

Real
Estate
Council
Alberta

reca.ca



THE REGULATOR

JUNE 2023 | VOLUME 29. ISSUE 2

ARTICLES

04 WHAT'S HAPPENING AT RECA

06 FRAUD PREVENTION AND CONSUMER AWARENESS

08 THE ROLE OF TERMS OF TRUST IN OUTLINING PAYMENT ARRANGEMENTS

10 BROKER RESPONSIBILITY RUNS DEEPER THAN JUST RUNNING THE BROKERAGE

RESIDENTIAL REAL ESTATE

13 CAN A HOME BE SOLD WITHOUT THE OWNER'S KNOWLEDGE?

MORTGAGE

16 IT'S TIME TO RENEW YOUR INSURANCE CERTIFICATE

RESIDENTIAL PROPERTY MANAGEMENT

18 CONDOMINIUM MANAGERS MUST HAVE INSURANCE!

20 CONDO REMINDER

A photograph of three business professionals in a modern office setting. A woman with short blonde hair and glasses is leaning over a man with a beard, both looking at a laptop. Another man is partially visible on the left, also looking at a laptop. The scene is overlaid with a semi-transparent orange rectangle. The text 'All Licensees' is centered in white on this rectangle.

All Licensees

WHAT'S HAPPENING AT RECA

RECA's modernized governance model consists of a Board of Directors and four Industry Councils representing each industry RECA regulates.

This general summary includes the key activities of the Board and all Industry Councils over the last quarter.

RULES REVIEW CONSULTATION MOVES INTO PHASE 2

In Phase 1 of the Rules Review, which closed on May 9, we gathered stakeholder feedback on the existing Rules. Thank you for all your thoughtful input. The Rules Review Steering Committee is now reviewing the Phase 1 input and will make recommendations to the Industry Councils for any proposed Rule changes.

Phase 2 is a multi-stage consultation with all stakeholders on proposed Rule changes based on the Phase 1 feedback. This will take some time, as Phase 2 will continue until May 2024, and be broken into three sections based on the existing parts of the Rules. The Rules Review Steering Committee met on May 19 and is developing some proposed Rule changes based on the feedback received in Phase 1. As a valued stakeholder we will seek your opinion on some potential options for Rule changes. You should expect more information to come on this next stage in the early summer.

Phase 3 will be a final stakeholder consultation on potential issues that could arise should the final proposed Rule changes come into force. Phase 3 will continue until the Fall of 2024.

The Rules Review consultation is important work which will further strengthen consumer protection throughout the industries RECA regulates. If you have yet to, please read this [Discussion Paper](#) for further details on Phase 1. For the latest on the Rules review, please visit reca.ca.

FRAMEWORK MOVES FORWARD ON GRADUATED LICENCE MODEL FOR CONDOMINIUM MANAGERS

In March, RECA presented the initial framework for a graduated licence model pilot project for condominium managers to the Residential Property Manager Industry Council. The Industry Council reviewed the proposed tiered structure and provided their amendments. RECA management will use the feedback to continue to revise and further develop the proposed framework and updates will be communicated as they become available.

Once completed and approved, the graduated licence framework will outline who can receive a graduated licence, what activities a graduated licensee can undertake, and what criteria they must meet to become fully licensed.

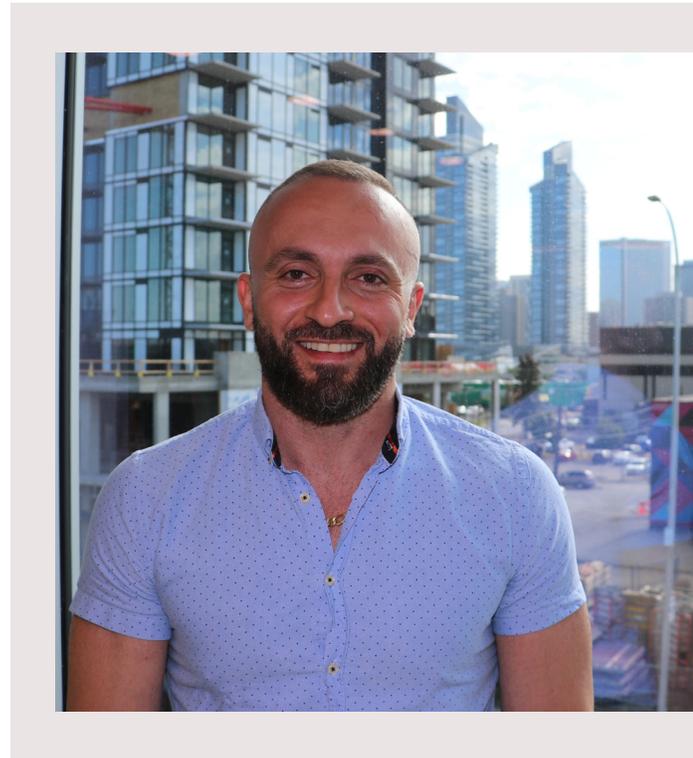
Industry stakeholders have indicated the ongoing struggle to attract new people to the condominium management and property management industries. A graduated licensing model will allow new hires to begin working in the industry in some capacity while they take their licensing education, which should make entering the industry more attractive.

RMS COMMITTEE UPDATE

The Residential Real Estate Broker Industry Council struck a Residential Measurement Standard (RMS) Sub-Committee in 2022. This Committee was tasked with reviewing the RMS, determining if it continued to make sense for the industry in its current form, and reporting back to the Industry Council. The Industry Council would then propose any changes, and consult on those proposed changes, should they determine there is a need for change. The Industry Council will now review and deliberate the Sub-Committee's recommendations. Should the Industry Council decide to make any changes to the RMS, the changes will then be communicated to the real estate industry.

INTRODUCING NEW STAKEHOLDER ENGAGEMENT GROUP AND MANAGER

From consumers to government to industry associations and our licensees, we have many diverse audiences and stakeholders at RECA. The newly created Stakeholder Engagement unit, headed by Kristian Tzenov, will be responsible for RECA's relationship with industry associations and our licensees. RECA's Communications unit will remain responsible for RECA's consumer engagement and awareness. Our new unit is tasked with expanding upon our existing engagement efforts, ensuring we are meeting the distinct needs of each stakeholder type. Congratulations to Kristian on his new role as Stakeholder Engagement Manager, please reach out to him at ktzenov@reca.ca.

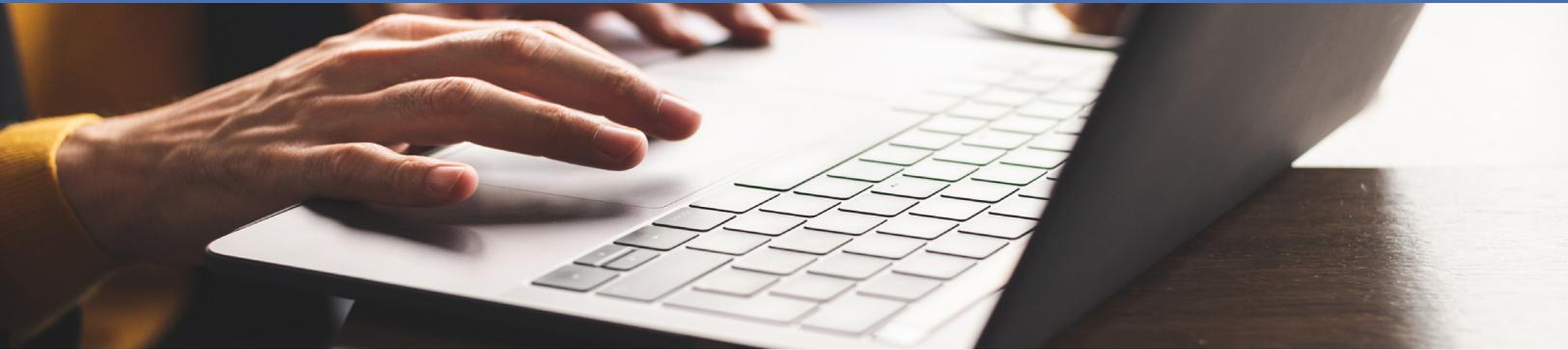


WHAT DO YOU WANT TO KNOW?

What work or projects are you interested in hearing more about from your Board and/or Industry Councils? Let us know at communications@reca.ca.

FRAUD PREVENTION AND CONSUMER AWARENESS AT THE FOREFRONT OF RECA'S 2023 EFFORTS

by James Porter, RECA Investigations Manager



At the Real Estate Council of Alberta (RECA), we are here to both protect consumers and promote the integrity of the industries we regulate.

Many consumers aren't aware that individuals employed in the real estate, mortgage, property management and condominium management industries need to be licensed and the value that comes from working with licensees.

Recently, we accelerated our consumer awareness campaign, targeting consumers who need the information the most. During the first half of 2023, members of our investigations team attended fraud prevention events, seminars and webinars around the province, where they relayed common scams, outlined how the industry works, and focused on the value and importance of working with licensed individuals. RECA staff also showed consumers how to check if an individual or company is currently licensed using RECA's public [Licensee Search Tool](#).

We are committed to spreading the message that consumers must be

vigilant in the fight against fraud and can trust in the industries we regulate. Consumers in attendance learned about common red flags in real estate transactions, how to spot common fraud scenarios, and how to access helpful resources should they find themselves caught up in a transaction that doesn't make sense.

CONSUMER AWARENESS EVENTS

- **Fraud Prevention Month 2023 Kicked-off in Calgary, Edmonton, and Red-Deer**
RECA exhibited at these annual public awareness campaigns that work to prevent Albertans from being victims of fraud
- **Centre for Newcomers Presentations and Webinars**
RECA has presented at multiple First Time Renting Workshops for new-to-Canada Ukrainians, live-translated into Ukrainian, and has given webinars to broader groups of newcomers on protecting themselves when renting for the first time. Several new scams have been uncovered in the rental marketplace thanks to the

WHAT RECA DOES FOR CONSUMERS

- establishes the education standards for entry into the real estate, mortgage brokerage, property management, and condominium management industries
- ensures the suitability and character of individuals who wish to enter these industries
- requires mandatory participation in an errors and omissions insurance program
- sets standards of business conduct that promote the integrity of the industries we regulate
- investigates consumer complaints
- administers the Consumer Protection Fund
- provides detailed information about real estate, mortgage, property management and condominium management services

relationship RECA has built with the Centre for Newcomers, saving new Canadians thousands of dollars they would have lost to scammers preying on the newcomer community.

- **Edmonton Public Library Webinar Series**

RECA hosted free public webinars with topics including How the Real Estate Industry Works, rental scams, and title and mortgage fraud. Registration for these events has sold out every time. RECA is looking to expand these free webinars with libraries across the province.

At each opportunity, consumers (especially those in vulnerable populations) were reminded that RECA and the licensees regulated by RECA are resources they can turn to if they need help. Our [Information Service Officers](#) are available for consumers to ask common questions regarding their real estate transactions and reca.ca contains valuable information regarding the industries we regulate.

CONSUMER PROTECTION MANDATE

We strongly believe in the value of our licensee's work and will continue to promote the integrity of the industries we regulate whenever possible.

Our licensees are our ears to the ground. If you have any ideas on events we should attend or suggestions on how we can enhance consumer awareness regarding the value of working with a RECA licensee, please share them with communications@reca.ca.



AVOIDING PAYMENT DISPUTES: THE ROLE OF TERMS OF TRUST IN OUTLINING PAYMENT ARRANGEMENTS

by Kyle Schaub, Practice Review
Manager

As a property or condominium manager, one of the most frustrating aspects of the job can be dealing with payment disputes. Whether it's a tenant who refuses to pay rent, a missing e-transfer or a condominium owner who is late on their monthly condominium fees, payment disputes can be time-consuming and stressful.

To reduce the chance of a payment dispute, set up clear payment arrangements based on the terms of trust.

WHAT ARE TERMS OF TRUST?

Essentially, terms of trust are agreed-upon terms and conditions that govern payment arrangements between two parties. A broker's role in handling trust funds is that of a trustee, and you must only keep and disburse trust funds according to the terms of trust. If your brokerage uses alternative payment arrangements, outside of the standard terms of trust, document these arrangements in the terms of trust.

TERMS OF TRUST CONDITIONS

Terms of trust should be drafted with clear and explicit conditions; the more exact the condition, the less difficult it is to mis-interpret the instructions. For example, if trust money is being collected or disbursed through a third-party, document it and name the specific payment method. It is the broker's job to ensure all parties understand the terms of trust, and if these terms change, all parties must grant their written consent. If a dispute about trust money were to arise, the most recent terms of trust apply.

OTHER ITEMS TO DOCUMENT:

- any administration charges
- if you pay expenses on behalf of owners, including any limitations on permitted expenses and amounts
- if you will use a pooled trust account
- how you will handle any additional interest earned on security deposits
- if you will keep a reserve (for property management)
- if the terms permit use of alternative payment methods (third-parties, e-transfers, apps etc.) to collect or disburse trust funds

ALTERNATIVE PAYMENT METHODS

Payment arrangements such as e-transfers or the use of mobile applications to collect/disburse payments are quite common in today's world. As a trustee, it is important to understand that if you are using a third-party to handle trust money, there are risks involved as you are transferring the money to an intermediary. This type of payment arrangement would fall outside of a standard trust agreement. To protect both yourself and your clients, discuss the risks and benefits of using such a service. If all parties agree to the alternative payment arrangements, outline them in the terms of trust.

REVIEW THE TERMS OF TRUST REGULARLY

Remember, any activity outside the terms of trust is prohibited. The terms of trust must be in writing and all parties must agree to those terms. If the original terms change, redraft the terms of trust and have all parties agree to them in writing. Acting as a trustee is an important role. Any terms of trust must not circumvent the *Real Estate Act* or its Rules. Clear terms of trust should help avoid or resolve payment disputes. Protect your business by ensuring the trust accounts you handle have clear and concise terms that you review regularly.

If you have any questions about handling trust funds or terms of trust, please email audit@reca.ca.

BROKER RESPONSIBILITY RUNS FAR DEEPER THAN JUST RUNNING THE BROKERAGE

by Gary Siegle, RECA Regulatory
Compliance Advisor, Mortgage
Brokers



Brokers play a vital role in the real estate industry. Not only are you responsible for overseeing the operations of your brokerage, but you are also responsible for ensuring your associates adhere to industry standards, the *Real Estate Act*, and its Rules and Regulations. To ensure you run a successful business, it is essential to understand the concepts of broker accountability and broker delegation.

No matter the industry (real estate, mortgage, condominium or property management), and no matter the business model you follow, you are part of a regulated profession. Brokers are accountable for their actions and also must meet requirements set out in the *Real Estate Act* and Rules.

A BROKER'S RESPONSIBILITIES ARE BROADER THAN YOU MIGHT THINK

Did you know a broker is always responsible for the actions of their employees and associates? This means you must supervise any work performed by associates and unlicensed staff of your brokerage. If a client were to have an issue with one of your brokerage employees or associates, they would also be able to look for recourse against you as the broker.

Take for example a situation where an associate of your brokerage neglects to enter into a written service agreement with a client. If an associate makes a mistake or willfully violates the legislation, they are not the only ones who have broken the rules, their broker is also responsible for their actions under their brokerage agreement. This is why it is very important for brokers to be aware of the work each and every associate of their brokerage performs.

BROKER ACCOUNTABILITY

This [information bulletin](#) highlights the importance of a broker's fiduciary duty to clients and the public. Brokers are responsible for supervising their associates and ensuring they comply with industry regulations and ethical standards. Additionally, brokers are responsible for the brokerage trust accounts and must ensure the funds are used appropriately. Non-compliance can result in consequences such as fines, licence suspension, or cancellation.

BROKER DELEGATION

This [information bulletin](#) discusses the concept of broker delegation and its

importance. Oftentimes it makes sense for brokers to delegate some responsibilities to ensure the business runs smoothly. You may need some help if you run a large brokerage, are absent temporarily or have multiple physical locations. Yet asking someone to help does not mean you pass off all accountabilities. As the broker, you remain accountable whether or not you assign an area of responsibility to another party.

For example, you may ask an associate or associate broker to train new associates, but ultimately it is still your responsibility to ensure the new associates follow the *Real Estate Act*.

It is also important you ensure the individuals you delegate hold an active licence with your brokerage and are qualified to carry out the tasks you delegate to them. Remember, unlicensed staff cannot perform duties which require a licence.

Delegation assignments must be in writing and communicated to all brokerage licensees and staff. Since you remain responsible for the delegated responsibilities, you should have a monitoring system in place.

BEST PRACTICES

Being a broker involves a lot of responsibility. Consider the following tips:

- communicate regularly with your associates. Associates who know what is expected of them and have the brokerage values regularly reiterated are more likely to operate within the Rules and ensure they do what is expected of the brokerage
- create a properly documented policies and procedures manual and make sure all employees of the brokerage review it
- provide regular training and support to your brokerage staff, including individual and team check-ins
- conduct periodic reviews of your employee's activity to ensure they are working within the Rules as well as any specific brokerage policies

Regardless of the sector you work in, brokers must adhere to industry regulations and ethical standards while ensuring their associates do the same. Many brokers aren't aware of their significant responsibility to ensure their associates also follow the Rules. Adopting best practices will help ensure your brokerage staff are properly trained and know what's expected of them. Ultimately, practicing proper accountability and delegation practices will help ensure your business is successful for years to come.

If you have any questions on your role as a broker and/or the concepts of broker delegation and accountability, [please contact the RECA's Regulatory Compliance Advisor](#) for your industry.



Residential Real Estate

CAN A HOME BE SOLD WITHOUT THE OWNER'S KNOWLEDGE?

by Kristian Tzenov, RECA
Stakeholder Engagement Manager



Recent incidents of [fraudulent activity in Ontario](#) where homes were sold without the homeowner's knowledge have been a hot topic and serve as a good reminder for Alberta licensees not to let their guard down or skip steps when identifying clients.

In one case, a property management brokerage chose a rental tenant for their client who was later discovered to have used fake identity documents, along with bogus references, neither of which were verified by the brokerage. These fraudsters originally posed as tenants, only to later impersonate the homeowner and attempt to sell their home.

DO YOU REALLY KNOW WHO YOUR CLIENTS ARE?

Licensees must verify their client's identity, yet simply obtaining identification isn't where this process should end. Watch out for any client red flags. Red flags can be difficult to spot if you haven't taken the time to get a good understanding of who your client is in the first place. Remember, building strong client relationships can help to combat fraud.

Additionally, licensees should take diligent care in situations where a Power of Attorney is involved, and it is not the homeowner themselves looking to sell a property. Be sure to use your best effort to confirm the validity of the Power of Attorney, including ensuring it is within the scope of their agreement to sell the property on the owner's behalf. Copies of the Power of Attorney should always be requested and retained.

POTENTIAL RED FLAGS

- incorrect or inconsistent spelling of a client's name across multiple documents
- employment references listed for companies that cannot be found online or have no website

- personal reference's phone numbers are the wrong number or for out-of-service numbers
- clients unwilling to meet in-person

THE IMPORTANCE OF TITLE INSURANCE

Fraud can occur even when proper "know your client" procedures are in place. The most diligent industry professionals may still fall victim to experienced fraudsters using sophisticated tactics. Title insurance can provide additional protection and reassurance.

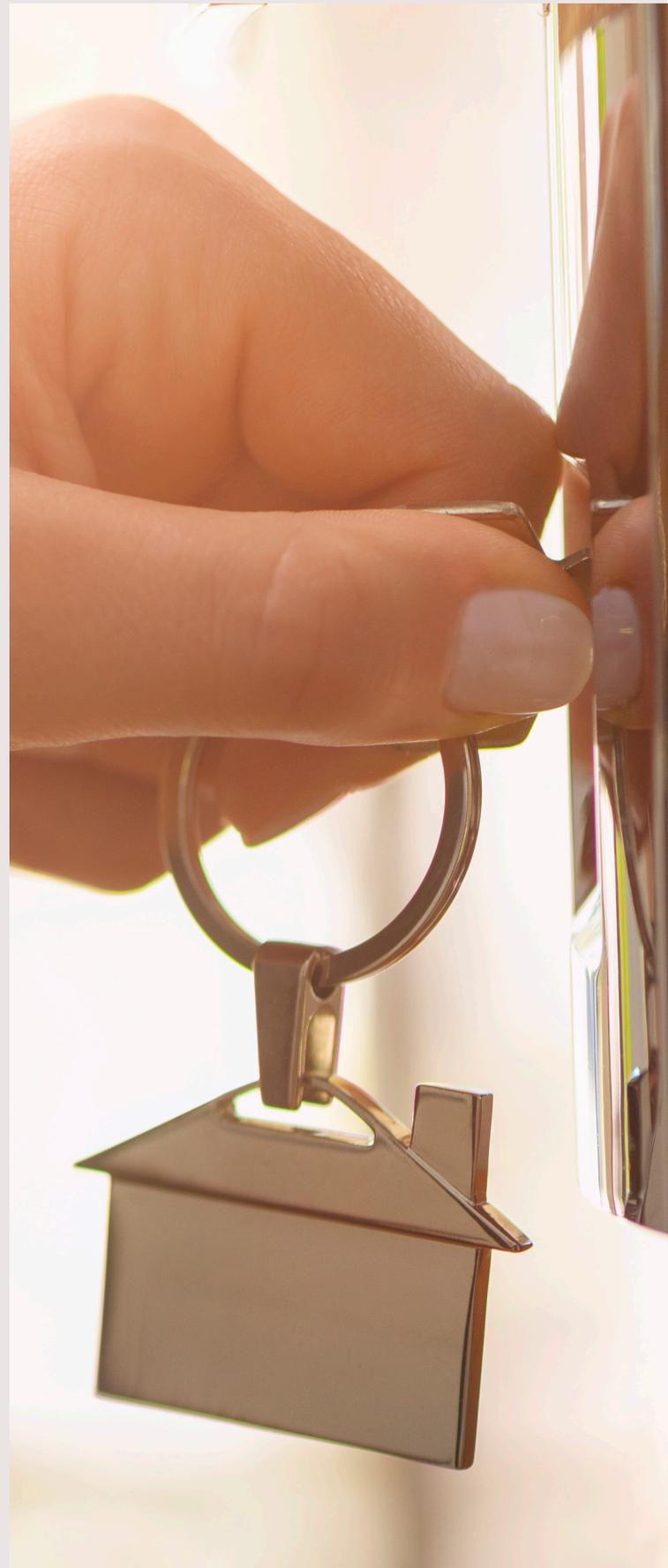
Title insurance is relatively inexpensive and protects the policy holder against most losses associated with title fraud and other title-related issues, including challenges against ownership.

Buying a home is often a person's most significant investment. Licensees should consider advising their clients to investigate the benefits of title insurance as a safeguard in the event their ownership rights are ever challenged. Title insurance is available from a variety of third-party insurance companies and typically covers the legal fees and other costs related to restoring title in cases of real estate title fraud. In fact, even homeowners who did not initially obtain title insurance when they purchased their property can still purchase a policy at any time.

Are you doing everything you can to get to know your clients?

Do you advise your clients to consult with their real estate lawyer about the benefits of title insurance?

What procedures do you use to verify your client's identity?



A hand is holding a small, orange-colored model of a house with two windows. The word "Mortgage" is written in white, bold, sans-serif font across the center of the house model. The background is a warm, orange-toned gradient.

Mortgage

ARE YOU A MORTGAGE BROKER WHO HOLDS A CERTIFICATE TO SELL CREDIT-RELATED INSURANCE: IT'S TIME TO RENEW YOUR CERTIFICATE

The Alberta *Insurance Act* (the Act) requires that every business that acts as an insurance agent must hold a valid certificate of authority. The Act also requires that a business that is issued a certificate of authority must appoint a Designated Individual (DI) who is responsible for receiving all notices and documents from the Alberta Insurance Council (AIC).

This requirement applies to **mortgage brokerages** as a sales finance company that sell credit-related insurance. If you require additional information on licensing, please contact the Alberta Insurance Council at licensing@abcouncil.ab.ca



If your mortgage brokerage currently holds a valid certificate(s) to sell credit-related insurance, **your license(s) will expire on June 30, 2023** and must be renewed prior to that date if you wish to continue doing business. The AIC emailed renewal notifications to all license holders through their DI's in **early May**.

If you are not the DI for the license issued to your business, a new DI must be appointed. **The new individual must register for their own CIPR number. CIPR numbers are not interchangeable.** The new prospective DI can submit an online application by logging into the AIC portal. If the agency name under which you conduct insurance business or the sponsoring insurance company has also changed, the DI must update those changes through an online application. **These updates cannot be made on renewal application(s).** It is your responsibility to ensure that the agency and DI information provided to the AIC is current and accurate.

Not sure if you currently hold an active insurance agent's certificate of authority? Search for your business name from the link Other Resources-Popular Lookups-Agent and Agency Search at www.abcouncil.ab.ca.

If you have any other questions, please email licensing@abcouncil.ab.ca

A photograph of a modern, multi-story residential building at dusk. The building features a mix of light-colored horizontal siding and dark grey vertical panels. Large windows and balconies are visible. The scene is illuminated by warm interior and exterior lighting, creating a soft glow. In the foreground, there is a green lawn with some potted plants and a small tree. A concrete sidewalk and a road are visible at the bottom. A large, semi-transparent orange rectangle is overlaid on the center of the image, containing the text.

Residential Property Management

PROTECT YOUR BUSINESS: CONDOMINIUM MANAGERS MUST HAVE INSURANCE!

*by Doug Dixon, RECA Regulatory Compliance Advisor, Condominium
Managers*



Like all professions RECA regulates, the *Real Estate Act* Rules (the Rules) require condominium manager brokerages to carry insurance against liability for errors and omissions when providing condominium management services. Many third-party insurance providers offer this type of insurance. Errors and omissions insurance protects you and any associates of your brokerage against claims of inadequate work or negligence.

Think of some of your common duties as a condominium manager:

- You probably keep records for the corporation and respond to owner complaints. Could there be an instance where you or an associate makes a mistake which could result in someone wanting to take legal action?
- Condominium managers are typically responsible for ensuring completion of maintenance and repairs of the property, and usually hire and monitor service companies and contractors to do this work. Your business should have adequate insurance coverage should something not go as planned.

FIND THE RIGHT COVERAGE

The Rules specify brokerages must hold a minimum of \$1 million in errors and omissions insurance. Regardless of the minimum requirement, it is important to assess the specific needs of your business and the individual coverage you require. Your business may also benefit from additional types of insurance available. Discuss your day-to-day operations with your insurance provider and ensure you adequately cover your brokerage. Include a healthy budget for insurance premiums, as not having sufficient coverage could ultimately put your brokerage out of business should a large claim arise. It is best to be prepared.

It's a good idea to speak to the corporations you manage to ensure they are adequately covered as well. The Rules also require all condominium corporations carry adequate insurance for any liability incurred by the corporation and its elected board when carrying out their duties and responsibilities. The corporation's insurance needs to include a fidelity bond, which ensures the corporation is protected if a board member or manager causes a loss by dishonesty or fraud.

POTENTIAL BREACH OF THE RULES

RECA's Practice Review Team will ensure adequate errors and omissions insurance is in place as part of their brokerage audit. If a brokerage is found to not hold the minimum requirement for errors and omissions insurance, or does not have an active policy at all, RECA may issue the brokerage an administrative penalty, and in extreme (likely repeated) instances, RECA could order your brokerage to cease operations in the public interest.

THE CONDOMINIUM MANAGEMENT INDUSTRY IS NOT COVERED BY THE CONSUMER PROTECTION FUND

The Consumer Protection Fund (the Fund) compensates consumers who suffer financial loss due to fraud, breach of trust, or a failure to disburse or account for money held in trust with regard to a real estate transaction by a RECA licensee. Yet only licensees in the real estate industry (which includes property management, but not condominium management) pay into the Fund when they enter the industry and obtain their licence. Consumers who suffer financial loss as a result of the business of a condominium manager are not able to make a claim from the Fund. Consumers wronged by a condominium licensee would need to seek legal action against the condominium manager and/or their brokerage, reinforcing the necessity for condominium management professionals to obtain adequate errors and omission insurance directly from the insurance market. Condominium management brokerages must hold errors and omissions insurance to protect their clients should errors or omissions occur during the work they perform on their behalf.

While it's not an option to decide whether your condominium brokerage should consider obtaining errors and omissions insurance (it's a requirement to hold it under the Rules), ensuring you have the adequate amount of coverage for your specific business will help to ensure the viability of your company.

Ensure you don't leave your business in a vulnerable position where you could breach the Rules or find yourself facing legal action by a third-party. Set an annual reminder to check-in on your insurance coverage and ensure your business is protected.

CONDO REMINDER: THERE ARE ONLY FOUR MONTHS LEFT TO COMPLETE YOUR CONDOMINIUM MANAGEMENT COURSES

As most are now aware, the Residential Property Manager Industry Council has extended the deadline for condominium managers to complete their required course(s) to **September 30, 2023**.

This is a reminder that each course can take many hours to complete, so any condominium managers with conditions remaining on their license are encouraged to allow adequate time to complete any outstanding course requirements. There are only four months left before the deadline!

Waiting until the last minute to begin or complete your required education could mean risking your ability to work as a condominium manager. All courses and accompanying exams need to be completed by **September 30, 2023**.

RECA MANAGEMENT

RUSS MORROW

Chief Executive Officer

JANICE HARRINGTON

Chief Operating Officer

WARREN MARTINSON

Registrar

STACY PAQUIN

General Counsel & Corporate
Secretary

CONTACT RECA

Phone (403) 228-2954
Toll-free 1-888-425-2754
Fax (403) 228-3065

GENERAL QUESTIONS

Call or email an Information Officer
at: info@reca.ca

BROKER ADVICE

Call or email one of our Compliance Advisors:

Mortgage: gzielgle@reca.ca

Real Estate: ktzenov@reca.ca

Condo: ddixon@reca.ca

CONTACT RECA'S BOARD OF DIRECTORS OR INDUSTRY COUNCIL MEMBERS DIRECTLY

Board of Directors: board@reca.ab.ca

Mortgage Broker Industry Council:
mortgageic@reca.ab.ca

Residential Real Estate Broker Industry Council:
resic@reca.ab.ca

Residential Property Manager Industry Council:
respmic@reca.ab.ca

Commercial Real Estate Broker and Commercial
Property Manager Industry Council:
commic@reca.ab.ca

WATCH RECA.CA FOR CURRENT ENGAGEMENT EVENTS, BROKER FORUMS, AND MORE.