Legal Update 2025



MAY

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New York State Association of REALTORS®, Inc.

Legal Hotline

Monday-Friday

9:00a.m.-4:00p.m.

518-436-9727

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ARE TELEMARKETING COLD CALLS STILL PROHIBITED?

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Are cold calls still prohibited?



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When Will the State of Emergency Expire?

- NO COLD CALLS OR COLD TEXTS
- The law is not industry specific and is triggered statutorily by **any** SoE
- Currently multiple SoE's in effect
- Only when all SoE is lifted will cold calling be permitted

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When Will the State of Emergency Expire?

- The following State of Emergency are still in effect:
- **EO 28.25: Support Asylum Seekers**
  Declared: Extended on April 11, 2025 (Original EO 28 declared May 9, 2023)
  Expires: May 11, 2025
- **EO 38.9: Disaster Emergency**
  Declared: Extended on April 20, 2025 (Original EO 32 declared August 9, 2024)
  Expires: May 19, 2025
- **EO 47.4: Public Order at Correctional Facilities**
  Declared: Extended April 9, 2025 (Original EO 47 declared February 19, 2025)
  Expires: May 9, 2025

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When Will the State of Emergency Expire?

- NYSAR will notify members when there are no SOE's in effect via email blast
- In the past, it has taken 1-2 days for renewed SOE to be published

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FREE MONTHLY LEGAL UPDATE 2025 DATES

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2025 DATES

- June 17
- July 8
- August 19
- September 9
- October 21
- November 4
- December 9

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2025 DATES

- To register:
- https://www.nysar.com/education/legal-update/

- All sessions are recorded and available at the aforementioned website along with the PowerPoint slide deck.

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RECENTLY PASSED LEGISLATION

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New Laws

- Definition of “squatter”
- Good cause eviction
- Short Term Rentals

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Definition of Squatter

- RPAPL 711
  - A tenant shall not include a squatter. For the purposes of this section, a squatter is a person who enters onto or intrudes upon real property without the permission of the person entitled to possession, and continues to occupy the property without title, right or permission of the owner or owner's agent or a person entitled to possession
- A squatter is not entitled to any of the protections afforded to a legal tenant
- If question as to squatter vs. tenant, presumption is tenant

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Definition of Squatter

- The issue that is presenting itself is the initial determination as to whether the individual is a squatter or tenant
- This matter may afford the squatter certain rights if they claim to be a tenant
- The illegality of the occupancy would need to be established
- If lease is forged, that needs to be proven etc.
- We will need to wait and see how the courts address this

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Definition of Squatter

- If the individual occupying the property had a lease (verbal or written) then they are not a squatter even if they hold over
- Landlords should not claim an occupant is a squatter unless they meet the definition
- Landlords may be subject to liability for claiming a tenant is a squatter
- As this is a legal matter, licensees should not be providing advice, guidance or opinions other than having the landlord speak with their attorney

Good Cause Eviction

- Automatically applies to NYC
- Other municipalities may “opt-in” and make 2 modifications

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Good Cause Eviction

The new good cause eviction law prohibits the eviction or removal of tenants from all housing accommodations without good cause, but exempts the following housing accommodations:

- Premises owned by a “small landlord” (Small landlords are defined as any owner of no more than 10 units in the state.)*
- Owner occupied housing with no more than 10 units
- Units that are sublet, or being used for employment purposes
- Rent-regulated units & affordable housing units
- Condominium or cooperative units

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Good Cause Eviction

The new good cause eviction law prohibits the eviction or removal of tenants from all housing accommodations without good cause, but exempts the following housing accommodations:

- Units with a certificate of occupancy issued after 1/1/2009, for up to 30 years after the issuance of the certificate
- Seasonal use dwelling units
- Certain units used for health care purposes (hospital, assisted living, etc.)
- Manufactured homes, hotels, dormitories, religious facilities and institutions
- Units with a monthly rent greater than 245% of the fair market rent, as determined by the US Department of Housing and Urban Development (HUD)*

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Good Cause Eviction

The following are grounds for removal of tenants under the good cause eviction law:

- The tenant has failed to pay rent unless the rent that is owed is a result of an “unreasonable” rent increase. Unreasonable is defined as the lower of 5% plus the regional Consumer Price Index, or 10% annually.
- The tenant has violated a substantial obligation of their tenancy
- The tenant is permitting or committing a nuisance
- The tenant’s occupation is a violation of law which subjects the landlord to penalties
- The tenant is using the accommodation illegally

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Good Cause Eviction

The following are grounds for removal of tenants under the good cause eviction law:

- The tenant has refused access to the landlord for necessary repairs
- The landlord seeks to recover the unit for personal or familial use
- The landlord, in good faith, seeks to demolish the housing accommodation
- The landlord, in good faith, seeks to withdraw the unit from the rental market
- The tenant fails to agree to reasonable changes to a lease at renewal

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Good Cause Eviction

Localities that opt-in to the good cause eviction law may modify:

- The fair market rent threshold (units with monthly rents above the fair market rent would be exempt); and
- The definition of “small landlord”. For instance, the City of Albany opted-in to good cause eviction and lowered the threshold for exemptions from ten units to one unit.

Good Cause Eviction

Landlords renting units subject to the good cause eviction law are required to attach a specific notice to any initial lease, lease renewal or other notice required by the state's landlord-tenant laws, indicating that the unit is subject to the good cause eviction law.

Notice is in RPL §231-c

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Good Cause Eviction

- **Localities that have opted into the good cause eviction law**
  - Albany (City) – adopted in June 2024
  - Kingston (City) – adopted in July 2024
  - Ithaca (City) – adopted July 2024
  - Poughkeepsie (City) – adopted July 2024
  - Beacon (City) – adopted August 2024
  - Newburgh (City) – adopted September 2024
  - Nyack (Village) – adopted September 2024
  - Hudson (City) – adopted October 2024
  - New Paltz (Village) – adopted October 2024
  - Rochester (City) – adopted December 2024
  - Croton-on-Hudson – adopted January 2025
  - Binghamton – adopted March 2025
- https://www.nysar.com/advocacy/new-york-states-good-cause-eviction-law/

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Good Cause Eviction

- As this is a legal matter, licensees should not be providing advice, guidance or opinions other than having the landlord speak with their attorney
- Licensees that assume the role of property manager on behalf of landlord need to consult with their own attorney

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Short Term Rental Registry

- Two components
  - Tax collection (Effective 4/20/2025)
  - Registration (Effective 9/20/2025)

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Short Term Rental Registry

- "BOOKING SERVICE" MEANS A PERSON OR ENTITY WHO, DIRECTLY OR INDIRECTLY:

  (A) PROVIDES ONE OR MORE ONLINE, COMPUTER OR APPLICATION-BASED PLATFORMS THAT INDIVIDUALLY OR COLLECTIVELY CAN BE USED TO:

  (I) LIST OR ADVERTISE OFFERS FOR SHORT-TERM RENTALS, AND

  (II) EITHER ACCEPT SUCH OFFERS, OR RESERVE OR PAY FOR SUCH RENTALS; AND

  (B) CHARGES, COLLECTS OR RECEIVES A FEE FOR THE USE OF SUCH A PLATFORM OR FOR PROVISION OF ANY SERVICE IN CONNECTION WITH A SHORT-TERM RENTAL. A BOOKING SERVICE SHALL NOT BE CONSTRUED TO INCLUDE A PLATFORM THAT SOLELY LISTS OR ADVERTISES OFFERS FOR SHORT-TERM RENTALS.

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Short Term Rental Registry

- A BOOKING SERVICE SHALL HAVE ALL THE DUTIES, BENEFITS, AND ENTITLEMENTS OF A PERSON REQUIRED TO COLLECT TAX UNDER THIS ARTICLE AND ARTICLE TWENTY-NINE OF THIS CHAPTER WITH RESPECT TO THE OCCUPANCIES GIVING RISE TO THE TAX OBLIGATION, INCLUDING THE RIGHT TO ACCEPT A CERTIFICATE OR OTHER DOCUMENTATION FROM AN OCCUPANT SUBSTANTIATING AN EXEMPTION OR EXCLUSION FROM TAX,

Short Term Rental Registry

- § 447-B. SHORT-TERM RESIDENTIAL RENTAL UNITS; REGULATION.
- 2. OCCUPANCIES OF A SHORT-TERM RENTAL UNIT SHALL BE SUBJECT TO TAXES AND FEES PURSUANT TO ARTICLES TWENTY-EIGHT AND TWENTY-NINE OF THE TAX LAW AND APPLICABLE LOCAL LAWS.

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Short Term Rental Registry

- Real estate licensees involved with short term rental transactions must consult with a professional to determine taxing matters
- NYSAR is unable to provide information about taxes

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FRAUD/SCAMS

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Recent Frauds and Scams

- Deed theft
- Fake checks
- Mail theft

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Deed Theft

- **Establish Deed Theft as a Crime:** Under this new law, deed theft is now legally considered grand larceny, and can be prosecuted as such.
  - **Grand Larceny in the First Degree, a Class B Felony** applies to deed theft of a residential real property that is occupied as a home by at least one person and is a home that is owned by someone who is elderly, incapacitated, or physically disabled, or deed theft of three or more residential real properties, regardless of monetary value.
  - **Grand Larceny in the Second Degree, a Class C Felony** applies to deed theft of one residential property, one commercial mixed-use property with at least one residential unit, or two or more commercial properties, regardless of monetary value.
  - **Grand Larceny in the Third Degree, a Class D Felony** applies to deed theft of one commercial real property, regardless of monetary value.

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Deed Theft

- **Extend the Statute of Limitations:** This new law changes the statute of limitations to prosecute deed theft crimes so that prosecution must begin within five years of the theft or within two years after the rightful homeowner realizes their deed has been stolen, whichever occurs later.
- **Grant OAG Original Criminal Jurisdiction:** This new law grants OAG concurrent original jurisdiction to prosecute deed theft crimes alongside district attorneys throughout the state.

Deed Theft

- New Yorkers who believe they are a victim of deed theft are encouraged to contact OAG by
  - calling 1(800) 771-7755
  - emailing deedtheft@ag.ny.gov, or
  - https://formsnym.ag.ny.gov/OAGOnlineSubmissionForm/faces/OAGDTBHome

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Deed Theft

May occur with any type of property but is more popular with:

- Abandoned or vacant properties
- Second homes
- Properties in foreclosure
- Properties with tax or utility liens
- Properties where the homeowner is deceased, and the heirs do not legally transfer title to the property

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Deed Theft

- If you are contacted by a potential seller, be aware it may be an attempt at deed theft if:
  - You will never meet the seller during the transaction
  - The deed to the seller has been recently filed (get a copy)
  - If you request identification make sure the picture on the identification matches the person (schedule a video call to confirm identity)
    - May have repeated excuses why they can’t join a video call

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Deed Theft

- Deed theft can occur by:
  - Bad actor pretends to be the seller
  - Bad actor committed deed theft against owner and then poses as bona fide seller (1 degree of separation from lawful owner)
    - Bad actor may be actual person or person who stole someone else's identity

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Deed Theft

- Fiduciary duty to buyer client
- At the very least:
  - Disclosure (communicate suspected deed fraud)
  - Reasonable care
- Fiduciary duty to seller client:
  - If client is undertaking illegal activity, you cannot be a part of it and there are no fiduciary duties for illegal actions of principle

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Deed Theft

- What can you do if you suspect potential deed theft as a buyer's agent:
  - **Notify buyer's attorney (if no attorney recommend they get one)**
  - Verify identity of seller
  - Verify that notary on deed is real (NYSDOS lookup for licensees)
  - Verify title company listed is real
  - Verify attorney listed for seller is real

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Deed Theft

- What can you do if you suspect potential deed theft as a seller's agent:
  - **Notify seller's attorney (if no attorney that could be a red flag)**
  - Verify identity of seller's attorney (could be a co-conspirator)
  - Verify identity of seller
  - Verify that notary on deed is real (NYSDOS lookup for licensees)
  - Verify title company listed is real

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Deed Theft

- Create a paper trail for yourself if you suspect deed theft
- Communications to your client should be done via email/text/DM
- Don’t put your head in the sand and hope nothing bad happens



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Fake Checks-How to Spot a Fake Check

Determining whether a cashier's check or bank check is legitimate is difficult just by physical inspection. However, there are some things you can do to help identity a fake check:

- Make sure the check was issued by a legitimate bank. While some counterfeit checks will include a legitimate bank's name, a fake name is a sure giveaway. FDIC BankFind allows you to locate FDIC-insured banking institutions in the United States.
  - https://banks.data.fdic.gov/bankfind-suite/bankfind

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Fake Checks-How to Spot a Fake Check

- Check with the bank that supposedly issued the check to make sure it is real. Make sure you look up the phone number on the bank's official website and don't use the phone number printed on the check (that could be a phone number controlled and answered by the scam artist). Next, call the official number and ask them to verify the check. They will likely need to know the check number, issuance date, and amount.
- Consider how and why you received the check. If someone you don't know initiated the payment, be skeptical and proceed cautiously. Scammers often communicate with their victims via e-mail or text message. Their communications may contain poor grammar and spelling errors.

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Fake Checks-How to Spot a Fake Check

- Look where the check was mailed from--if the postmark is not the same as the city and state of the “supposed” issuing bank, it might be an indication the check is fake. Be especially cautious if it was mailed from overseas.
- Determine if the amount of the check is correct and as expected. Fake checks are often made out for more than the agreed upon amount. This is intended to coax the person receiving the check into wiring the overpayment back to the scammer.
- Official checks usually contain watermarks, security threads, color-changing ink and other security features. While scammers are able to sometimes copy these security features, the quality is often poorly executed.

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Fake Checks-What to Do If You Are Scammed

If you think you've been targeted by a counterfeit check scam, report it immediately to any of the following agencies:

- The U.S. Postal Inspection Service at www.uspis.gov (if you received the check in the mail).
- New York State Attorney General's Office. 1-800-771-7755, visiting http://www.oag.state.ny.us/complaints/complaints.html, or writing to: Office of the New York State Attorney General, The Capitol, Albany, NY 12224-0341.
- Federal Trade Commission at www.ftc.gov or by calling 1-877-382-4357.
- For possible online crimes involving counterfeit checks and money orders, file an online complaint with the Internet Crime Complaint Center (www.ic3.gov) (a joint project of the FBI and National White Collar Crime Center).
- Contact your bank

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Fake Checks

- If you are requested to refund all or part of the amount of a check, please do the following:
  - By law, banks have to make deposited funds available quickly, usually within 2 days.
  - When the funds are made available in your account, the bank may say the check has “cleared,” but that doesn’t mean it’s a good check.
  - Fake checks can take weeks to be discovered and untangled. By that time, the scammer has any money you sent, and you’re stuck paying the money back to the bank.

Fake Checks

- Don’t rely on money from a check unless you know and trust the person you’re dealing with.
- Even if the bank is required to make funds available to you, the check can still be fake and when it does not “clear” the bank will require you to return the funds

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Postal Service Scams

- Stealing incoming mail from mailbox
  - Credit cards
  - Financial statements (bank, lender, investments, credit cards etc.)
  - Mail containing personal identifiable information

- USPS Informed Delivery

- https://www.usps.com/manage/informed-delivery.htm

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COMING TO YOU SOON

Hi, Salvatore!

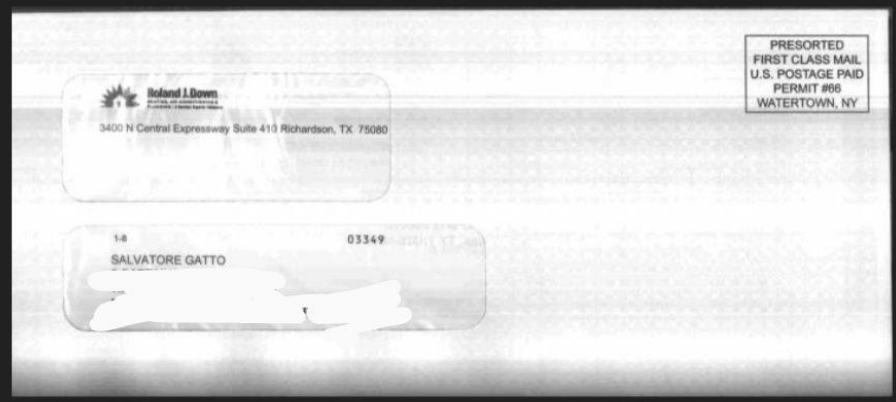
You have 2 mailpiece(s) and 2 inbound package(s) arriving soon.

DEC 18	2	2
	Mailpiece(s)	Package(s)

MAIL

View Dashboard

Expected Today — 2 item(s)



Do more with your mail

Set a Reminder

PACKAGES

View Dashboard

Expected Today

0 item(s)

No packages are available to display.

Expected 1-2 Days

0 item(s)

No packages are available to display.

Awaiting From Sender

2 item(s)

FROM: **AMAZON**

936128968[redacted]

FROM: **AMAZON**

936128968[redacted]

Outbound

0 item(s)

No packages are available to display.

Postal Service Scams

- Stealing outgoing mail from mailbox
  - Checks
  - Mail containing personal identifiable information
  - Bad actors look for “raised flags”
- Checks can be “washed” changing the payee and amount
- How to prevent check “washing”:
  - Security ink pens
  - Security ink toner (printers)

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Postal Service Scams

- Bring directly to Post Office (not a USPS mailbox)
  - In some areas “big blue” USPS mailboxes have been compromised
  - Reports of USPS employees robbed of “arrow key”
  - Bad actors have possession of the “arrow key”
  - “Arrow key” opens “big blue” USPS mailboxes
  - USPS is in process of changing “big blue” boxes and locks

NAR FAIR HOUSING REQUIREMENT

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NAR Fair Housing Training Requirements

- Effective January 1, 2025, through December 31, 2027 and for successive three year periods thereafter
- REALTOR® members of the association (with the exception of REALTOR® Emeritus status by the National Association) shall be required to complete Fair Housing training of not less than two (2) hours of instructional time during each three year period

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NAR Fair Housing Training Requirements

- This requirement will be satisfied upon presentation of documentation that the member has completed a course of instruction conducted by their local REALTOR® association, the State Association of REALTORS®, the NATIONAL ASSOCIATION OF REALTORS®, or the Institutes, Societies, and Councils, which meets the learning objectives and minimum criteria established by the NATIONAL ASSOCIATION OF REALTORS® from time to time.

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NAR Fair Housing Training Requirements

- Fair Housing training approved by a state licensing authority for an existing Fair Housing requirement to maintain licensure shall also fulfill this requirement, provided it also meets the learning objectives and minimum criteria established by the NATIONAL ASSOCIATION OF REALTORS® from time to time.

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NAR Fair Housing Training Requirements

- NYS CE courses that may qualify:
  - 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
  - two hours of cultural competency training
  - two hours of instruction pertaining to implicit bias awareness and understanding
- Please inquire with the school providing the CE as to whether the course meets the learning objectives and minimum criteria established by the NATIONAL ASSOCIATION OF REALTORS®.

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NAR Fair Housing Training Requirements

- Even though NYS requires “Fair Housing” training that complies with the NAR requirement, be careful of the dates you take the course

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NAR Fair Housing Training Requirements

- Sam the salesperson
- License renewed 7/1/2024
- Took more than 2 hours of Fair Housing CE course at Triple Play on 12/10/2024
- NAR requirement begins 1/1/2025
- Sam renews license on 7/1/2026
- 1st 3 year cycle for NAR requirement ends 12/31/2027
- Suri takes required NYS CE Fair Housing course on 6/1/2028
- Suri does not meet NAR requirement

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NAR Fair Housing Training Requirements

- REALTOR® members who have completed Fair Housing training as a requirement of membership in another association shall not be required to complete additional Fair Housing training until a new three year cycle commences.

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