



New York State Association of REALTORS®, Inc.

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MEMORANDUM IN SUPPORT

S.5693 (Zeldin)/A.7979 (Lavine)

Status: Senate Judiciary

Date: June 2013
Contact: Michael Kelly

The New York State Association of REALTORS® strongly supports S.5693(Zeldin)/A.7979(Lavine) which amends §442 of the Real Property Law titled “Splitting Commissions,” to explicitly state that nothing shall prohibit a broker from offering any part of a fee, commission, or other compensation received by the broker to the seller, buyer, landlord or tenant as an incentive for using the services of that broker.

The NYS Department of State and the NYS Attorney General have both issued decisions/opinions stating that broker rebates to buyers/sellers and landlords/tenants are legal in New York State. Per the opinion by the Department of State “[i]nsofar as the statutory intent of Real Property Law section 442 is to discourage unlicensed activity, offering cash or promotional gifts, such as a cash rebate, in order to attract a new customer or client does not run afoul of the statute.” (*Opinion Letter from NYS Department of State, Division of Licensing Services, to U.S. Department of Justice, February 6, 2008*).

This legislation simply clarifies and codifies this section of Real Property Law. Additionally, offering consumer rebates promotes healthy competition in the real estate industry and benefits the public. Buyers and sellers, landlords and tenants will have the option of choosing the broker offering the best or most attractive products and services that fit their needs.

For the above stated reasons, the New York State Association of REALTORS strongly supports S.5693(Zeldin)/A.7979(Lavine) to clarify existing law and benefit consumers.

The New York State Association of REALTORS® is a not-for-profit trade organization representing more than 47,000 of New York State’s real estate professionals. The term REALTOR® is a registered trademark, which identifies real estate professionals who subscribe to a strict code of ethics as members of the National Association of REALTORS®. These REALTORS® are also members of the New York State Association of REALTORS® as well as their local board or association of REALTORS®.

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