

# Buyer Broker Commission Rebate Legality in NYC

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**Fortunately, buyer broker commission rebates are completely legal in New York City and actually encouraged by New York's Attorney General.**

**In this post, we explain what a commission rebate is, why buyer broker rebates are legal and how you can [request one](#).**

## **What is a NYC buyer broker commission rebate?**

**A buyer broker commission rebate is a financial incentive paid to a buyer from his or her buyer's agent (buyer broker). Buyer's agents may occasionally offer buyer broker commission rebates to customers as a means of incentivizing them to work with him/her on a purchase.**

**Mechanically, the broker commission rebate itself comes out of the commission earned by the buyer's agent on the deal. In New York City, the [average 6% real estate commission](#) is usually split 50/50 between the listing agent and buyer's broker. Therefore, on a typical deal the buyer's broker earns around 3% of the sale price. In NYC, buyer brokers who offer rebates usually give back one third of their commission to the buyer in the form of a check at closing.**

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**Share the commission with your buyer's agent and receive professional guidance throughout the purchase process**

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## **Are buyer broker commission rebates legal?**

**Yes. Buyer broker commission rebates were officially [legalized](#) in New York state in December 2014 with the passage of legislation amending Section 442 of the New York Real Property Law. The move to legalize buyer broker rebates in New York came about following an investigation by the Attorney General's office into the lack of price competition in the New York real estate market.**

**Despite falling commissions around the world and advances in technology, New York City continues to have the highest real estate commission rates in the world. At 5-6% on average, the typical NYC commission rate is substantially higher than in other parts of the country and double the commission rate charged in London.**

**One key reason why commissions remain high in NYC is due to the prevalence of ‘exclusive right to sell’ listing agreements. These contracts, which are used by virtually all listing agents in NYC, obligate the seller to pay 6% in total commission regardless of whether the buyer is represented, unrepresented or even a friend/family member of the seller.**

**What this means is that buyers in NYC effectively pay for buyer broker representation even if they don’t elect to use a buyer broker. In other words, through the purchase price buyers often pay for a service (broker representation) that they don’t necessarily take advantage of.**

**The legalization of buyer broker commission rebates was designed to offer buyers a way to save money and fight back against this very unintuitive commission structure.**



**By working with a buyer broker and requesting a commission rebates, buyers are now able to save money when purchasing while also receiving some of the very legitimate benefits of having professional representation. These benefits include receiving professional pricing and negotiation assistance, help in screening and identifying suitable properties and guidance in preparing a co-op board package. Most importantly, represented buyers are able to avoid the inherent dangers and risks of agreeing to ‘dual agency’ by working directly with a listing agent.**

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Where in the law does it say that buyer broker commission rebates are legal?

The revised law which permits [buyer broker commission rebates in NYC](#) can be found in Article 12-A, Section 442 of New York's real property law. The specific law is reproduced below, and the section pertinent to buyer broker commission rebates has been bolded below:

**442. Splitting commissions. 1. No real estate broker shall pay any part of a fee, commission or other compensation received by the broker to any person for any service, help or aid rendered in any place in which this article is applicable, by such person to the broker in buying, selling, exchanging, leasing, renting or negotiating a loan upon any real estate including the resale of a condominium or cooperative apartment unless such a person be a duly licensed real estate salesman regularly associated with such broker or a duly licensed real estate broker or a person regularly engaged in the real estate brokerage business in a state outside of New York; provided, however, that notwithstanding any other provision of this section, it shall be permissible for a real estate broker to pay any part of a fee, commission, or other compensation received to an unlicensed corporation or an unlicensed limited liability company if each of its shareholders or members, respectively, is associated as an individual with the broker as a duly licensed associate broker or salesman.**

**2. Furthermore, notwithstanding any other provision of law, it shall be permissible for a broker properly registered pursuant to the provisions of article twenty-three-A of the general business law who earns a commission on the original sale of a cooperative or homeowners association interest in real estate, including condominium units to pay any part of a fee, commission or other compensation received for bringing about such sale to a person whose principal business is not the sale or offering of cooperatives or homeowners association interests in real property, including condominium units in this state but who is either: (i) a real estate salesman duly licensed under this article who is regularly associated with such broker; (ii) a broker duly licensed under this article; or a person regularly engaged in the real estate brokerage business in a state outside of New York.**

**Except when permitted pursuant to the foregoing provisions of this section no real estate broker shall pay or agree to pay any part of a fee, commission, or other compensation received by the broker, or due, or to become due to the broker to any person, firm or corporation who or which is or is to be a party to the transaction in which such fee, commission or other compensation shall be or become due to the broker;**

**provided, however, that nothing in this section shall prohibit a real estate broker from offering any part of a fee, commission, or other compensation received by the broker to the seller, buyer, landlord or tenant who is buying, selling, exchanging, leasing, renting or negotiating a loan upon any real estate including the resale of a condominium or cooperative apartment.**

***Such fee, commission, or other compensation must not be made to the seller, buyer, landlord or tenant for performing any activity requiring a license under this article.***

**Will I be treated differently by listing agents if I'm receiving a buyer broker rebate?**

**It goes without saying that any form of discrimination against brokers engaged in rebating is in violation of the state's anti-trust provisions. In his letter to the real estate community, Attorney General Schneiderman makes it clear that his office "will investigate any allegations of discrimination against brokers engaged in rebating."**

**With that said, it's also fairly obvious that traditional real estate brokers in NYC are not very happy about the prospect of reduced commissions and lower earnings. It's only natural for there to be some resentment by traditional listing agents towards brokers who openly advertise as offering commission rebates to buyers.**

**The reality is that much of this resentment/discrimination towards openly discounted brokers is hard to catch and/or prove. Therefore, as a buyer you want to be careful to ensure that the details of your rebate arrangement remain private between you and your buyer's broker. Ideally, we also suggest that you request a rebate from a broker who does not openly advertise commission rebates so as to avoid any potential discrimination by listing agents.**

**Where can I find a copy of the Attorney General's letter about buyer broker rebates?**

**Attorney General Schneiderman's letter may be viewed [here](#) and is also available to view below:**



***April 20, 2015***

***Dear participant in New York's real estate industry:***

***I am writing to alert you to a recent change in New York State's Real Property Law that was strongly supported by my office. This law has the potential to breathe new life into competition in the residential real estate brokerage industry, to the benefit of all New Yorkers. I urge you take advantage of this law and help reinvigorate price competition among real estate brokers in New York.***

***In December, a statute was signed into law amending Section 442 of the New York Real Property Law to make it completely clear that it is lawful for a broker to pass through, or "rebate," part of his or her commission to the client. This legislation arose out of an investigation by my office into competition in the residential real estate brokerage industry. My office worked together with the New York Department of State, the New York State Association of Realtors, and others in the industry to initiate the clarifying legislation.***

***As you know, for most residential real estate sales in New York State, including New York***

***City, the seller's broker is usually compensated by receiving a contractually set commission from the seller. The buyer's broker, however, is not typically paid by the buyer; he or she instead receives a fraction (often half) of the seller's broker's commission. Due to this payment structure, often the best way for a buyer's broker to compete on price is to offer to rebate part of his or her commission to the buyer. Such buyer rebates are legal in most states, including New York. But until recently, some people in the industry may have read Section 442 to suggest that this type of rebating was not permitted in New York. As of December's legislative fix, there is no room for debate: commission rebating in New York State is legal.***

***Such rebating is also procompetitive and good for consumers. One reason my office helped initiate this legislative change was because we were concerned that confusion over the legality of rebating may be hindering efforts of real estate brokers to employ more innovative, consumer-friendly business models. For example, the widespread use of sophisticated real-estate search websites now allows buyer-side brokers to offer more limited-service, lower-fee models, under which clients do more of their own legwork when searching for properties. Brokers adopting such models can offer lower commissions (by rebating) and, in principle, may also be able to serve a larger number of clients.***

***I encourage all real estate brokers and salespersons in New York to consider enhancing the choices available to real estate buyers by offering lower commissions (by means of rebates) to some or all of your clients. I also emphasize that my office will investigate any allegations of boycotting or discrimination against brokers engaged in rebating or other lawful discounting practices. Finally, I urge consumers and other buyers of real estate in New York to take note of your right to bargain with your broker for a lower commission.***

***For the text of Section 442 highlighting the recent amendment, and additional information about competition in the real estate industry in New York, see my office's Antitrust Bureau webpage at [here](#).***

***Sincerely,***

***Eric T. Schneiderman  
Attorney General  
State of New York***

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