

## Industry Professional Standards of Conduct

### Real Estate Act Rules – Part 2: Industry Standards of Practice

#### Legend for Additional Resources:

**Consumer Information**—Plain language articles about a particular topic from a consumer’s perspective.

**Government Act**—Links to the laws governing a particular topic.

**Guide**—Publications with general information and advice related to a particular topic.

**Information Bulletin**—Slightly more technical documents on particular sections of the Rules or particular topics from an industry professional’s perspective.

**Sample Form**—Forms containing required and pertinent information regarding a particular topic. Exact forms used by industry professionals may differ.

**Section Link**—Links to the online, detailed *Real Estate Act* Rules (not plain language).

## Sections 41-46 – All Industry Professionals

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### What industry professionals must do

Industry members must be honest, competent, up front with consumers, and must fulfill their obligations to clients.

- honesty means telling the truth, and it means not leaving out information.
- competent service means industry members have the necessary education and experience to provide the services a consumer needs
- being upfront means telling the client how they are paid, making sure the client understands on whose behalf the industry member is working, and disclosing any conflicts of interest that come up
- fulfilling obligations means industry members must act in their client's best interest, keep information confidential, tell their client anything that may affect the client's decision, obey the client's lawful instructions, act with reasonable care and skill, and account for any of the client's money or property in their possession.

Industry members must not work with a client if the client asks them to withhold information that they are legally required to disclose.

Industry members have to comply with all applicable legislation and RECA rules, cooperate with RECA investigators, and obey any restrictions on their licence.

### Additional Resources

Section Link: [Real Estate Act Rules, Sec 41](#)

### Professional Responsibilities

Information Bulletin: [Competent Service](#)

Information Bulletin: [Comply with Legislation](#)

Information Bulletin: [Disclose Cost of Service](#)

Information Bulletin: [Ensure Role is Understood](#)

## What industry professionals can't do

Industry professionals can't:

- **mislead or deceive anyone**, It does not matter if they mislead you on purpose, by accident, by omission, or through negligence or incompetence.
- **act recklessly**. Industry professionals cannot recklessly make decisions or give advice or information without performing due diligence. Performing due diligence may require them to do a bit more work (i.e. a seller's agent says a home is not in the flood plain, and the buyer's agent takes their word for it without doing anything to verify). This activity may be reckless.
- **commit fraud or otherwise act illegally**
- **use confidential information** beyond the reason for its intended use (e.g. a real estate professional can't tell a potential buyer a seller's reasons for selling)
- **give you advice or information they are not qualified to give**. They also can't discourage you from obtaining expert advice elsewhere (e.g. an engineer, accountant, tax specialist, surveyor, lawyer)
- **deny services to or discriminate against anyone** for reasons of race, creed, colour, gender, sexual orientation, family status, marital status, age, national origin, or physical ability
- **abuse** anyone involved in a transaction

### Additional Resources

Section Link: [Real Estate Act Rules, Sec 42](#)

### Professional Responsibilities

Information Bulletin: [Competent Service](#)

### Prohibitions

Information Bulletin: [Prohibition—Fraudulent Unlawful Activity](#)

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## Written Service Agreements

All mortgage brokers, property managers, and residential real estate professionals must outline their relationship with you using a written service agreement. RECA recommends commercial real estate professionals and real estate appraisers use written service agreements, but it's not a requirement.

Written service agreements communicate:

- the working relationship between you and the professional
- the services of the professional
- the obligations and responsibilities of you and the professional
- how the professional is going to collect, use, maintain, and distribute your personal information (e.g. to obtain a credit report, bank information, income, etc)
- the compensation payable to your professional and who pays the compensation
- the length of the agreement
- how you or the professional can end your agreement

All of these are negotiable.

Agreements must:

- be signed
- include all terms and conditions
- contain names, and the address of property in question, if the agreement is with a seller

Any changes made to a written agreement must be in writing and signed by all parties.

Your professional must give you a copy of agreements and amendments immediately after signing.

### Additional Resources

Section Link: [Real Estate Act Rules, Sec 43](#)

### Written Service Agreements

Consumer Information: [Written Service Agreements](#)

Information Bulletin: [Written Service Agreements \(Designated Brokerage\)](#)

Information Bulletin: [Written Service Agreements \(Brokerages\)](#)

<p>44</p>	<p><b>Protecting Client Information</b></p> <p>Your industry professional can't share your personal information with anyone unless you give them permission, or they are required by law. This includes your personal information (address, age, marital status, health, financial situation, etc.), and your transaction information (e.g. reasons for buying, selling, or getting a mortgage or appraisal).</p> <p>All brokerages and real estate appraisal professionals must have policies for protecting client's personal information. Everyone at the brokerage needs to be aware of the policies and follow them.</p> <p>Industry professionals must keep your information confidential even after a transaction ends.</p> <p><b>Additional Resources</b></p> <p>Section Link: <a href="#">Real Estate Act Rules, Sec 44</a></p> <p><b>Information &amp; Privacy</b></p> <p>Information Bulletin: <a href="#">Protection of Client Information</a></p> <p>Government Act: <a href="#">Personal Information and Privacy Act (PIPA)</a></p> <p>Government Act: <a href="#">Personal Information Protection and Electronic Documents Act (PIPEDA)</a></p>
<p>45</p>	<p><b>Letting you know if they are benefitting by referring you to a service provider</b></p> <p>Sometimes industry professionals refer consumers to other real estate industry professionals (e.g. a real estate professional refers you to a mortgage broker) or other service providers (e.g. a lawyer, home inspector, home stager, etc.). If a real estate industry professional refers you to someone, they must tell you, in writing, and have your permission to share your personal information. If they may receive a benefit of some sort (referral fee, business in kind, or some other benefit) as a result of the referral, they also need to tell you that in writing.</p> <p><b>Additional Resources</b></p> <p>Section Link: <a href="#">Real Estate Act Rules, Sec 45</a></p> <p><b>Referrals &amp; Recommendations</b></p> <p>Information Bulletin: <a href="#">Referrals – Industry Member Requirements</a></p> <p>Information Bulletin: <a href="#">Recommending Service Providers</a></p>

46	<p><b>Brokerage administrative employees and assistants</b></p> <p>Real estate professionals may have support personal and assistants to complete tasks that do not require a licence. The unlicensed individual must be competent, and the real estate professional must supervise them.</p> <p>For example, unlicensed assistants or brokerage employees can file documents, set up meetings or showings, or prepare promotional material for the broker's approval.</p> <p>There cannot be any suggestion that an unlicensed individual is licensed.</p> <p><b>Additional Resources</b></p> <p>Section Link: <a href="#">Real Estate Act Rules, Sec 46</a></p> <p><b>Assistants &amp; Employees</b></p> <p>Information Bulletin: <a href="#">Assistants – Real Estate Brokerage</a></p> <p>Information Bulletin: <a href="#">Assistants – Mortgage Brokerage</a></p> <p>Information Bulletin: <a href="#">Employees</a></p>
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## Sections 47-63: Real Estate Brokerage Professionals

48	<p><b>Working with a real estate professional</b></p> <p>Consumers establish an agency relationship with a real estate brokerage when they agree that the brokerage and its licensed professionals will work on the consumer's behalf. This is a client relationship. If the brokerage and its industry professionals are not working on behalf of the consumer through an agency relationship, the consumer is a customer, and the brokerage and its industry professionals have reduced responsibilities.</p> <p>Licensed real estate professionals need to work through a licensed brokerage. One real estate broker manages each brokerage and most brokerages have real estate associate brokers and real estate associates.</p> <p><b>Additional Resources</b></p> <p>Section Link: <a href="#">Real Estate Act Rules, Sec 48</a></p> <p><b>Relationships &amp; Representation</b></p> <p>Consumer Information: <a href="#">Working with an Industry Professional</a></p> <p>Consumer Information: <a href="#">Industry Members and Their Roles</a></p> <p>Guide: <a href="#">Consumer Relationships with Real Estate Professionals</a></p>
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## Responsibilities and Prohibitions of all real estate professionals

- **Use the personal and brokerage name that appears on their licence.** Industry professionals have to use their licensed name, and work only on behalf of their brokerage. They cannot advertise using only a nickname. Industry professionals who work for a team must not advertise or act in a way that makes them appear separate from their brokerage.
- **Ensure their brokerage name is in all advertising.** This helps ensure real estate professionals properly identify who they work for.
- **Ensure all written agreements comply with legislation**
- **Only pay a service provider or referral fee through the brokerage.** Industry professionals cannot personally pay referral fees or service providers.
- **Accept payment or referral fees through their brokerage.** Individual professionals can only receive compensation through their brokerage. This means a consumer can't pay an individual real estate professional directly.
- **Only a brokerage can offer incentives to consumers.** Incentives are anything to attract business to the brokerage, such as offers to enter a prize draw, gift cards, or anything of value. Individuals cannot offer their own incentives.
- **Real estate professionals can't provide inducements to consumers except through their brokerage and with their brokerage's written permission.** An inducement is a one-time offer of something of value to close a particular deal, such as a commission reduction or an offer to pay legal fees. Individual industry professionals cannot offer their own inducements.
- **Disclose any conflicts of interest they may have in writing,** and not proceed unless they have the consumer's written acknowledgement and permission to continue. Examples of conflicts include a real estate professional representing two buyers who are interested in the same property, or the industry professional is representing a buyer and seller in the same transaction.

### Additional Responsibilities

#### Real Estate Brokerages

Must have a licensed broker.

#### Real Estate Brokers Must

- **manage the brokerage's business and its industry professionals.** The broker is responsible for the brokerage's industry professionals and its employees.
- **provide the brokerage's licensees and its employees with policies and procedures** to help them understand the brokerage's expectations of them.

- **hold consumer deposit money (trust money) in accordance with the law, and control access to the trust account.** A real estate broker cannot use trust money for any purpose other than the reason it's held in trust (usually as part of a deposit on a purchase)
- **Review all agreements and offers to purchase in a timely manner**
- **Maintain all documents related to relationships with and services provided to consumers** (relationship agreements, offers, purchase contracts, property information, and consumer information). Brokers need to keep records, even records for deals that didn't go through and offers that weren't accepted.
- **Notify all parties in writing if the brokerage does not receive a deposit, receives a deposit late, or a deposit cheque bounces**

#### **Real Estate Associate Brokers and Associates Must**

- **Provide their broker with all documents**
- **Be responsible for any assistants or other employees they hire directly, and ensure they adequately supervise them**
- **Keep the broker informed of their activities, respond promptly to broker inquiries, and notify the broker as soon as possible if they learn of another associate or employee violating legislation.**

#### **Additional Resources**

Section Link: [Real Estate Act Rules, Sec 49-54](#)

#### **Professional Responsibilities**

Information Bulletin: [Responsibilities – Real Estate Broker](#)

Information Bulletin: [Responsibilities – Real Estate Assoc. Brokers and Associates](#)

Information Bulletin: [Responsibilities and Prohibitions – Real Estate Brokerage](#)

Information Bulletin: [Trust Money Disputes and Disbursements](#)

Information Bulletin: [Brokers – Accountability](#)

Information Bulletin: [Brokers – Active in Management](#)

Information Bulletin: [Disclose – Conflicts of Interest](#)

#### **Prohibitions**

Information Bulletin: [Prohibitions – Real Estate Industry Professionals](#)

Information Bulletin: [Prohibition – Discourage Legal Advice](#)

Information Bulletin: [Prohibition – Fraudulent Unlawful Activity](#)

#### **Information & Privacy**

Information Bulletin: [Protection of Client Information](#)

Government Act: [Personal Information and Privacy Act \(PIPA\)](#)

Government Act: [Personal Information Protection and Electronic Documents Act \(PIPEDA\)](#)

	<p><b>Assistants &amp; Employees</b>  Information Bulletin: <a href="#">Assistants – Real Estate Brokerage</a>  Information Bulletin: <a href="#">Employees</a></p> <p><b>Referrals &amp; Recommendations</b>  Information Bulletin: <a href="#">Referrals – Industry Member Requirements</a>  Information Bulletin: <a href="#">Recommending Service Providers</a></p> <p><b>Advertising</b>  Information Bulletin: <a href="#">Advertising – Licensed Name</a>  Information Bulletin: <a href="#">Advertising – False and Misleading</a>  Information Bulletin: <a href="#">Advertising – Clearly Indicated</a>  Information Bulletin: <a href="#">Incentives</a>  Information Bulletin: <a href="#">Inducements</a></p>
55	<p><b>Disclosing Information to You</b>  As soon as possible, and in writing, real estate professionals must, disclose to consumers they are representing:</p> <ul style="list-style-type: none"> <li>• What services they will provide (e.g. advertising, open houses, signs, lockboxes, negotiating, photos etc.)</li> <li>• Any conflicts of interest (i.e. they have a personal stake in a transaction, or a family member, friend, or existing client has a stake in a transaction)</li> </ul> <p>They must ask you to acknowledge in writing that they gave you this information.</p> <p>Real estate professionals do not have to disclose these things to you if they are merely hosting an open house you choose to attend, if you are in preliminary discussions about possibly working with them, or if they are responding to general questions from you as a potential client. They only need to make these disclosures when you begin formally working with them, typically through signing a written service agreement.</p> <p><b>Additional Resources</b></p> <p>Section Link: <a href="#">Real Estate Act Rules, Sec 55</a></p> <p><b>Professional Responsibilities</b>  Information Bulletin: <a href="#">Disclose – Conflicts of Interest</a></p> <p><b>Written Service Agreements</b>  Information Bulletin: <a href="#">Service Agreements – Real Estate Brokerage</a></p>

## Sections 57-60: Types of Real Estate Representation

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### **Sole Agency – Real Estate Professional’s Obligations to Clients**

- Your real estate professional must use their best efforts to market your property if you’re a seller, and to find a property that meets your requirements if you’re a buyer. This includes showing a buyer properties listed by other brokerages and for-sale-by-owner properties
- They must promote your interests
- They must identify themselves immediately to potential buyers/sellers as your agent
- They must obey all your lawful instructions. If you ask your agent to do something illegal, they cannot obey that instruction.
- A fiduciary relationship is one in which someone places special trust, confidence, and reliance in the work of another. A buyer or seller places their trust in the hands of the real estate professional. The real estate professional owes fiduciary duties, which include loyalty, confidentiality, and full disclosure of all conflicts of interest.
- Your brokerage cannot appoint another brokerage to act on your behalf unless you give them your written consent.
- Your real estate professional must competently and carefully perform duties for you. That means they must have the enough education and experience, and they can’t be negligent
- Your real estate professional must assist you in negotiating favourable terms and conditions
- Real estate professionals representing sellers must inform all potential buyers of material latent defects in the property known to the agent. Material latent defects are defects that are not reasonably determined by an inspection of the property and that could affect the use and value of the property
- Real estate professionals representing buyers must try to discover information about any property the buyer is considering. This may include asking the seller’s agent additional questions or doing their own research (for example, reviewing flood plain maps)
- Real estate professionals representing buyers must tell their clients if they find out about any competing offers
- Real estate professionals must inform you of any relevant facts or information they learn during a transaction as soon as they can. This might include facts that could seriously affect the transaction, such as the discovery of easements or utility right of ways on a property title, or the fact a buyer has lost their job or plans to immediately sell the property to someone else at a higher price.
- Your real estate professional must give you all offers and counter-offers as soon as they can

- Your agent must keep you fully informed of the progress of your purchase or sale. Your agent must suggest you consult with other experts if those matters are outside of your agent’s area of expertise (e.g. tax lawyer, structural engineer, septic or well water specialists, or electricians and plumbers).
- Real estate professionals must comply with legislation and the standards of conduct

**Additional Resources**

Section Link: [Real Estate Act Rules, Sec 57, 58](#)

**Professional Responsibilities**

Consumer Information: [Material Latent Defects](#)

Information Bulletin: [Material Latent Defects](#)

Sample Form: [Property Defects Due Diligence Checklist \(Sellers\)](#)

Sample Form: [Property Defects Due Diligence Checklist \(Buyers\)](#)

**Industry Roles**

Consumer Information: [Industry Members and Their Roles](#)

**Relationships & Representation**

Guide: [Consumer Relationships with Real Estate Professionals](#)

Sample Form: [Exclusive Seller Brokerage Agreement](#)

Sample Form: [Exclusive Buyer Brokerage Agreement](#)

Consumer Information: [Working with an Industry Professional](#)

**58.1 Designated Agency Brokerages**

In designated agency, the brokerage designates an individual real estate professional (or multiple professionals) to act as the designated agent for a consumer. The assumption is the rest of the brokerage has no knowledge of the consumer’s confidential information, and other licensees from the brokerage don’t represent them. The basic obligations of designated agents are the same as in sole agency (see above).

Designated agency brokerages must have policies and procedures to ensure protection of confidential information and policies that govern the brokerage’s operations. They must communicate these policies to clients.

Agreements between consumers and designated agency brokerages must be in writing, and must contain the following details:

- name(s) of the designated agent
- what happens if the designated agent leaves the brokerage and the brokerage has to appoint a new agent

- client acknowledgement that their agency relationship is with the designated agent, and not the brokerage
- that the brokerage’s role will be limited to supporting the designated agent and ensuring your information is kept confidential

**Additional Resources**

Section Link: [Real Estate Act Rules, Sec 58.1](#)

**Relationships & Representation**

Guide: [Consumer Relationships with Real Estate Professionals](#)

Sample Form: [Exclusive Seller Brokerage Agreement \(Designated Agency\)](#)

Sample Form: [Exclusive Buyer Brokerage Agreement \(Designated Agency\)](#)

Consumer Information: [Working with an Industry Professional](#)

Guide: [Designated Agency Practice Guide for Industry Members](#)

**Industry Roles**

Consumer Information: [Industry Members and Their Roles](#)

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**When a common law brokerage represents the buyer and the seller (transaction brokerage)**

If a buyer and seller are both represented by the same brokerage, it’s a conflict of interest. The brokerage cannot work in the best interests of both sides in the same deal, but the transaction can continue if the buyer and seller agree with transaction brokerage. In transaction brokerage, the brokerage treats each party like a customer, not a client.

In transaction brokerage, the brokerage must treat both parties in an even-handed, objective, and impartial manner. The brokerage cannot advocate for either party, nor can it use discretion or judgement to advance the interests of one party over the other.

Before agreeing to transaction brokerage, the buyer and seller both need to have a chance to review the transaction brokerage agreement and request any additional information if they need it.

If one of the parties does not agree to transaction brokerage, the brokerage will continue to represent the consumer that first had a written agreement with the brokerage. The other party can be a customer of the brokerage, or the brokerage can refer that party to another brokerage or to another designated agent within the same brokerage in the case of designated agency brokerages

- Transaction brokerage agreements must outline: how the brokerage or industry professional will get paid

- how the real estate professional will treat the interests of both parties objectively and impartially (advice given to one side will be disclosed to the other)
- that they will perform their duties competently
- that they will obey instructions from both sides
- that they will not act in a way that benefits one side over the other

The services they will provide to each side include:

- providing real estate statistics and information on similar properties
- providing the necessary documents to complete the transaction, and prepare the documents according to the buyer's/seller's instructions
- providing the names of other professionals who may help during the transaction (appraisers, mortgage brokers, surveyors, building inspectors, lenders, insurance agents, architects, engineers)
- present offers and counter-offers, and relay information between the parties as soon as possible
- keep both sides fully informed of the transaction's progress

In transaction brokerage, the brokerage or designated agent has to disclose all known defects with a property to the buyer, and all material facts related to the buyer's ability to purchase the property to the seller.

The brokerage will continue to follow the rules for sole agency, including:

- holding all deposit money in a trust account
- not giving false or misleading information
- not giving either side confidential information known to the agent or designated agent, including:
  - that the buyer may pay a higher price
  - the seller may accept a lower price
  - either side's motivation for buying or selling
  - any other personal information

### **Additional Resources**

Section Link: [Real Estate Act Rules, Sec 59, 59.1](#)

### **Professional Responsibilities**

Information Bulletin: [Transaction Brokerage – Not Always Appropriate](#)

Information Bulletin: [Transaction Brokerage – Parties Do Not Agree](#)

Information Bulletin: [Conflict – Representing Seller and Buyer](#)

### **Industry Roles**

Consumer Information: [Industry Members and Their Roles](#)

### **Relationships & Representation**

Guide: [Consumer Relationships with Real Estate Professionals](#)

	<p>Sample Form: <a href="#">Agreement to Represent Both Buyer and Seller</a></p> <p>Sample Form: <a href="#">Agreement to Represent Both Buyer and Seller (Designated Agency)</a></p> <p>Consumer Information: <a href="#">Working with an Industry Professional</a></p> <p>Guide: <a href="#">Transaction Brokerage Practice Guide for Industry Members</a></p> <p>Information Bulletin: <a href="#">Facilitation Services</a></p>
60	<p><b>Being treated as a customer and not a client</b></p> <p>You can choose customer status with a brokerage or designated agent, and you will sign a Customer Acknowledgement Form.</p> <p>When you are a customer, a brokerage or designated agent will give you reasonable care and skill, they will not knowingly mislead you, they will hold any deposit money in a trust account, and otherwise comply with the legislation. A customer acknowledgement outlines that you understand what it means to be a customer, and that you had the opportunity to get more information or advice before signing it. When you are a customer, the brokerage or designated agent does not work in your best interests, and will not give you any advice or advocate on your behalf.</p> <p>The brokerage or designated agent will:</p> <ul style="list-style-type: none"> <li>• provide real estate statistics and information on comparable properties</li> <li>• provide the necessary documents to complete a deal, and prepare them according to your instructions</li> <li>• provide the names of other professionals who may assist during the transaction (appraisers, mortgage brokers, surveyors, building inspectors, lenders, insurance agents, architects, engineers)</li> <li>• present offers and counter-offers, and relay information between the parties as soon as possible</li> <li>• keep you fully informed of the transaction's progress</li> </ul> <p><b>Additional Resources</b></p> <p>Section Link: <a href="#">Real Estate Act Rules, Sec 60</a></p> <p><b>Industry Roles</b></p> <p>Consumer Information: <a href="#">Industry Members and Their Roles</a></p> <p><b>Relationships &amp; Representation</b></p> <p>Guide: <a href="#">Consumer Relationships with Real Estate Professionals</a></p> <p>Sample Form: <a href="#">Customer Status Acknowledgement (Buyers and Sellers)</a></p> <p>Sample Form: <a href="#">Seller Customer Acknowledgement and Fee Agreement</a></p> <p>Consumer Information: <a href="#">Working with an Industry Professional</a></p> <p>Information Bulletin: <a href="#">Customer – Real Estate Brokerage</a></p>

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## **Forms when you agree to work with a real estate professional**

Real estate professionals have to use certain forms. The list of forms are in the Rules, and contain some mandatory content. Real estate professionals can use forms that contain additional content, but that additional content can't affect the content that is mandatory. Real estate professionals can't change the mandatory content unless a client asks them to change it and all parties agree.

Real estate professionals must provide and discuss the *Consumer Relationships Guide* with residential buyers and sellers they're working with. By signing this document, you are acknowledging that you received and understand it. It is not a contract and it does not obligate you to anything.

When a real estate professional receives an offer or an accepted offer in writing, they have to give their client and the other party a true copy of it as soon as possible.

### **Additional Resources**

Section Link: [Real Estate Act Rules, Sec 60.1-61](#)

### **Professional Responsibilities**

Information Bulletin: [Delivery of Documents – Real Estate Brokerage](#)

### **Relationships & Representation**

Guide: [Consumer Relationships with Real Estate Professionals](#)

### **Written Service Agreements**

Consumer Information: [Written Service Agreements](#)

Sample Form: [Exclusive Seller Brokerage Agreement](#)

Sample Form: [Exclusive Seller Brokerage Agreement \(Designated Agency\)](#)

Sample Form: [Seller Customer Acknowledgement and Fee Agreement](#)

Sample Form: [Exclusive Buyer Brokerage Agreement](#)

Sample Form: [Exclusive Buyer Brokerage Agreement \(Designated Agency\)](#)

Sample Form: [Agreement to Represent Both Buyer and Seller](#)

Sample Form: [Agreement to Represent Both Buyer and Seller \(Designated Agency\)](#)

Sample Form: [Customer Status Acknowledgement \(Buyers and Sellers\)](#)

Information Bulletin: [Service Agreements – Real Estate Brokerage](#)

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## When a real estate professional wants to buy your property, or sell you theirs

Real estate professionals, when buying or selling property on their own behalf, must disclose the following in writing, if the other party to the transaction is unrepresented:

- that they are the buyer or seller
- that they are a licensed real estate professional
- the name of their brokerage
- if they've made a future deal for the property (i.e. they're buying a home, and they already have an agreement to resell the property to someone else)
- any information that may affect the property's value

Disclosure rules also apply when an individual who works for a brokerage or who is associated with a brokerage (for example, a family member of the brokerage's broker) wants to buy a property that is listed with the brokerage, the brokerage must immediately disclose, in writing, to the seller:

- the fact there is a conflict of interest
- the name of the person
- their relationship with the brokerage
- any confidential information of yours they may have

The real estate professional must also provide you the opportunity to obtain legal advice before proceeding.

### Additional Resources

Section Link: [Real Estate Act Rules, Sec 62](#)

### Professional Responsibilities

Information Bulletin: [Personal Trades in Real Estate](#)

Information Bulletin: [Conflict of Interest](#)

Information Bulletin: [Conflict – Buying Client's Property](#)

Information Bulletin: [Disclose – Conflicts of Interest](#)

63	<p><b>Guaranteeing they will sell your property</b> Some industry members offer guaranteed sales to sellers, but they can only make that offer on behalf of their brokerage. They can't personally offer you that guarantee.</p> <p><b>Additional Resources</b></p> <p>Section Link: <a href="#">Real Estate Act Rules, Sec 63</a></p> <p><b>Advertising</b> Information Bulletin: <a href="#">Guaranteed Sales Representations</a> Information Bulletin: <a href="#">Incentives</a></p>
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**Sections 64–75: Mortgage Brokerage**

64 65, 66, 67, 69, 70	<p><b>Working with a mortgage brokerage professional</b> Borrowers enter into an agency relationship with a mortgage brokerage when they agree that the brokerage and its licensed professionals will represent their interests in trying to get a mortgage. If the brokerage and its industry professionals are not representing the borrower, but instead are working as a go-between between a lender and the borrower or are working on behalf of the lender, the brokerage and its industry professionals have different responsibilities to the borrower.</p> <p>Licensed mortgage brokerage professionals need to work through a licensed brokerage. One broker manages each brokerage, and most brokerages also have mortgage associates.</p> <p><b>Responsibilities and Prohibitions of all mortgage brokerage professionals</b></p> <ul style="list-style-type: none"> <li>• <b>Use the personal and brokerage name that appears on their licence.</b> Industry professionals have to use their licensed name, and work only on behalf of their brokerage. They cannot advertise using only a nickname. Industry professionals who work for a team must not advertise or act in a way that makes them appear separate from their brokerage.</li> <li>• <b>Ensure their brokerage name is in all advertising.</b> This helps ensure mortgage brokerage professionals properly identify who they work for.</li> <li>• <b>Ensure all written agreements comply with legislation</b></li> <li>• <b>Only pay a service provider or referral fee through the brokerage.</b> Individual professionals cannot personally pay referral fees or service providers, and they cannot pay someone if the referral resulted from activities that require a licence</li> <li>• <b>Accept payment or referral fees through their brokerage.</b> Individual professionals can only receive compensation through their brokerage.</li> </ul>
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This means a consumer can't pay an individual real estate professional directly.

- **Only a brokerage can offer incentives to consumers.** Incentives are anything to attract business to the brokerage, such as offers to enter a prize draw, gift cards, or anything of value. Individuals cannot offer their own incentives.
- **Mortgage professionals can't provide inducements to consumers except through their brokerage and with their brokerage's written permission.** An inducement is a one-time offer of something of value to close a particular deal, such as an offer to pay legal fees. Individual industry professionals cannot offer their own inducements; they need to provide them through the brokerage.

## **Additional Responsibilities and Prohibitions**

### **Mortgage Brokerages**

When starting to work with a borrower, mortgage brokerages must disclose:

- the nature of their relationship with the brokerage
- the nature of the brokerage's relationship with lenders
- the range of lenders the brokerage deals with
- how the brokerage gets paid from the transaction, including any other benefits from lenders
- any additional fees the borrower might have to pay

Mortgage brokerages must disclose to you and to a lender, in writing, what steps they've taken to verify information you and a lender give them, including your identity, your income, your debts, and the lender's rates, mortgage products, and details. They need to keep copies of supporting documents on file at the brokerage.

A mortgage brokerage cannot offer a lender or investor a guarantee of a mortgage loan.

### **Mortgage Brokers Must**

- **manage the brokerage's business and its industry professionals.** The broker is responsible for the brokerage's industry professionals and its employees.
- **Provide the brokerage's licensees and its employees with policies and procedures** to help them understand the brokerage expectations of them.
- **Review all agreements and mortgage agreements in a timely manner**
- **Maintain all documents related to relationships with and services provided to consumers** (service agreements, mortgage disclosures, emails, credit reports, mortgage applications, etc.). Brokers need to keep

records, even records for unsuccessful mortgage applications and deals that didn't go through.

- **Hold consumer deposit money (trust money) in accordance with the law, and control access to the trust account.** A mortgage broker cannot use trust money for any purpose other than the reason it's held in trust

#### **Mortgage Associates Must**

- **Provide their broker with all documents**
- **Be responsible for any assistants or other employees they hire directly**, and ensure they adequately supervise them
- **Keep the broker informed of their activities**, respond promptly to broker inquiries, and notify the broker as soon as possible if they learn of another associate or employee violating legislation.

#### **Additional Resources**

Section Link: [Real Estate Act Rules, Sec 64-70](#)

#### **Professional Responsibilities**

Information Bulletin: [Responsibilities – Mortgage Broker](#)

Information Bulletin: [Responsibilities – Mortgage Associate](#)

Information Bulletin: [Responsibilities and Prohibitions – Mortgage Brokerage](#)

Information Bulletin: [Trust Money Disputes and Disbursements](#)

Information Bulletin: [Disclose – Conflicts of Interest](#)

Information Bulletin: [Cost of Credit Disclosure – Mortgage Brokerage](#)

Information Bulletin: [Brokers – Accountability](#)

Information Bulletin: [Brokers – Active in Management](#)

#### **Prohibitions**

Information Bulletin: [Prohibitions – Mortgage Brokers and Associates](#)

Information Bulletin: [Prohibition – Discourage Legal Advice](#)

Information Bulletin: [Prohibition – Fraudulent Unlawful Activity](#)

#### **Information & Privacy**

Information Bulletin: [Protection of Client Information](#)

Government Act: [Personal Information and Privacy Act \(PIPA\)](#)

Government Act: [Personal Information Protection and Electronic Documents Act \(PIPEDA\)](#)

#### **Relationships & Representation**

Consumer Information: [Mortgage Brokerage Relationship Options](#)

Sample Form: [Representing the Borrower Service Agreement](#)

Sample Form: [Acting as an Intermediary Service Agreement](#)

Sample Form: [Borrower Consent and Disclosure When you Represent a Lender](#)

#### **Assistants & Employees**

	<p>Information Bulletin: <a href="#">Assistants – Mortgage Brokerage</a>  Information Bulletin: <a href="#">Employees</a>  <b>Referrals &amp; Recommendations</b>  Information Bulletin: <a href="#">Referrals – Industry Member Requirements</a>  Information Bulletin: <a href="#">Recommending Service Providers</a></p> <p><b>Advertising</b>  Information Bulletin: <a href="#">Advertising – Licensed Name</a>  Information Bulletin: <a href="#">Advertising – False and Misleading</a>  Information Bulletin: <a href="#">Advertising – Clearly Indicated</a>  Information Bulletin: <a href="#">Incentives</a>  Information Bulletin: <a href="#">Inducements</a></p>
71	<p><b>Charging Fees</b>  In residential and farming operation mortgage deals, a brokerage can only:</p> <ul style="list-style-type: none"> <li>• charge, collect, or attempt to collect a fee after a lender gives written approval they will fund the mortgage</li> <li>• the lender has provided a <i>Fair Trading Act</i> Cost of Credit disclosure document (a document that outlines the details of the mortgage: amount, rate, term, payments, dates, etc.)</li> <li>• the borrower accepts the agreements.</li> </ul> <p>A borrower can agree in writing to reimburse a brokerage for costs related to third-party fees, such as for credit reports, land title searches, couriers, or appraisal services.</p> <p><b>Additional Resources</b></p> <p>Section Link: <a href="#">Real Estate Act Rules, Sec 71</a></p> <p><b>Professional Responsibilities</b>  Information Bulletin: <a href="#">Cost of Credit Disclosure – Mortgage Brokerage</a></p> <p><b>Relationships &amp; Representations</b>  Consumer Information: <a href="#">Mortgage Brokerage Relationship Options</a>  Sample Form: <a href="#">Representing the Borrower Service Agreement</a>  Sample Form: <a href="#">Acting as an Intermediary Service Agreement</a>  Sample Form: <a href="#">Borrower Consent and Disclosure When you Represent a Lender</a></p>

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### **When a mortgage professional has a client who is a lender**

Mortgage brokerages need to have a written service agreement when working with a lender client, unless the lender asks to waive this requirement, and the parties agree to waive it in writing.

The agreements must

- be signed by both parties
- clearly show the names and responsibilities of each party
- list the services the brokerage will provide
- include how long the agreement will last
- include any loan terms and property descriptions
- indicate how the agreement can end
- indicate the risk tolerances of the lender (spelled out clearly in terms of lending amount, types of properties, etc.)
- the compensation payable to the brokerage and who pays the compensation
- detail how confidential information will be collected, kept, and distributed
- indicate if the brokerage holds money in trust for the lender
- indicate the role of the mortgage broker, if any, if the borrower defaults on the mortgage
- show the method of communicating any changes (i.e. changes to the lender's risk tolerance) during an ongoing agreement

Mortgage brokerages must ensure lender clients have a copy of the registered mortgage, a copy of the title for the mortgaged property, a copy of any reports from the lawyer

The above responsibilities in this section do not apply if the client is a bank, other financial institution, or a person who is in the business of providing loans secured with mortgages.

When a mortgage brokerage represents a lender, it is still responsible for ensuring the borrower receives a copy of the *Fair Trading Act* Cost of Credit Disclosure statement (containing mortgage term, amount, rate, etc.); a copy of the mortgage; a copy of the property title showing the mortgage; any reports from a lawyer; and, a copy of any title insurance or real property report.

#### **Additional Resources**

Section Link: [Real Estate Act Rules, Sec 73–74](#)

#### **Relationships & Representation**

Consumer Information: [Mortgage Brokerage Relationship Options](#)

Sample Form: [Borrower Consent and Disclosure When you Represent a Lender](#)

75	<p><b>A mortgage professional acting as a lender or a borrower</b></p> <p>Licensed mortgage professionals can act as lenders or borrowers. They can also represent family members, close friends, and associates, but they must disclose, in writing:</p> <ul style="list-style-type: none"> <li>• any interest they have in the transaction (such as being related to the borrower)</li> <li>• that they are a licensed mortgage professional</li> <li>• their brokerage</li> <li>• if there are any negotiations to dispose of the mortgage or their interest in it</li> <li>• any information that may affect the completion of a mortgage deal</li> </ul> <p><b>Additional Resources</b></p> <p>Section Link: <a href="#">Real Estate Act Rules, Sec 75</a></p> <p><b>Professional Responsibilities</b></p> <p>Information Bulletin: <a href="#">Personal Mortgage Deals</a></p> <p>Information Bulletin: <a href="#">Disclose - Conflicts of Interest</a></p>
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**Sections 76-80: Real Estate Appraisers**

77, 78, 79	<p><b>Real Estate Appraiser Responsibilities and Prohibitions</b></p> <p>Real estate appraisers must be active members in good standing of one of the three appraisal associations in Alberta: the Appraisal Institute of Canada, the Alberta Assessors' Association, or the Canadian National Association of Real Estate Appraisers.</p> <p>Real estate appraisers must use the appraisal standard their association follows, use appropriate comparables to the subject property, maintain a record of the process they used to find comparables and any relevant comparables they did not use in the appraisal report, and they must ensure their work is verifiable through data. They cannot ignore comparables that are close to the subject property.</p> <p>Appraisers must have professional liability insurance coverage with a minimum limit of \$1 million.</p> <p>Appraisers must perform appraisals impartially and objectively. They cannot accept any appraisal assignment if payment for the assignment is dependent on the resulting appraised value.</p> <p>Appraisers cannot accept appraisal assignments if:</p> <ul style="list-style-type: none"> <li>• The assignment is outside their designation and/or qualifications</li> </ul>
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- They believe the appraisal will be used for different purposes than those indicated in the assignment (e.g. assignment says the appraisal is for a mortgage application, but it is actually for a divorcing spouse who is documenting assets)
- They have a conflict of interest with the assignment (e.g. they are appraising their own property)
- The client asks the appraiser to prepare a report for fraudulent or unlawful purposes, or tries to influence the appraiser's report

### **Additional Resources**

Section Link: [Real Estate Act Rules, Sec 77–79](#)

### **Professional Responsibilities**

Information Bulletin: [Responsibilities – Real Estate Appraisers](#)

### **Prohibitions**

Information Bulletin: [Prohibitions – Real Estate Appraisers](#)

Information Bulletin: [Prohibition – Discourage Legal Advice](#)

Information Bulletin: [Prohibition – Fraudulent Unlawful Activity](#)

### **Information & Privacy**

Information Bulletin: [Protection of Client Information](#)

Government Act: [Personal Information and Privacy Act \(PIPA\)](#)

Government Act: [Personal Information Protection and Electronic Documents Act \(PIPEDA\)](#)

### **Assistants & Employees**

Information Bulletin: [Employees](#)

### **Referrals & Recommendations**

Information Bulletin: [Referrals – Industry Member Requirements](#)

Information Bulletin: [Recommending Service Providers](#)

### **Advertising**

Information Bulletin: [Advertising – Licensed Name](#)

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## Appraisal Report Requirements

Every appraisal report must have:

- The name of the client or intended user, the location and characteristics of the property, any land use issues (e.g. zoning issues), the existing use of the property (residence, rental property, commercial, etc.) and detail about the property's best use
- The appraiser's name, signature, and licence class
- The appraisal standard they follow
- The date of the appraisal opinion, and identify whether it's current, historical, future, or an update
- The purpose of the report (e.g. for a mortgage, for tax purposes, for bankruptcy proceedings) and currency of the report (i.e. is it current, past, or prospective)
- Any assumptions they make about a property, or any property conditions that limit the appraisal (e.g. access to certain areas was unavailable)
- All reasons for coming to a certain conclusion
- A final value estimate

If a candidate appraiser prepared the report, an authorized appraiser must supervise their work and sign the finished appraisal report.

### Additional Resources

Section Link: [Real Estate Act Rules, Sec 80](#)

### Professional Responsibilities

Consumer Information: [What to Expect from an Appraisal](#)