instructions of the seller even if it is contrary to the Broker's Procedures.

All agents and teams that are associated with the real estate broker must follow the Broker's

All agents and teams that are associated with the real estate broker must follow the broker's Procedures. For example, if the real estate broker does not require identification from a prospective purchaser then the agents and teams cannot require identification from the prospective purchaser (unless the identification was required by a seller or another real estate broker).

**Important Tip:**

Please note that the suggestions contained in this document may be amended if the DOS provides further regulatory guidance on the SOP Law or we have further direction to provide to you. We also strongly encourage you to speak to your own legal counsel and marketing departments as to the best way to implement these suggestions. Please [click here](#) for an example of a Standardized Operating Procedure template that a real estate broker can use to summarize the Broker's Procedures.

Members with questions can contact the NYSAR Legal Hotline Monday-Friday from 9:00am-4:00pm at 518-436-9727 or 518-43-NYSAR.



New York State Association of REALTORS<sup>®</sup>, Inc.



New York State Association of REALTORS<sup>®</sup>, Inc.

Get all of the latest news at [www.nysar.com](http://www.nysar.com).

*You are receiving this information as a member of the New York State Association of REALTORS. NYSAR occasionally sends information regarding association programs and services as well as industry news to its membership.*

[Manage your NYSAR email subscriptions.](#) | [Unsubscribe from ALL NYSAR emails.](#)

New York State Association of REALTORS. 130 Washington Ave., Albany, NY 12210