

Guide to Providing a Statement

The executive director has authority under the *Real Estate Act Rules* (the Rules) to require industry professionals and licence applicants to provide a Statement for various reasons.

When providing a Statement to the executive director, you may wish to seek independent legal advice. Providing false or misleading information to the executive director may result in the refusal, suspension or cancellation of your authorization and is conduct deserving of sanction.

Below are some common scenarios where the executive director may request you to provide a Statement.

1. Details of events reported under Rule 40 or on a licence application

If you have disclosed an event(s) to the executive director pursuant to section 40 of the Rules, such as bankruptcy, criminal proceedings or conviction, discipline, or civil proceedings, the executive director will require you to provide a Statement setting out the specific details surrounding the event(s) in question.

For example, if you report a drinking and driving charge, providing a Statement that says, "I got pulled over and was charged with DUI," is insufficient. You must provide the full picture.

- the circumstances surrounding the event
- where and with whom you were consuming alcohol
- how much alcohol you consumed and over what period of time

Alternatively, if you report you are or were the subject of bankruptcy proceedings on a licence application, you must provide detailed particulars, such as:

- what events led up to you entering bankruptcy proceedings
- why you chose to declare bankruptcy
- that this your first bankruptcy or that you have been bankrupt in the past

In all cases, including information about any steps you have taken to remediate the situation or rehabilitate yourself can go a long way to supporting a favourable outcome. In addition, the more detail you provide the more favorably the executive director will view your cooperation in the matter.

2. AKA name – proof of use

If you are requesting permission from the executive director to practice in a name other than your given name(s) – commonly referred to as an 'Also Known As' name, or 'AKA' - and this name is not a direct derivative of your given name(s), the executive director will require you to provide proof that you are commonly known by this AKA.

Your Statement should include details such as, how long you have been using the AKA and in what social circles, i.e. friends, family, work, school, etc.

3. Stale-dated licence application and/or supporting documents

To ensure the integrity and validity of information contained within a licence application (including supporting documents), the Registrar (the executive director's delegate in licensing matters) has determined that an application, if not completed within 30 days, is stale-dated.

If your licence application becomes stale-dated, instead of requiring you to submit a new licence application, the Registrar may permit you to continue with your existing application and, instead, supply a Statement attesting to the validity of the information you previously provided.

A Statement for this purpose should contain the following details:

- a reference to the specific application in question, i.e. application for registration, brokerage licence application, etc.
- the date you originally completed the application
- whether or not there have been any material changes to the information you provided in the application. If the information has changed, provide the new information in your Statement

4. Absence or existence of authorized activity while unauthorized

If you fail to renew your authorization by the September 30 deadline, the executive director may require you to provide a Statement as to whether or not you conducted any authorized activity while you were unauthorized.

This Statement should reference the dates between which you were unauthorized, and describe any activities you engaged in that would have required a licence (including advertising listings or your services on websites, social media, or signage), or the absence of same.

5. Verification of information received by the executive director

The executive director may require you to provide a Statement to verify any information you have already provided to the executive director or that the executive director has otherwise received.

For example, if you answer 'no' to one of the suitability questions on a licence application but the executive director has information that indicates this is incorrect you may be required to provide a Statement to explain the discrepancy.

Your Statement should include any information or evidence you have to support the answer you provided and refute the information or evidence the executive director has presented, or alternatively, your Statement should include the reason(s) you responded falsely on your application.

Providing false and misleading information to the executive director in the course of applying for a licence is a very serious matter that may result in the executive director refusing to issue your licence.

6. CanLII positive search result

RECA reviews the background of all brokerage officials (officers, directors, and shareholders, or partners). If one of these officials appears in a court judgment or tribunal decision listed on the Canadian Legal Information Institute (CanLII) database, you will be required to provide a Statement confirming whether or not the individual named in the matter(s) is the same person named as an official of the brokerage. If they are one in the same, your Statement must also include particulars about the matter, and state whether or not the judgment or order is related to misrepresentation, theft, fraud, breach of trust or the provision of products or services.

Legislative framework

Section 20(2) of the Rules states:

In addition to the information required in (1) above*, the executive director may require the individual applying for the licence to:

- (a) supply further information within a time prescribed by the executive director; and
- (b) verify by affidavit or otherwise any information then or previously submitted.

**section 20(1) of the Rules sets out the particulars required to accompany an application for a licence*

Section 40(2) of the Rules states:

In addition to providing a notice in writing, the industry member must provide particulars and any additional information or documentation requested by the executive director.