

ELECTRONIC RECORDS

Purpose: This bulletin explains the *Real Estate Act* and Rules related to keeping electronic records.

This bulletin applies to all industry professionals.

Electronic recordkeeping must follow the *Real Estate Act* and Rules

Brokerages and licensees must handle electronic records according to the *Real Estate Act* (Act) and *Real Estate Act* Rules (Rules). Several sections in the Rules specifically deal with electronic records the Act and Rules allow you to keep electronic records if you meet certain conditions.

How we define electronic records

Section 1(1)(l) of the Rules defines electronic records as records “created, recorded, transmitted or stored in digital form or in any other tangible form by electronic, magnetic or optical means or by any other means that have similar capabilities for creation, recording, transmission or storage.”

Storing electronic records

You can create records electronically or you can convert paper records to an electronic form to store them.

Real Estate legislation requires you must keep records for at least three years from the date you create them.

Section 82 of the *Real Estate Act* Rules outlines how to maintain the integrity and security of electronic records. These are some of the rules you must follow storing electronic records:

- do not alter information when you convert paper records to an electronic form
- store records in a secure and accessible physical location in Alberta
- keep potential and actual trade or deal records together and linked to create a complete record
- keep a copy of the program needed to view and print the electronic record

Deleting electronic records

Only brokers, or a person authorized by a broker, may delete electronic records in compliance with the *Real Estate Act*.

Protection of Client Information

Section 44 of the Rules requires brokerages keep client information confidential and have written policies and procedures for maintenance and protection of personal and confidential information.

Electronic record storage requires implementation of cybersecurity policies and procedures to ensure brokerage obligations for protection of client information are met.

RECA recommends brokerages become familiar with cybersecurity best practices. Brokers can refer to RECA's Cybersecurity Program Checklist on reca.ca and implement cybersecurity policies and procedures that fit their business model.

Depositing trust funds

When a real estate brokerage receives funds on behalf of a client or investor, the brokerage must open and maintain one trust or pooled trust account where they deposit these funds.

Section 83 of the *Real Estate Act* Rules states that a brokerage must receive both the front and back copies of electronic disbursement trust cheques.

Depositing electronic funds

When your brokerage deposits funds into a trust account using an automated banking machine (ABM) and ABM card, you must keep the deposit receipt. This receipt includes important information such as the account number, time, date, and amount of the deposit.

When you deposit funds into a trust account using internet banking, the broker or someone the broker authorizes must sign and date a written record of the deposit. This record must include the account number, time, date, and specific details of the deposit.

Transferring electronic funds

When transferring trust funds with an ABM card, you must:

- make sure the ABM card cannot withdraw funds
- provide both written support documents and an ABM record of the transfer
- submit the ABM record to the broker or someone the broker authorizes to review, sign, and date the record before the end of the next business day

When you make trust account transfers using internet banking, you must have:

- written support documents

- a printed record of the transaction details, reviewed, signed, and dated by the broker or someone the broker authorizes before the end of the next business day

Examples of incorrectly keeping electronic records

Storing your electronic records outside Alberta

An Alberta mortgage broker spends every weekend at his cabin in British Columbia. He processes and stores all electronic paperwork on his office computer at the cabin for the sake of convenience.

Despite the convenience, the broker must store all electronic records in a physical location in Alberta.

Keeping unencrypted records

A licensee saves important electronic records for a client transaction on her USB drive. She does not encrypt the information as she plans to transfer it to a designated safe place later that day.

A USB drive is not a **safe** storage device, even for a short time. The average USB user is unaware of encryption tools to protect their files, and it's easy to misplace or lose these drives.

Withdrawing cash from a trust account

A broker is planning to move to Calgary from Brooks, where he manages a trust account at a Chartered Bank. He would like to move the funds to a new account at a Chartered Bank in Calgary. While he is in Brooks, he uses the trust account's ABM card to withdraw cash from the account, which he then plans to deposit into the new Calgary account later that day.

When a broker he sets up ABM cards for trust accounts, he must ensure the cards **do not allow cash withdrawals**. Instead, he could transfer the funds through Internet banking, if he has written supporting documents and a printed transaction record, both reviewed, dated, and signed by his brokerage before the end of the next business day.

Related information

Legislation

- *Real Estate Act* - section 25(9)
- *Real Estate Act Rules* - sections 1(1)(l), s. 44 (1), (2), s.82, s.83, s.84, s.85

Information bulletins and other resources

- Records – Mortgage Brokerage
- Records – Property Management
- Records – Real Estate Brokerage
- Cybersecurity Program Checklist