

Reference Guide: February 2020 Changes to Broker Rules

This document serves as a guide to highlight amendments to the Taxicab Broker Rules (Rules of the City of New York, Title 35, Chapter 62) that were adopted by TLC in February of 2020. The amendments establish or revise:

- the qualifications, requirements, prohibitions, and procedures for getting and maintaining a Broker's License;
- protections for Brokers' clients and the public against unfair business practices; and
- penalties for violations.

Disclaimer: This document is for informational purposes only, is not a substitute for the full TLC Rules, and should not be relied on as a complete statement of the requirements of the Rules. Brokers must only rely on a complete copy of the TLC Rules, including the Taxicab Broker Rules, as the Rules may change from time to time. TLC may make changes to documents and materials available on its website. It is the responsibility of Brokers to ensure that documents submitted are the current versions available on TLC's website.

This document, related forms, TLC Rules, a current list of Broker licensees, and more information relating to Brokers are available on TLC's website at www.nyc.gov/tlc. Questions can be directed to TaxicabBrokers@tlc.nyc.gov.

Failure to comply with TLC Rules may result in up to \$10,000 fine as well as suspension and/or revocation of a license.

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BROKER AGREEMENTS

TLC Rules require Brokers to have written agreements with their clients. These requirements ensure that information about services provided by a Broker are clear and transparent.

Agreements Must be in Writing

(Section 62-19(c)(1) of the Rules)

For any transaction or service provided by a Broker, the Broker must:

- Provide their client(s) with a **written Broker agreement** meeting the Broker agreement requirements provided in TLC Rules and described below;
- The Broker's **client(s) must sign** the Broker agreement; and
- Brokers must **provide a signed copy** of the agreement to each client.

Agreements Must be in Plain Language

(Section 62-19(c)(3) of the Rules)

The agreement must be **drafted using plain language** to make it easy to read and understand.

Drafting in "plain language" means, for example:

- Organizing information in the agreement so it is clear and easy to follow, including by breaking the agreement up into easily digestible sections with headings, lists, and short paragraphs;
- Using short, concise sentences instead of long, wordy ones; and
- Avoiding unnecessary jargon, technical terms, and "legalese," and instead relying on simple and commonly used words and phrases.

Agreements Must State the Broker's Duties to Engage in Proper Practices

(Section 62-19(c)(4)(iv-vi and viii) of the Rules)

The agreement must **state that Brokers have a duty to:**

- Act in the interest of their clients
- Disclose any financial interest in a transaction, and disclose all fees received from any party related to services provided by the Broker in a transaction, by filling out the Interest Disclosure and Consent Form
- Account for all money and property of the client that is entrusted to the Broker
- In the case of selling a medallion for a client:
 - Disclose any facts that impact the value of the medallion
 - Examples: any liens, encumbrances or judgments against the medallion or an upcoming wheelchair accessible vehicle cycle known to the Broker
 - Disclose all offers to purchase the medallion

Agreements Must List All Services Provided by, and All Costs Paid to, the Broker (Section 62-19(c)(4) (ii-iii) and Section 62-19(d)(3) of the Rules)

The agreement must **detail all of the services provided by the Broker** to the client, including preparation of documents, creating the medallion, filing of LLC or Corporation paperwork, and more.

Agreements must **outline all of the expected payments, charges, fees, and compensation** for the service provided by the Broker, **including any fees paid to the Broker by a third party.**

If a Broker represents several parties in a transaction, the agreement must **list all fees paid by each party.**

The Broker **must not charge fees to any party that are not specified in the agreement with that party.**

Agreements Must Identify All Parties Represented by the Broker

(Section 62-19(c)(4)(i) of the Rules)

If the Broker **represents more than one party**, the Broker agreements must disclose that fact and identify all other parties represented by the Broker.

If the Broker **represents both seller and buyer**, the Broker must disclose this, and all fees paid by each party, in the Broker agreement, signed by all parties, to ensure that both seller and buyer have agreed to this arrangement in writing.

If the **parties change after the agreement is signed**, the Broker must amend the agreement in writing to ensure the correct parties are listed on the agreement.

Agreements Must Allow Clients to be Represented by a Lawyer or Accountant (Section 62-19(a)(5) and Section 62-19(c)(4)(vii) of the Rules)

The written agreement must state that the **buyer and seller can hire their own lawyer or accountant** to represent them in the transaction.

Agreements Must Include Required Attachments

(Section 62-19(a)(4); Section 62-19(b)(2); Section 62-19(c)(5); and Section 62-19(d)(5)(iii) of the Rules)

The following documents must be attached to each agreement:

- For medallion transfers:
 - Broker-Facilitated Medallion Transaction Disclosures Packet, which includes:
 - Broker Interest Disclosure and Client Consent
 - Medallion Transfer Estimated Closing Costs
 - Medallion Transfer Closing Statement
 - Broker Client Rights
- For financing and refinancing:
 - Broker-Facilitated Medallion Transaction Disclosures Packet, which includes:
 - Broker Interest Disclosure and Client Consent
 - Loan Disclosure
 - Broker Client Rights

- Lender's commitment letter
- All other documents provided by the lender to the Broker

ANNUAL DISCLOSURES

TLC Rules now require Brokers to complete and submit an annual disclosure form created and provided by TLC. This section of the guide provides an overview of that form and related requirements.

Annual Disclosure Required for New and Renewal Broker License Applications (Section 62-05(c)(2) of the Rules)

As part of the Broker license application for new Broker licenses and Broker license renewals, the applicant must complete and submit a disclosure form provided by TLC.

Failure to submit the Annual Disclosure will result in the denial of the Broker license application.

Note that the first required annual disclosure will occur outside of the licensing process and is due from each Broker by May 12, 2020.

Disclosure Applies to Brokers, Company Officials, and Related Parties (Section 62-05(c)(1) of the Rules)

The Broker license applicant must disclose information about the interests of the applicant, any principal of the applicant, and any related party of the applicant.

- A "related party" is:
 - a spouse, domestic partner, child, grandchild, parent, sibling, or grandparent of the applicant;
 - a parent, child or sibling of a spouse or domestic partner of the applicant; and
 - a spouse or domestic partner of a parent, child, or sibling of anyone who is a Broker.

Content of the Annual Disclosure (Section 62-05(c)(2) of the Rules)

The annual disclosure must include all information about the Broker license applicant's interests in other TLC Licenses and in TLC-associated businesses.

Broker applicants must disclose any interest in any type of TLC license:

- Taxicab Licenses (medallions)
- TLC Driver Licenses
- TLC Vehicle Licenses
- TLC Base Licenses
- TLC Business Licenses, including Broker, Agent, Taximeter, Technology System Provider, and E-Hail Provider Licenses

Broker applicants must disclose certain business interests, including:

- Lender
- Insurance Broker

- Automobile Dealer
- Any business primarily offering or advertising products targeted to applicants or holders of TLC-issued taxicab licenses

The annual disclosure must also disclose **additional information**, including:

- The names of all of the applicant's employees at the time of the application
- If the applicant is a business entity, information regarding all owners, officers, partners, managers, and stockholders of the business entity

Submitting the Annual Disclosure

Brokers must submit their **first annual disclosure by May 12, 2020**, which is 60 days from when the new Rules go into effect.

Brokers must submit **subsequent annual disclosures at the time of the application** for a new or renewal Broker license.

Updates to the Annual Disclosure

(Section 62-05(c)(3) of the Rules)

If there are any changes in the terms of the disclosure, the Broker must submit an updated form to TLC within 30 days of the change.

Disclosure Information Made Publicly Available

(Section 62-05(c)(4) of the Rules)

TLC will post an abbreviated version of each Broker's disclosures on its website. The publicly available information will be limited to the name of the Broker, the medallions owned by the Broker, and the names and categories of the TLC-associated businesses in which the Broker, Company Officers, or Related Parties have an interest. This abbreviated version will be used to satisfy the requirement that the client is provided with the Broker's Annual Disclosure at the time of the medallion transfer.

DOCUMENT SUBMISSION AND RETENTION

Under TLC Rules, Brokers must submit certain documents to TLC and must retain certain other documents. This section provides an overview of the document submission and retention requirements for Brokers.

Documents that Brokers Must Submit to TLC

(Section 62-19(b-d) of the Rules)

For **all Broker-facilitated medallion transfers**, the Broker must submit the following documents and all related attachments to TLC **within 10 business days of the transfer closing**:

- Signed Broker Agreements
- Broker-Facilitated Medallion Transaction Disclosures Packet, which includes:
 - Broker Interest Disclosure and Client Consent
 - Medallion Transfer Estimated Closing Costs
 - Medallion Transfer Closing Statement
 - Broker Client Rights

For **all Broker-facilitated financing and refinancing**, the Broker must submit the following documents and all related attachments to TLC **within 10 business days of finalizing the transaction**:

- Signed Broker Agreements
- Broker-Facilitated Medallion Transaction Disclosures Packet, which includes:
 - Broker Interest Disclosure and Client Consent
 - Loan Disclosure
 - Broker Client Rights
- Lender's commitment letter
- All other documents provided by the lender to the Broker

Document Retention Policy

(Section 62-20(a) of the Rules)

Brokers must **retain all of the following documents for at least ten years** from the date of the medallion closing, in the case of a medallion transfer, or from the date of otherwise finalizing the transaction, in the case of financing and refinancing:

- Any document provided by the Broker and signed by the client or other interested party
- All documents prepared by the Broker for the client or other interested party
- Written acknowledgment that the client or other interested party received documents prepared and sent by the Broker
- Written notice to all sellers and buyers involved in the transfer of their right to be represented by an attorney or accountant of their choosing
- If the Broker has arranged a loan, all documents provided by the lender to the Broker Medallion Transfer Closing Statement
- Written acknowledgment that clients received required documents and disclosures, including:
 - Fully executed Broker Agreement
 - Broker-Facilitated Medallion Transaction Disclosures Packet and all related attachments

- For medallion transfers: Medallion Transfer Estimated Closing Costs and Medallion Transfer Closing Statement
- For Broker-facilitated financing and refinancing:
 - Loan Disclosure (Form 3 of Broker-Facilitated Medallion Transaction Disclosures Packet)
 - Lender's commitment letter
 - All other documents provided by the lender to the Broker

Any documents that must have been retained under TLC's previous three-year retention requirement as of the effective date of the rule change are now subject to the new ten-year retention requirement.

Example: A medallion transfer was completed in 2019. The three-year retention requirement was in effect at that time. The Broker must still have those documents in March of 2020 when the ten-year rule becomes effective. As such, those documents are now subject to the ten-year retention requirement.