



## **UNLICENSED REAL ESTATE ASSISTANTS**

Across the country, more and more real estate businesses are utilizing unlicensed employees or personal assistants to help with routine tasks. Historically, there has been an unclear line dividing those activities which may be performed only by a real estate licensee and those for which a license is not required.

### *What May They Legally Do?*

In general, they may engage in any office activities that are not specified in Section 440 of Article 12A of the New York State Real Property Law. Some of these general office activities that may be performed by an employee, secretary or a personal assistant who does not hold a real estate license are:

- Answer the phone, forward calls, and take messages.
- Arrange appointments, by telephone, for the licensee.
- Follow up on loan commitments after a contract has been negotiated and generally secure status reports on the loan progress.
- Assemble documents for closing.
- Write ads for approval of broker and place approved classified advertising.
- Type contract forms for approval of broker.
- Compute commission checks.
- Place or remove signs from property.
- Order items of repair as directed by the broker.
- Prepare flyers and promotional information for approval by broker.
- Schedule appointments for licensees to show listed property.
- Gather information for a comparative market analysis.
- Gather information for an appraisal.
- Monitor licenses and personnel files.
- Perform secretarial and clerical duties such as typing of letters and filing.

### *Who Is Responsible?*

The licensed broker is explicitly responsible for the supervision and control of activities conducted in the name of the licensed real estate business. The broker is required to extend and provide necessary training, supervision and control over licensed and nonlicensed services being provided to consumers on behalf of the licensed brokerage



business, including any work performed on behalf of the brokerage or on behalf of its' associate brokers or salespeople by unlicensed assistants.

*How Should Payment Be Made?*

Unlicensed assistants may be paid directly by either the licensed broker or salesperson. The method of reimbursement for unlicensed activities is best handled on an hourly, per activity, or salaried basis.

If compensated on a completed transaction basis, the assistant must be licensed as a real estate salesperson and must receive compensation directly from the licensed broker. It is well to note that personal assistants, due to assignments given and the supervision control exercised by the broker or salesperson hiring the individual, would undoubtedly not be considered independent contractors. Therefore, careful attention should be paid to laws relating to tax withholding, unemployment insurance and worker's compensation.