

The Regulator

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Vol. 26 / Issue 1

Message from the Administrator

Practice Tip: Being Professional in All Situations

Practice Tip: When You Must Notify the Executive Director

Practice Tip: Transferring Brokerages—Don't Forget About Your Advertising

Practice Tip: The Ins and Outs of Conditional Sales

Practice Tip: The Business of Running a Brokerage

Practice Tip: Declaring Bankruptcy and Your Next Steps

Searching High and Low

News Bytes





Message from the Administrator

Duane Monea

In my first message as the Administrator of the Real Estate Council of Alberta (RECA), I want to take the opportunity to acknowledge the passionate energy of industry professionals in Alberta. It is clear that you take your industry seriously, and are eager for it to remain professional, competent, and accountable to the Alberta public, who are your clients and customers.

I look forward to doing my part to ensure the smooth operation of RECA as the Government of Alberta considers how best to move forward with possible changes to RECA's governance.

I also want everyone to understand that my role is temporary. The end goal, upon possible changes to the *Real Estate Act*, is the appointment of a new governing Council for RECA.

How did we get here?

As you are all aware, the Minister of Service Alberta began a Section 76 Review of RECA in January 2019, resulting in a Governance Review Report in July 2019. Based on the recommendations in the review, the Government of Alberta passed Bill 15, the *Real Estate Amendment Act 2019*, on October 30, 2019. The Bill dismissed the remaining Council members, and allowed the Minister of Service Alberta to appoint an Administrator to oversee the governance of RECA, with all the powers and obligations of Council.

I was honoured to accept the Minister's appointment as Administrator on November 8, 2019.

I have worked within the regulatory world for my entire professional career, and have sat on many boards, including the YMCA and the China-Alberta Petroleum Center. I also bring extensive administration experience as a director and vice-president in the oil and gas industry.

What has happened so far?

I have spent the last three months learning, listening, and absorbing the realities of the day-to-day experience of industry professionals, the needs of real estate consumers, and the details of the excellent regulatory work done by RECA's committed staff of professionals.

I want it to be absolutely clear to everyone in the industry that since the Section 76 review began in January 2019, the regulatory work at RECA has continued as normal, and will continue to work as normal moving forward. Nothing has changed in terms of licensing, education, and discipline. The standards of conduct and practice expected of professionals in Alberta remain in place.

There has also been direct consultation with industry associations conducted by Service Alberta towards the end of 2019 and into the New Year.

These consultations focused on the governance of RECA going forward, and the possible changes to the *Real Estate Act* in the Spring session of the Legislature.

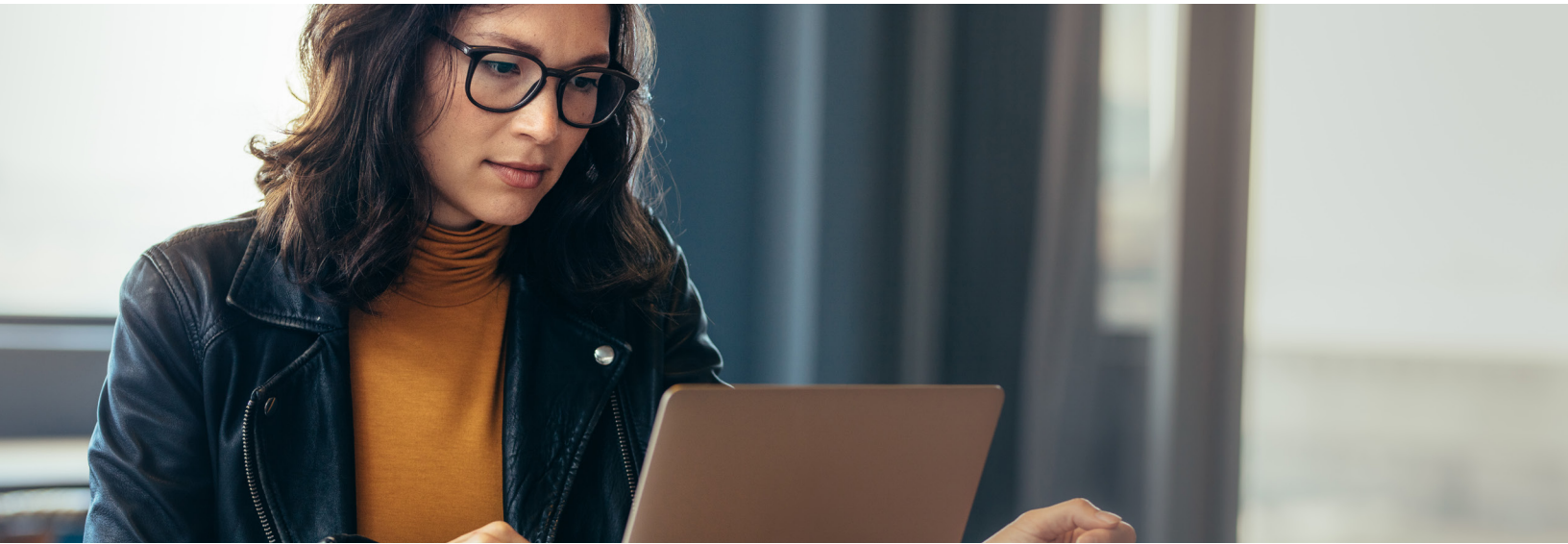
I have also personally sat with associations, as well as with individual brokers, brokerages, and regulatory bodies for other industries in Alberta. I want to make sure every voice is heard not only by me, but also by Service Alberta. This is an important time in the real estate industry in Alberta, and it's important for us to get it right.

It's all about the public interest

RECA exists to provide a regulated environment that Alberta real estate consumers can trust. Consumer protection is at the core of all of RECA's work, and it will continue to be moving forward.

I encourage all industry professionals to engage with Service Alberta, with myself, or with RECA when given the opportunity. We want to hear from you.

Practice Tip: Being Professional in all Situations



Over the past few months, RECA has seen an unprecedented increase in complaints from consumers regarding unprofessional behaviour from licensees. Complaints have included the use of profanity, rudeness, and yelling by industry professionals. Unprofessional behaviour like this undermines public confidence in the industry, harms the integrity of the industry, and brings the industry into disrepute.

It is likely no coincidence that the increase in complaints about unprofessional behaviour has happened as the market in Alberta has taken a significant downturn. In stressful economic times, a calm, professional demeanour can often be the first thing out the door. However, a calm, professional demeanour during hard times can also be the thing that results in you retaining your clients.

Alberta industry professionals have the privilege of self-regulation, and self-regulation means exactly that: regulating oneself. Licensees are expected to ensure they have a professional mindset, demonstrate good character, and remain professional when delivering services to the public, at all times.

What does professionalism mean?

Professionalism is a standard of conduct based on ethics that govern the real estate industry. Professionalism means:

- fulfilling fiduciary obligations and acting in the best interest of clients
- providing competent business services to the public, with integrity
- being knowledgeable in your area of practice, including legislative changes, and relevant legal or practice considerations
- acting ethically at all times
- being accountable and taking responsibility for your actions
- meeting obligations when dealing with personal or confidential information
- treating RECA, clients, industry professionals, and third parties with civility, respect, and professional courtesy
- putting the interests of your client, the profession, and public interest above your own

Industry professionals have the primary responsibility for effective self-regulation. Your standards of conduct and business practices collectively determine the value and integrity of the industry. Industry professionals are ultimately accountable for their conduct to clients, colleagues, and RECA.

What is Good Character?

RECA created a [Good Character Policy](#) that defines good character and how it applies to licensing and disciplinary decisions. All industry professionals should be aware of this policy.

Good character is a cornerstone of the real estate industry. Ensuring that only those with good character enter and remain in the industry is an integral part of meeting RECA's mandate to protect the public and to enhance the business of industry professionals.

Industry professionals with good character serve the public interest, promote high ethical standards, have a professional mindset, and protect the reputation and integrity of the industry. These characteristics enhance public confidence in the industry and in self-regulation as a whole.



Practice Tip: When You Must Notify the Executive Director



Did you know that when certain events occur, industry members are required to [immediately notify the executive director](#)?

Failure by industry members to immediately notify the executive director of certain events results in dozens of Letters of Reprimand and Administrative Penalties each year.

Why do you have to notify the executive director?

RECA's mandate is to protect consumers and the public interest while providing services that enhance and improve the real estate industry and the business of industry professionals. In order to accomplish this, RECA reviews certain events that have the potential to harm the integrity of the industry and affect the on-going protection of the public.

What events require notification?

You must immediately give notice to the executive director in writing when:

- you are disciplined by a professional, occupational, or regulatory body, or a trade association or board
- the courts issue a judgment against you in relation to consumer services or the sale of goods
- the courts issue a judgment against any business you own or have participated in within the past 3 years
- you declare bankruptcy or are the subject of any bankruptcy proceedings
- you own or participated in any business within the past three years that is the subject of any bankruptcy or receivership proceedings
- you are charged under the Criminal Code of Canada
- you are convicted of a criminal offence
- you have a conviction under any law of any country, province, or state (excluding highway traffic offences resulting in fines or demerit points)

What does immediately notify mean?

Immediately is defined as "without delay," and in the absence of extraordinary circumstances, written notification to the executive director should occur no more than five business days after the event in question.

How do you notify RECA in writing?

Industry professionals can provide written notification through their myRECA account, using the Notify the Executive Director button from the My Account tab. Simply fill in the required fields, complete the declaration page, and submit the form. After submitting your notification, follow the instructions to submit accompanying information through your myRECA account.

Note: your broker will receive a copy of your notification.

Once your notification is received, the executive director will review the circumstances that relate to your event to determine an outcome, considering all relevant facts. In some cases, the executive director may request additional information.

If you are unsure if you need to notify the executive director, contact RECA or provide notification anyway; there is no cost to do so and it's better to be safe than sorry.

If you do not immediately notify the executive director, it is a breach of the *Real Estate Act Rules*.

Brokers: You Also Need to Notify the Executive Director

Brokers have the additional responsibility to notify RECA when certain brokerage information changes or is amended.

Brokers must notify RECA through their myRECA account when:

- opening, closing, or changing a trust account(s)
- there is a change in the brokerage's contact information
- changing the brokerage business address
- there is a corporate structure change (additional supporting documents are required)

Brokers must notify RECA in writing directly at brokerinfo@reca.ca when:

- there is a change of broker
- the brokerage name has changed
- there is a Partnership Amendment
- the Corporate Access Number has changed

All brokerage amendments must be reported to RECA immediately. Written notification to the executive director should occur no more than five days after the event in question.

Practice Tip: Transferring Brokerages—Don't Forget About your Advertising

Industry professionals transfer brokerages for all sorts of reasons. When this change occurs, there can be a long list of details to sort out.

Beyond getting your service agreements or existing purchase contracts in order, you must remember to update your existing advertising.

It is important to remember that all advertising is brokerage advertising, and must be done in the brokerage's name that you are registered with.

All professionals who transfer brokerages are required to immediately change their advertising within three to five business days of the transfer.

The moment you transfer from ABC Mortgages/Realty to ZYX Mortgages/Realty all your advertisements showing ABC Mortgages/Realty should immediately be amended to reflect the brokerage you are now registered with: ZYX Mortgages/Realty. Failing to do so would place your brokerage and yourself in breach of the *Real Estate Act Rules*.

Remember that this is a brokerage requirement. Your brokers, both new and old, are responsible for all brokerage advertising. Having an old bus bench remain with outdated information, puts both brokerages on the hook.





How to make sure all your advertising is changed on time

Keep detailed records. If you do a lot of different advertising you may not be keeping close tabs, particularly for online advertising. However, as you are actually advertising on behalf of the brokerage, your broker should have approved every ad. Keep a record of all your advertising, including the type of ad, date your broker approved it, where it was placed—including a copy of any contract, and when it expires. This will allow you to simply go down your list and update each in turn.

Remember the small stuff. Anything promoting your business and your brokerage's business is an ad. Business cards, email signatures, online classified ads, notepads, and even your voicemail recording will likely have your brokerage on or in it. These will have to be changed, too.

Plan in advance. Though not always possible, try to keep your advertising in mind as you plan your move. Adjust advertising contracts, delay ordering stationary, and have your new advertising developed and ready to go when you transfer brokerages.

Take immediate action. RECA understands that some transfers may happen suddenly, and that changing a bus bench or digital marketing campaign may not happen with the snap of your fingers. As with all conduct reviews, RECA takes into account mitigating circumstances. However, you should take action immediately, once you transfer, making your best effort to adjust your advertising as soon as possible.

Get creative. RECA also understands that advertising contracts can extend for long periods, and getting out of them might cost you. Ask if you can update the ad before the contract expires or if you can extend the contract. You can also get creative. If your bus bench will remain for a month after your transfer, get some stickers made and place them over your old brokerage name. Got a big billboard? Ask the advertising agency to cover your old brokerage with new information.

Talk to your broker. Get out in front of it. Talk about advertising with your new broker. Review the brokerage policies and procedures manual. Talk to your old broker as well. It's always a good practice to double check with them in case any old advertising remains. Either broker is free to contact RECA's practice advisors for confidential advice should any issues arise.

Practice Tip: The Ins and Outs of Conditional Sales

Advice from your Real Estate Practice Advisor, Kristian Tzenov



Imagine this typical scenario: you've listed your longtime client's home and they receive a conditional offer at the asking price. Your seller clients accept the offer and take their home off the market.

Your client is already picturing their happy ending. But as you know, depending on the details of the purchase agreement, the deal could still fall through.

As a real estate professional, it's important to discuss conditional offers, the negotiating process, and deposits with your clients **BEFORE** you list the house. Ensuring your client is educated on the factors, implications, and limitations of a conditional sale can avoid a lot of future dissatisfaction.

With conditional offers, the buyer may walk away from the offer completely, and may be entitled to have their entire deposit returned if they don't waive conditions. While this is fairly standard for you, it isn't an everyday thing for your clients. They may be confused and frustrated.

Inform your Client

When entering into a purchase contract, your seller client expects the buyers will make their best efforts to fulfill the conditions by a certain date. But what if the buyers do not waive conditions and your sellers aren't convinced the buyer put in their best effort? Well, as you know, perception isn't the law.

Sellers need to be aware that there's risk involved with accepting a conditional offer to purchase that may result in having to return a deposit. Just because the deposit has been delivered and now sits in a brokerage trust account, doesn't mean it's your seller clients' money. Yet.

Part of providing your client with competent services means working to help them understand the ins and outs of deposits, money held in trust, and conditional offers. Sit down with your clients and review the Residential Purchase Contract template.

Conditions to manage the seller's risk

The standard purchase contract offers opportunity to create firm conditions without having to draw up a contract from scratch. However, the template as is, presents a sufficient amount of leeway—with vague wording that could make it easier for buyers to withdraw their offer.

In order to ensure the contract works in the best interest of your client, you should advise them to make their conditions as specific as possible to mitigate any uncertainty or alternative interpretations.

The following are examples of clarifying provisions that could manage the seller's risk:

- in order to cancel the contract because of financing, the buyer is required to provide a decline letter from a lender
- conditions on a home inspection to contain parameters with specific details such as who can perform the inspection, e.g. inspection must be completed by a licensed professional with proper qualifications, or costs to repair not to exceed an agreed upon amount
- if there is a condition that the buyer must sell their current home first before purchasing a new property, they must provide a copy of their listing agreement to indicate they did, in fact, attempt to sell their home by the closing date

The more detailed the parameters, the more likely it will be that a buyer cannot refuse to waive conditions simply because they changed their minds on the house.

Making an offer is a serious matter, with serious money attached. Understandably, your seller clients can be dissatisfied with outcomes if a conditional offer does not reach completion. Ensure you educate your clients on the limits of conditional sales, so they understand what could happen, how to protect themselves from flaky buyers, and keep your relationship positive.



Broker Practice Tip: The Business of Running a Brokerage

You are passionate about your career and you want to be the boss. You've got the experience and have taken the necessary RECA education programs to become a licensed broker. You're all set to run your own brokerage... or are you?

Running a brokerage isn't just about real estate or mortgages. A brokerage is, first and foremost, a business. You would be better prepared if you took some time to gain knowledge about business essentials in addition to your knowledge of the industry.

There are two important educational aspects to running a successful real estate or mortgage brokerage business in Alberta. The first is the RECA-provided education to ensure you are knowledgeable of the standards of practice and can provide competent service to the public. The second is to assist in enhancing the profitability and viability of your business.

When RECA's mandate refers to enhancing the business of industry professionals, that is a defined term in the *Real Estate Act*, meaning business as it pertains to trades, deals, and appraisals, not commercial interests. To provide you with education on the most urgent topics related to the industry, RECA is committed to remaining focused on education within this stated definition of business: in other words, we focus on educating you on information and changes that directly affect your role as a licensed industry professional.

Where can you learn?

There are many reputable educational institutions in Alberta that offer business administrative programs—from certificates to MBAs. You can check with your local community college, find accredited online programs, or contact:

- your local college (e.g. Bow Valley College, Grande Prairie Regional College, Red Deer College)
- online-based university (e.g. Athabasca University)
- an Alberta-based university (e.g. MacEwan University, Mount Royal University, University of Alberta, University of Calgary, University of Lethbridge)
- either institute of technology (NAIT, SAIT)
- trade associations and real estate boards may offer related courses

We strongly encourage you—long-term and new brokers—to build your business skills through a program that works best for you.

As professionals, you have the responsibility to gain the requisite knowledge and skills, and adopt a mindset for continuous improvement, to ensure you are competent in providing services to the public. Competent brokerage and business practices are foundational to maintaining the trust, respect, and confidence in the real estate industry.

Invest in your brokerage, your education, your industry, and yourself.

Practice Tip: Declaring Bankruptcy and Your Next Steps

Advice from your Mortgage Broker Practice Advisor, Gary Siegle

Industry professionals often work on commission. Making an income can be uncertain even though expenses seem constant. Industry professionals are more likely to experience financial hardship than individuals in other professions where income is stable and predictable. As a result, industry members often have to make some tough financial decisions.

If you or someone you know is considering declaring bankruptcy, there are obligations and implications that must be considered.

Bankruptcy proceedings include:

- consumer proposal or division 1 proposal
- bankruptcy

What happens when you declare bankruptcy?

In a bankruptcy proceeding, you would work with a Licensed Insolvency Trustee (LIT). The LIT sells your non-exempt assets—such as recreational vehicles, rental or vacation properties, original artwork, and other assets that go beyond your basic needs—and creates repurchase arrangements between you and your creditors, so that funds resulting from the sales are appropriately distributed among your creditors.

You can protect some assets including equity in your home (up to a certain amount), some vehicles, furniture, and retirement accounts. However, it's not a bad idea to sell any furniture or vehicles not in use in order to pay down your debts faster.

The payment amounts and timeline of the bankruptcy proceedings will depend on factors such as your income and family needs, and the amount of your debts. Once you have fulfilled the repurchase agreements and your bankruptcy proceedings are complete, you'll receive an official discharge. The official discharge releases you from the legal obligation to repay any remaining named debts you had when you filed for bankruptcy.



Note: You will still be responsible for financial obligations such as alimony, court-ordered fines, student loans (when it has been less than seven years since you finished your studies), and any debts arising from fraud.

Your obligations when declaring bankruptcy?

You must immediately—within 5 business days—notify the executive director through your myRECA account, whenever you or a company you own (or are a partner, director, or officer of) is the subject of bankruptcy proceedings. Follow the directions for submitting all required information.

After you notify the executive director

RECA will review the information you submit to determine if the situation creates potential harm to the public or impairs your ability to provide competent service.

If you're a broker, entering bankruptcy proceedings creates a possible conflict of interest when holding funds in trust for clients. As a result, you cannot practice as a broker until you are given your discharge from bankruptcy.

Your other options when facing financial hardship

- the [Credit Counselling Society](#) offers debt repayment and debt settlement solutions, as well as financial planning education programs.
- [Money Mentors](#) is authorized by the Alberta government will manage its Orderly Payment of Debt (OPD) program.

Additional details are outlined in [Information Bulletin: Financial Hardship – Options and Obligations.](#)



Searching High and Low

RECA relies on the website as the main tool in communicating information in order to meet our mandate to protect consumers and to provide services that enhance and improve the real estate industry and the business of industry professionals.*

In order to keep consumers, industry professionals, and other stakeholders informed, RECA publishes comprehensive information on our website concerning the real estate industry in Alberta.

Understanding that our different audiences vary in their understanding of the real estate industry, we publish information targeting each audience with the information and language that helps build their understanding.

While this means that there is a substantial amount of information available, it also means that it can sometimes be difficult to find what you're looking for.

In 2018, RECA redesigned reca.ca to be mobile-friendly, easier to navigate and have an improved search function. The new website was a definite improvement, but the search function was still not at the level that was truly useful to our users.

In the summer of 2019, our communications team sent out a survey to ask you about the communications you receive from us. While you rated reca.ca as our best communications tool, you also let us know that it could be easier to search and navigate, and that an archive of RECA News would be helpful.

[Become an Industry Professional](#)[Find a Professional](#)[Subscribe](#)[Contact](#)[myRECA](#)[Consumers](#)[Professionals & Learners](#)[Complaints & Discipline](#)[About RECA](#)

The Real Estate Council of Alberta regulates real estate industry professionals in Alberta.

As an independent governing authority, we set, regulate, and enforce standards for real estate brokerage, mortgage brokerage, property management and real estate appraisal professionals across the province.

Many of you commented specifically on the still ineffective search engine:

- better search engine, wider parameters
- the site contains A LOT of information. It's not always easy to guess where what I'm looking for might be classified
- better search function, I often cannot locate what I am looking for
- more searchability features, particularly for larger documentation like the act, and forms etc
- the search feature needs to be more specific, it often comes up with information not at all related to what one is looking for, very cumbersome
- better search capabilities such as partial phrases, not exact wording
- make it easier to find information
- search function sucks so bad I haven't tried using it for a long time

And some of you suggested that it should also be easier to find additional communications from the website:

- Have [RECA News] archives available for viewing and searching
- What happened to the RECA blog?
- I'd put all the other communication sources on it

We appreciate your honest feedback and are committed to improving our communications tools. Based on your input, we have:

- made updates to reca.ca search engine

We refined the search parameters to ensure that the results are more accurate. And, in addition to viewing the page title, you can also read a summary of the page to get a better sense of which page is best suited for your needs.

You can also easily see what information is in a website post versus what information is in a PDF available for download.

- compiled information from various platforms under reca.ca

You can now find all information your query—whether webpage, RECA News, Regulator Articles, etc.—with one simple search.

We combined RECAblog with RECA News. Don't worry though, if you've got the old recablog.ca link bookmarked, it'll still work! It just now takes you to the updated RECA News landing page.

And, while we were at it, we updated the look and usability of the online versions of [The Regulator](#), [RECA News](#), as well as [Ask Charles](#) consumer articles.

The improved reca.ca search function has already received positive feedback! If you have ideas on how we can further improve reca.ca, we'd love to hear from you! Simply email us at communications@reca.ca.

**As per the Real Estate Act, "business of an industry member" means the trades of a real estate broker, the activities of a real estate appraiser referred to in clause (u.1) or the dealings of a mortgage broker undertaken by an industry member*

Remembering Graham Downey

It is with great emotion we announce that Graham Downey, former Chair of Council, passed away in December.

Graham was a real estate professional for more than 55 years, and a real estate appraiser for more than 50 years. Graham served on Council from 1998-2004, served as Chair in 2002, and also sat on the Board of Governors for the Real Estate Insurance Exchange (REIX).

During his term as Chair, Graham oversaw the first steps for RECA to license and regulate real estate appraisers in Alberta. This was a major undertaking that Graham navigated with unyielding professionalism.

RECA and industry professionals who worked with him will remember Graham's passion for real estate and his extremely professional demeanour and outlook. Graham was steadfast in advocating for what was best for the industry and for Alberta.

Our hearts and condolences go out to his loved ones.

2020 Tradeshow

We will be attending the following upcoming events in order to build consumer awareness and connect with industry professionals. Stop by to say hi!

Calgary Home and Garden Show

February 28 – March 3
BMO Centre, Calgary

Edmonton Home and Garden Show

March 21 – 24
Expo Centre, Edmonton

Fraud Prevention Month Calgary Launch Event

March 1
Calgary Public Library – Central Branch, Calgary

Fraud Prevention Month Edmonton Launch Event

March 2
Rogers Place Ford Hall, Edmonton

News Bytes

RECA Launches Enhanced Exam Engine

RECA Education launched an enhanced examination program for pre-licensing education courses on January 27, 2020.

This enhancement moved the examination engine to Yardstick Assessment Strategies (YAS)—a full service professional testing organization dedicated to ensuring examinations are valid, reliable, and defensible.

YAS follows the International Organization of Standardization's (ISO) 17024 standards and the National Commission for Certification Agencies' standards that dictate how they provide exam development services.

Yardstick also follows the National College Testing Association's standards for test centre security, requiring that high stake exam centres follow these standards to ensure exams are secure and consistent.

How this upgrade benefits you

- increased security
- improved efficiency
- higher exam defensibility
- consistent exam fee across Alberta
- constructive response examination that will ensure our new licensees show competence in their sector (coming soon)
- easy single sign on from myRECA
- bookmarking capabilities, a timer, and other enhanced features
- when you complete a pre-licensing course, you will be automatically authorized to write or re-write the corresponding exam. Simply go to [myRECA](#) and click Book Exam

News Byte: RECA 2018-2019 Annual Report

Did you know that RECA was the 4th largest education provider in Alberta in 2018-2019 measured by number of unique learners? With 19,514 students, RECA is behind only Athabasca University, University of Alberta, and University of Calgary!

This interesting insight and others are presented in the [RECA Annual Report](#), which—along with the updated Financial Statements—is now available on [reca.ca](#). Additional highlights include updates on strategic goals, the Real Estate Assurance Fund, organizational achievements, education programs, and professional conduct review.

Amended *Condominium Property Act* and Regulations

On January 1, 2020, amendments to the *Condominium Property Amendment Act* and *Condominium Property Regulation* came into force. Many of the revisions in this phase centered around governance issues and will affect all condominium owners and boards in Alberta.

Some key changes in the regulations include:

- cost for documents rose to \$10 for 40 pages or less, and \$0.25 per page for documents that are more than 40 pages
- condominium corporations can borrow up to 15% of their annual revenue as the default limit but can also change the limit through their bylaws
- condo boards no longer need to provide the minutes of all board meeting in the hard-copy Annual General Meeting (AGM) package
- the timeline to provide owners a copy of the draft AGM minutes increased from 30 to 60 days after the AGM
- condo associations can now levy fines of up to \$500 for a first offence and \$1,000 for a subsequent offence if an owner violates bylaws
- condo owners' rental damage deposits have been limited to \$1,000 or one month's rent, whichever is higher
- a wider range of professionals can now conduct reserve fund studies
- associations can now charge up to \$200 for an estoppel certificate (which outlines condo fees, schedules and interest rates), up to \$300 for a rush document, and up to a \$100 fee for a disclosure statement document

To learn more about these changes visit [Service Alberta](#).

News Byte: Fraud Prevention Month 2020

March is Fraud Prevention Month! RECA will be teaming up with organizations across Alberta to promote awareness of fraud. Through this campaign we hope to build consumer knowledge so Albertans—including you, industry professionals—can protect themselves from scams.

Additionally, we will be providing industry professionals with information so you can spot fraud related to trades, deals, and appraisals, and report it to the proper authorities.

Themes for this year's Fraud Prevention Month include:

- Week 1: Cyber Crime and Online Scams (protecting consumer files)
- Week 2: Identity Theft (fraud for title)
- Week 3: Business Fraud (money laundering & mortgage fraud in general)
- Week 4: Mass Marketing and Phone Scams (business reputation blackmail)
- Week 5 Immigration Fraud

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