

# Are NYC broker commission rebates legal?

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As a NYC home buyer who may have just heard about the concept of a broker commission rebate, you are likely asking yourself – are NYC broker commission rebates legal?

You've asked a good question and we have a good answer for you!

## Broker Commission Rebates in NYC are 100% Legal and Encouraged

What do I need to know about the legality of broker commission rebates in NYC?

Fortunately and despite what you may hear from traditional buyer's agents, broker commission rebates in NYC are 100% hands-down legal. As a buyer, if you [request a broker commission rebate in NYC](#) you can expect to receive a significant cash incentive simply for purchasing a property.

New York is one of 40 states where receiving a broker commission rebate is permissible and encouraged by law. Specifically in New York City, broker commission rebates are 100% legal as per the Real Property Law which governs the state's property market.

## Earn a 1% Cash Rebate When Buying in NYC

NYC broker commission rebates are 100% legal and help buyers save money. Get yours today.

[Request a NYC Broker Commission Rebate](#)

In fact, commission rebates are being actively promoted by New York's Attorney General and Antitrust Division as a means of increasing competition in the real estate industry and ultimately reducing overall real estate commissions when buying and selling real estate in New York City.

[Request a Rebate](#)

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

To pave the way for broker commission rebates, New York recently amended Section 442 of the Real Property Law Article 12-A to specifically permit broker rebates. As you can see in the excerpt below, broker commission rebates are full permitted and there is absolutely no limit on the amount or types of incentives a broker can offer to his client as a means of securing a client's business:

*“ ... 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.”***

**Source: New York Real Property Law [Section 442](#), amended December 2014**

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## **How are lawmakers in New York actively encouraging broker commission rebates in NYC?**

**As if it weren’t sufficient just to change the law itself, New York’s Attorney General Eric Schneiderman issued an open letter to New York’s real estate community specifically**

encouraging them to offer NYC broker commission rebates. In this excerpt below, you can see that the Attorney General makes multiple references to the fact that broker commission rebates are fully legal and encouraged in New York City:

*“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. .. 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..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.”*

*Source: Open letter from Attorney Eric Schneiderman to the New York real estate broker industry, dated April 20<sup>th</sup>, 2015*

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

Let’s review exactly what you need to know as a NYC home buyer in order to understand what broker rebates are, how they work and how you can qualify for one when buying in NYC.

A NYC broker commission rebate is a cash rebate offered to a home buyer from his or her buyer’s agent as an incentive for working with them on the home purchase. While it’s certainly not permissible for a broker or salesperson to split a commission with an unlicensed party, brokers and salespeople are fully permitted and encouraged to offer rebates (cash or otherwise) to their actual customers (buyers and renters).

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## Who pays for a NYC buyer agent commission rebate?

The [average New York City real estate commission rate](#) paid by sellers is 5-6% of the sale price. When a buyer is unrepresented, the full 6% commission is pocketed by the listing agent. If a buyer has representation, then the 6% commission is generally split equally between the listing agent and buyer's agent.

On a typical NYC listing with an asking price of \$1.5 million, the seller will pay around \$90,000 in real estate commissions. The buyer's agent will earn \$45,000 in commissions for representing the buyer. If the buyer has [requested a NYC commission rebate](#), he or she could receive up to \$15,000 (1%) in the form of a cash commission rebate at closing.

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## Why should a NYC home buyer work with a buyer's agent?

When searching for a property in NYC, home buyers are presented with two options. They can either choose to search on their own and then work directly with the listing agent for a particular property. Alternatively, NYC home buyers can work with a buyer's agent

throughout the search. A buyer's agent assists with everything from the initial search through to offer submission, negotiation, board package preparation and the overall journey towards closing.

There are two compelling reasons to work with a buyer's agent as opposed to being unrepresented. They are:

- **Get a NYC Broker Commission Rebate** – As the example above demonstrated, buyers who receive a 1% commission rebate from their buyer's agent on a purchase in NYC can receive \$15,000 and in some cases significantly more simply for deciding to buy a property and [requesting a NYC broker commission rebate](#).
- **Buyer's Agent Representation in NYC is Free**– Buyers don't pay anything to have professional representation. Sellers in NYC pay 100% of all real estate commissions, including the percentage which is paid to a buyer's agent. In addition, there's almost always zero benefit to an unrepresented buyer in terms of getting a lower sale price by being unrepresented. This is because virtually all NYC home sellers have signed exclusive right to sell listing agreements with their listing agent obligating the seller to pay 6% commission *no matter what*. So if you are unrepresented, the full commission just goes to the listing agent as opposed to being split with your buyer's agent.

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**Will I save more money on my purchase price by being unrepresented than in the form of my 1% NYC broker commission rebate?**

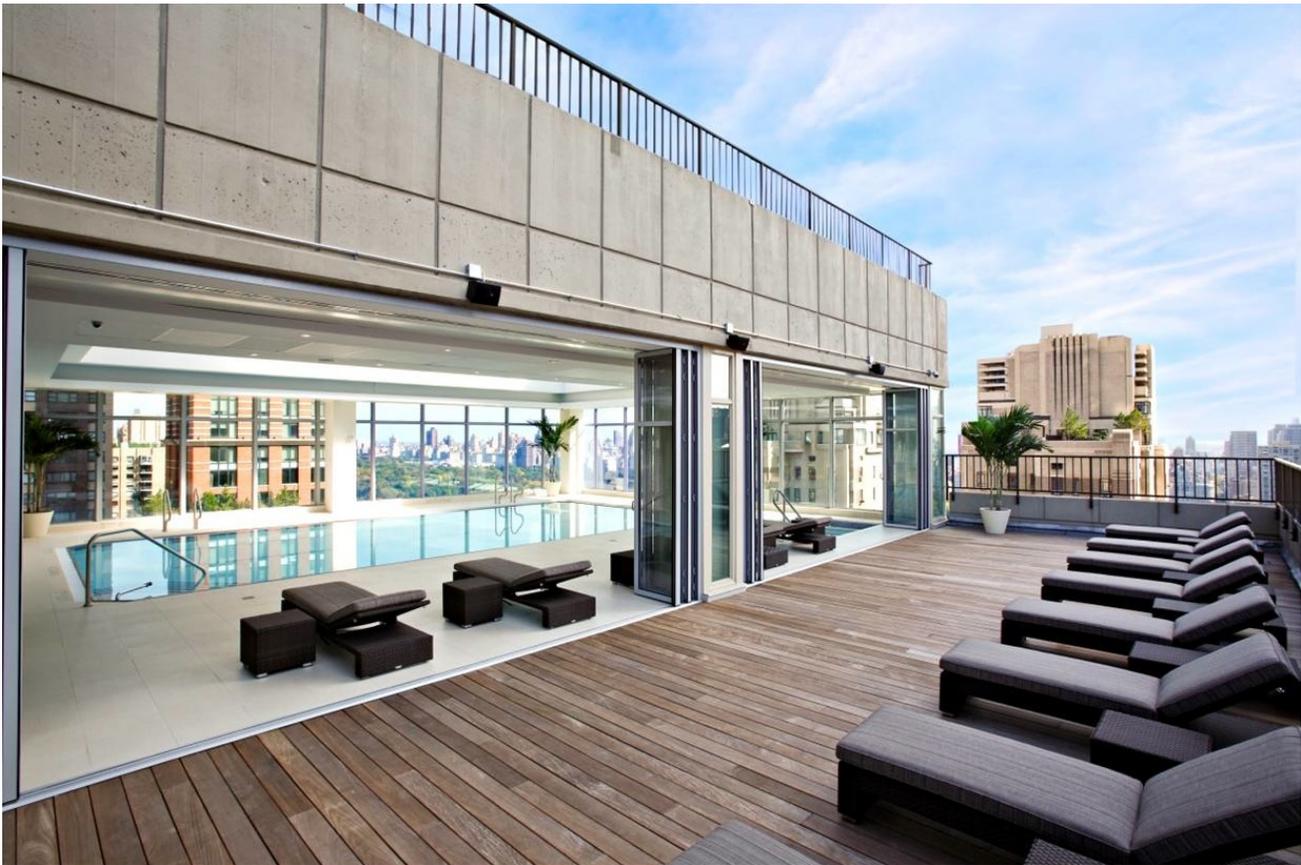
Because of the way NYC commissions are structured, unrepresented buyers almost never benefit from a lower purchase price simply because they are unrepresented. Sellers have already agreed to pay 6% in real estate commissions *no matter what*. The only thing that's up for debate is *how* that 6% will be split. It will either be 100% kept by the listing agent (if the buyer is unrepresented) or shared 50/50 with the buyer's agent. As a home buyer in NYC, you benefit when it's shared with your buyer's agent because you can receive a 1% broker commission rebate from your buyer's agent.





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## **Are NYC broker commission rebates common for renters as well?**

**Given the low inventory of rentals in NYC and the competitiveness among renters, it's definitely less common to receive a commission rebate as a renter in New York City. There is less room for negotiation with a rental agent because he or she likely has a line of potential renters who won't ask for a rebate. Furthermore, even though rental broker fees are highly detested and perceived as being high by renters, the reality is that after the commission split with his or her brokerage, brokers don't actually earn that much money from rentals. Commission rebates may also be unofficially not permitted by their brokerage. So there are many forces working against renters in NYC receiving any form of broker commission rebate.**

## **Will I be discriminated against by listing agents for receiving a NYC broker commission rebate?**

**Absolutely not, for two reasons. First and most importantly, it's illegal and a violation of the State and Federal antitrust laws for any agent to discriminate against innovative listing brokers and buyer's agents who work for reduced commissions or offer rebates. In his open letter to the real estate community New York's attorney general specifically warned brokers that any boycotting or discrimination will be investigated by the State.**

***"I also emphasize that my office will investigate any allegations of boycotting or discrimination against brokers engaged in rebating or other lawful discounting practices."***

*Source: Open letter from Attorney Eric Schneiderman to the New York real estate broker industry, dated April 20<sup>th</sup>, 2015*

The second reason why a NYC home buyer requesting a broker commission rebate won't be discriminated against is because the listing agent doesn't need to know about your private arrangement with your buyer's agent!

**How do I request a NYC broker commission rebate?**

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**Where can I read the letter that NY's Attorney General wrote about the legality of commission rebates?**

The full text of the letter can be viewed 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**

***Source: Open letter from Attorney Eric Schneiderman to the New York real estate broker industry, dated April 20<sup>th</sup>, 2015***