

ELECTRONIC RECORDS

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

This bulletin applies to all industry professionals.

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

As more and more businesses use electronic records, brokerages, real estate appraisers, and real estate candidates must make sure they handle these records according to the *Real Estate Act* (Act) and *Real Estate Act* Rules (Rules). Several sections in the Rules specifically deal with electronic records because of the growing number of businesses using electronic record-keeping systems. The Act and Rules allow you to keep electronic records as long as 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

Creating and storing electronic records

You can create and store electronic records 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 after you create them.

Most of section 82 of the *Real Estate Act* Rules is to make sure you 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, appraisers, or someone a broker or appraiser authorizes may delete electronic records in compliance with the *Real Estate Act*.

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 you transfer 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 following 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 following 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

An appraiser 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.

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

Related information

Legislation

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

Information bulletins

- Records – Mortgage Brokerage
- Records – Property Management
- Records – Real Estate Appraisal
- Records – Real Estate Brokerage