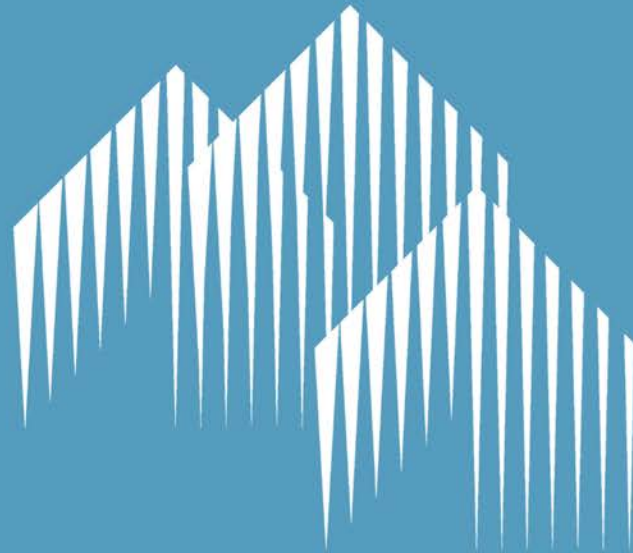


LONG ISLAND BOARD OF REALTORS®

@ HOME, TOGETHER

Presented by:
2020 LIBOR President Matthew Arnold
CEO Tessa Hultz
Corporate Counsel Doreen Spagnuolo
Associate Corporate Counsel Patrick Fife

WEDNESDAY, APRIL 15TH | 12PM - 1PM



**LONG ISLAND
BOARD OF REALTORS®**

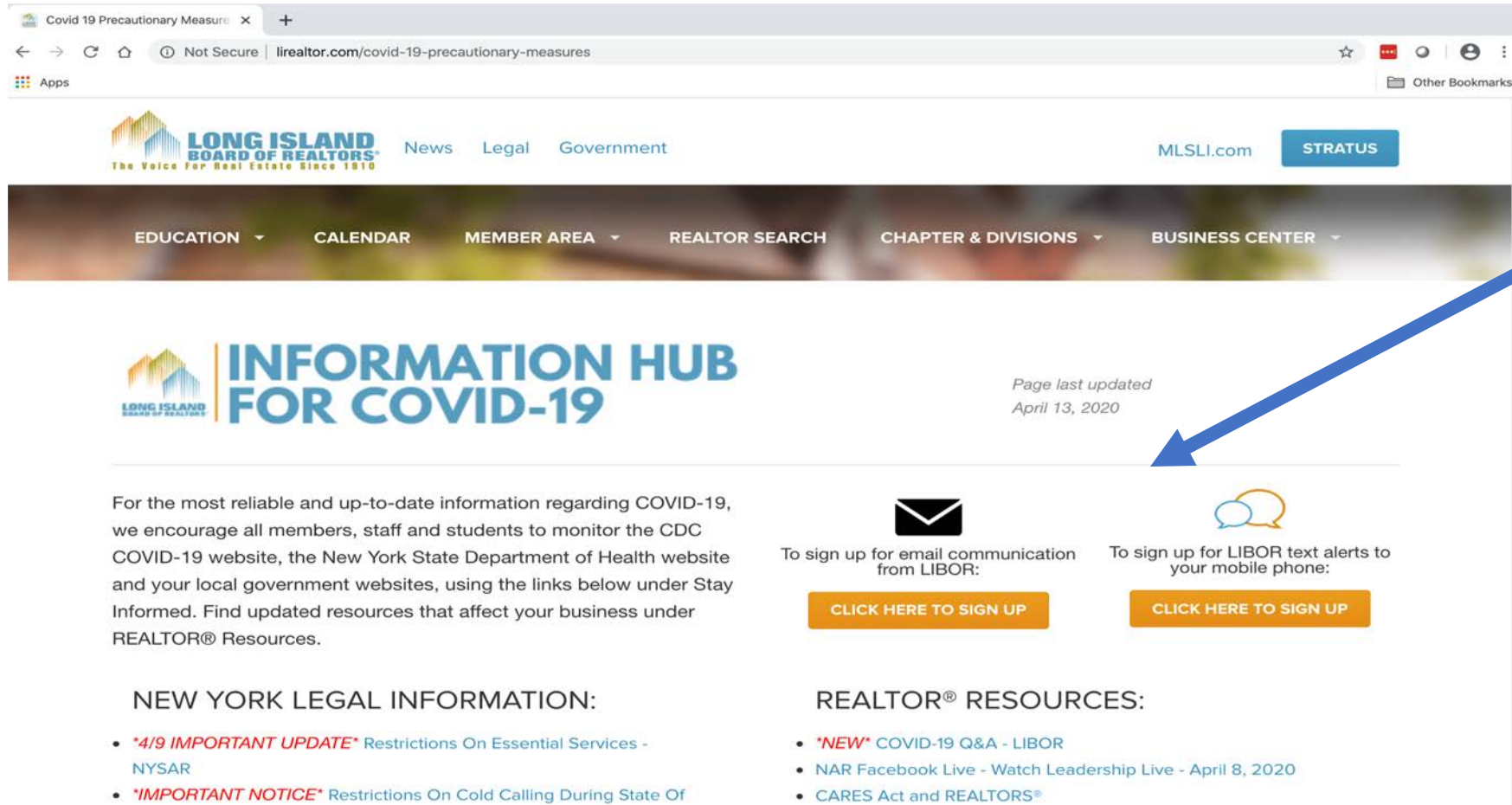


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EDUCATION CALENDAR MEMBER AREA REALTOR SEARCH CHAPTER & DIVISIONS BUSINESS CENTER

 **INFORMATION HUB
FOR COVID-19**

Page last updated
April 13, 2020

For the most reliable and up-to-date information regarding COVID-19, we encourage all members, staff and students to monitor the CDC COVID-19 website, the New York State Department of Health website and your local government websites, using the links below under Stay Informed. Find updated resources that affect your business under REALTOR® Resources.

NEW YORK LEGAL INFORMATION:

- ***4/9 IMPORTANT UPDATE*** [Restrictions On Essential Services - NYSAR](#)
- ***IMPORTANT NOTICE*** [Restrictions On Cold Calling During State Of](#)

REALTOR® RESOURCES:

- ***NEW*** [COVID-19 Q&A - LIBOR](#)
- [NAR Facebook Live - Watch Leadership Live - April 8, 2020](#)
- [CARES Act and REALTORS®](#)

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NYS on PAUSE Extended

All non-essential workers must continue to work from home and schools will be closed through April 29th.

10 POINT POLICY

ESSENTIAL BUSINESS...

What Does it Mean that Real Estate
is an “Essential Business”?

What Does “Essential” Mean?

On April 9, 2020 Real Estate Services were deemed “Essential Services”, albeit with **severe restrictions**.

NY State ESD Guidance

“Real estate services shall be conducted **remotely for all transactions**, including but not limited to title searches, appraisals, permitting, inspections, and the recordation, legal, financial and other services necessary to complete a transfer of real estate property; provided, however, that any services and parts therein **may be conducted in-person only to the extent legally necessary** and in accordance with appropriate social distancing and cleaning/disinfecting protocols; and nothing within this provision should be construed to allow brokerage and branch offices to remain open to the general public (i.e. not clients).”

IN-PERSON CONTACT WITH A MEMBER OF THE PUBLIC

- There can be no in-person contact with a member of the public.
- All business must be conducted remotely.
- **No ESD definition of what “remotely” means**
- Must use methods other than person to person contact to conduct business.
- Not aware of any scenario where it would be “legally necessary” to have person to person contact.

TAKING LISTINGS

- Can still take a listing but must do it without person to person contact.
- Virtual listing appointment.
- Electronic submission and signing of documents.
- Use mail (UPS, FEDEX) to deliver documents for signature and return.

IN-PERSON SHOWINGS

- Can only do showings virtually if seller agrees.
- No in-person showings.
- NYSAR's position is that if licensee goes to house to conduct virtual showing the homeowners must leave premises and licensee must conduct showing with appropriate cleaning/disinfecting and protection protocols.
- April 9th ESD Guidance makes this questionable

OPEN HOUSES

- Cannot conduct an in-person open house.
- Cannot have in-person gatherings to see house.
- Can have seller conduct open house virtually by live stream connection with licensee.

UNACCOMPANIED SHOWINGS

- Licensees should not be involved in coordinating showings between the potential buyer and seller.
- If seller wants buyer to see the property, licensee should not be involved with it.
- NYSAR's position is that if the seller wants the licensee to provide the buyers with the seller's phone number, the licensee should provide it.
- But with the new ESD Guideline, it could be viewed as coordinating an in-person showing.
- ESD Guideline states all real estate shall be conducted remotely. In-person only if legally necessary.

CAN A LICENSEE LET AN APPRAISER INTO THE PREMISES?

- NYSAR's position is that a licensee can let a bank appraiser into the house as long as person to person contact is limited.
- But with the new ESD Guideline, it could be viewed that the licensee is coordinating a person to person event.
- Appraisals can be conducted remotely.
- In fact new ESD guideline specifically states that real estate services should be conducted remotely including appraisals.

CAN A LICENSEE LET A HOME INSPECTOR INTO THE PREMISES?

- NYSAR's position is that a licensee can let a home inspector into a property as long as person to person contact is minimized.
- But the new ESD Guidance specifically states that real estate services should be conducted remotely including inspections.
- It could be viewed that a licensee is coordinating a person to person contact by letting a home inspector into the premises.

CAN A LICENSEE ENTER A VACANT HOME?

- NYSAR says yes if:
 - There is no in-person contact;
 - You must have the knowledge and informed consent of the seller;
 - You must follow appropriate cleaning/disinfecting and protection protocols; and
 - If the property is not vacant upon arrival, you must cease taking photographs/video and leave the property.
- However, April 9th ESD Guidance doesn't define "remotely".
- Licensees presence is also not "legally necessary".
- NYSAR strongly advises against using or arranging third-party photographer/videographer – they are not an essential business.

CAN A LICENSEE CONDUCT A WALKTHROUGH?

- No. Pursuant to the most recent guidance from the ESD, licensees are prohibited from going to a property with their client or customer.
- You should recommend that buyers and sellers speak with their attorneys about scheduling a final walkthrough without the licensee being physically present.
- You may communicate with your client via phone or video conferencing during the final walkthrough.

CAN A LICENSEE MAKE COLD CALLS?

- No. The Governor's declared disaster state of emergency means that unsolicited cold calls to New York residents are prohibited until September 7, 2020 unless the state of emergency is lifted sooner.
- New York's do-not-call registry law recently amended
- Unsolicited telemarketing sales call to any person in New York are now **illegal** under a declared state of emergency.
- Unclear if courts would treat text messages as phone calls.
- So you should **avoid** making any unsolicited telemarketing sales **calls** or sending unsolicited **text** messages to any person within New York until the current state of emergency is lifted.

WHAT OTHER MARKETING CAN LICENSEES DO?

- All other types of marketing such as mailers, billboards, social media, internet etc. are permitted.
- NYSAR is advising that you may call a FSBO if you have an identifiable purchaser interested in the property.
- However, you are prohibited from calling the FSBO to solicit the listing.
- NYSAR is also advising that you may still perform business to business calls so long as you are calling the number provided as the business number.
- Email communication is also permitted, so long as it complies with any other relevant laws.

CAN CLOSINGS TAKE PLACE?

- Yes. Remote notarization is now permissible under the Governor's Executive Order 202.7 and closings may be conducted virtually.
- It is the decision of the lender, seller's attorney and buyer's attorney as to whether a virtual closing and/or remote notarization or other methods are used to avoid person to person contact.
- Licensees should not attend any closings.
- We cannot think of any instance where your attendance would be legally required at the closing.

OUR OFFICE IS CLOSED, BUT CAN WE PICK UP MAIL OR OTHER ITEMS?

- According to NY ESD, a single person attending a closed business temporarily to perform a specific task is permitted so long as they will not be in contact with other people.
- Other employees or licensees are prohibited from going to the office.
- The ESD has made it clear that branch offices are not allowed to remain open to the general public.

WHAT IS THE LIABILITY FOR A LICENSEE VIOLATING THE NY ON PAUSE ORDER?

- The State can issue penalties that may range from:
 - a fine of \$2,000;
 - being charged with a misdemeanor; and
 - possible license suspension or revocation.
- Possible civil liability – may be subject to a lawsuit

HOW CAN COMPLAINTS BE MADE AGAINST VIOLATORS?

1. File a complaint with the Attorney General.
 - No specific complaint form.
 - Phone (800) 771-7755 or contact the NYS COVID-19 hotline at (888) 364-3065.
2. File a complaint with the Department of State
at: https://www.dos.ny.gov/licensing/complaint_links.html
3. File a complaint pursuant to the NAR Code of Ethics if the licensee is a member of the REALTOR® organization.
 - Complaints may only be made against individuals not against firms/brokerages.
 - The complainant could name the principal broker as well as the individual licensed with the broker.
 - Possible violations of Article 1 (failure to treat parties honestly) and Article 3 (violation of duty to cooperate)

Financial Relief for REALTORS®



U.S. Small Business
Administration



**Department
of Labor**

Paycheck Protection Program (PPP)

- Part of the CARES Act.
- Small Business Administration (SBA) Loans to help small businesses.
- Who is Eligible?
 - Businesses with less than 500 employees
 - Non profits 501 c 3
 - Sole proprietorships
 - Self employed individuals
 - Independent contractors
- Purpose of loan is to keep work force employed by making money available for payroll.
- Loan is to be used only to pay for:
 - Payroll costs up to \$100,000 per employee and sole proprietor
 - Rent
 - Utilities
 - Mortgage interest

Details of PPP

- Include Partial loan forgiveness if the money is spent on payroll, rent, utilities, mortgage interest for any 8 week period during the time of Feb 15, 2020 to June 30, 2020.
- Loan payments will be deferred for first 6 months.
- Maximum loan amount is \$10 million.
- Interest rate can't be more than 4%.
- 10 years to repay the loan.
- Do not need collateral, personal guarantee.
- There are no lender or borrower fees.

How to Apply for PPP

- Go to a participating SBA lender, bank, or credit union.
- Filing is already open.
- Apply quickly because there is a fund cap.
- An SBA official publicly said to apply even if you don't think you will need the money since it is likely that it will take longer than one month to receive the funds and things may be different then.
- If you ultimately decline the funds there is no penalty.

Tax Deadline Extended

- Extended from April 15, 2020 to July 15, 2020

Eviction Moratorium

- Landlords cannot evict a tenant for non-payment of rent moratorium until June 18, 2020.
- 90-day moratorium on evictions.
- Don't know what courts or landlords will do if tenants don't pay rent.

Mortgage Forbearance

- 90-day mortgage forbearance.
- **Forbearance does not mean Forgiveness.**
- This is for government backed loans – FHA, Fannie Mae and Freddie Mac.
- BUT must first contact lender for approval.
- Must work out details with lender.
- Must pay back .
- Cannot just stop paying mortgage without making arrangement with lender.

Economic Injury Disaster Loans (EIDL)

- EIDL loans are available for small businesses that have suffered economic harm due to COVID-19.
- Who is eligible?
 - small business or business with 500 or fewer employees
 - includes sole proprietors and independent contractors.
- Upon eligibility verification, applicants can receive a \$10,000 advance
- \$10,000 advance is forgiven and applicants can get it even if they don't qualify for additional funds.
- What can it be used for?
 - paid sick leave to employees unable to work due to COVID-19,
 - maintaining payroll,
 - meeting increased costs due to supply chain disruptions,
 - rent or mortgage payments, and repaying debt obligations.

Economic Injury Disaster Loans (EIDL)

- \$2 million limit.
- No personal guarantee for loans under \$200,000.
- Administered directly by the SBA – no bank involvement.
- **Beware of SCAMS!!**
- You can apply for these loans directly through the SBA at www.SBA.gov/disaster.
- You can apply for both PPP and EIDL, but must put them toward different expenses.
- Keep good records of expense payments.

Pandemic Unemployment Assistance (PUA)

- The CARES Act added PUA to provide benefits for independent contractors and self-employed individuals such as real estate salespeople who are not otherwise eligible for unemployment compensation.
- ESD guidance that real estate functions may continue remotely without in-person contact does not negate PUA.
- The test is not whether someone is theoretically able to work, but rather whether someone is as a practical matter unable to work.
- You can file a PUA application online at labor.ny.gov.

Economic Stimulus Payments

- Most Americans are eligible for stimulus payments.
- \$1,200 for individuals, \$2,400 for married couples, and an extra \$500 for each child younger than 18.
- Phaseout for those earning more than \$75,000 (\$150,000 for joint returns and \$112,500 for heads of household).
- Treasury Department says the first checks were delivered via direct deposit on Friday and millions will see money in their bank accounts by Wednesday.
- If the IRS does not have your banking information, it will mail your check to the address on your tax return.
- You can update your address on IRS website.

Tax Credits Under the CARES Act

- The **Families First Coronavirus Response Act** provides small and midsize employers refundable tax credits that reimburse them, dollar-for-dollar, for the cost of providing paid sick and family leave wages to their employees for leave related to COVID-19.
- The **Employee Retention Credit** is designed to encourage businesses to keep employees on their payroll.
 - The refundable tax credit is 50% of up to \$10,000 in wages paid by an eligible employer whose business has been financially impacted by COVID-19.
 - Ineligible for this credit if you take PPP, but you can take EIDL.

Increased Access to Retirement Accounts Under the CARES Act

- The CARES Act increases the dollar amount you can withdraw from your own 401(k) from \$50,000 to \$100,000.
- It also creates a penalty-free early distribution rule whereby taxpayers under age 59 ½ can take a penalty-free account distribution from their retirement account of up to \$100,000.
- Consult with your tax and financial advisors to review the potential pros and cons of these options.

Questions



Thank You & Be Safe!

