

The Regulator

September 2020

Vol. 26 / Issue 3

Message From The Administrator

Real Estate Amendment Act 2020 – What You Need To Know

2020–2021 Licence Renewal Period

Consultation On The Standards Of Practice For Condominium Managers

Re-Introducing RECA's Regulatory Compliance Advisors

Properly Completed Contracts Ensure Smooth Sales

Mortgage Commitment Letters – Get Them Signed Before They Expire

Advertising Your Mortgage Brokerage Services

News Bytes





Message from the Administrator

Duane Monea

It has been an extremely busy Spring and Summer at RECA, with numerous changes coming to the way the industry regulates itself. As the Administrator of RECA, I continue to meet with industry stakeholders as we chart a new path for real estate professionals in Alberta. Below you'll find updates on what has happened so far, what we're doing now, and where things are going.

Real Estate Amendment Act 2020

As promised, the Government of Alberta passed changes to the *Real Estate Act* in June 2020. It is important to note, however, that as of the publication of this Regulator, **no sections of Bill 20: *Real Estate Amendment Act 2020* have been proclaimed. Until they are, the current *Real Estate Act* remains in effect.**

Bill 20 outlines changes to the *Real Estate Act* that set a new governance structure for RECA, focuses RECA's mandate, removes real estate appraisal activities from the *Real Estate Act* and adds condominium managers as a licensed industry in Alberta.

[Read Bill 20 in its entirety here](#)

Read about many of the other important changes to the *Real Estate Act* in the Regulator article: [Real Estate Amendment Act 2020 – What You Need To Know](#) and what it means for RECA and for industry professionals.

Implementing *Real Estate Amendment Act 2020*

Service Alberta, RECA, and industry stakeholders are currently working towards putting in place the necessary regulations and procedures for the new Act to be proclaimed and come into force.

The Minister of Service Alberta received applications for the public member positions on the Board and on Industry Councils, including the Chair of the Board, from July 27 to September 7. As for the industry positions on these bodies, the nomination and election process has not yet been determined.

Service Alberta is leading the transition process, and is working closely with industry stakeholders, including representatives from the Alberta Real Estate Association, the Alberta Mortgage Brokers Association, BOMA Calgary and Edmonton, CCI North and South, the real estate legal community, and more.

When decisions are made, and processes finalized, all industry stakeholders will be notified.

We are all in this together

Service Alberta, RECA, industry associations, consumers, and individual industry professionals all have a part to play in the transition to the new governance model outlined in Bill 20. I look forward to continuing to work with all of you in the best interest of the industry, and the best interest of Albertans.

Real Estate Amendment Act 2020 – What You Need To Know



IMPORTANT: As of the publication of the Regulator (September 17 2020), no sections of Bill 20 have been proclaimed. Until they are, the current *Real Estate Act* remains in effect.

On June 18, 2020, the Government of Alberta received Royal Assent for Bill 20, the *Real Estate Amendment Act 2020*. Bill 20 outlines changes to the *Real Estate Act* that set a new governance structure for RECA, focuses RECA's mandate, removes real estate appraisal activities from the *Real Estate Act* and adds condominium managers as a licensed profession in Alberta.

[Read Bill 20 in its entirety](#)

The primary changes to the *Real Estate Act* in Bill 20

Governance Structure

The creation of four Industry Councils (residential property management, commercial real estate and property management, residential real estate, and mortgage brokerage), each made up of three industry professionals elected from that Industry Council's sector, and two members of the public appointed by the Minister of Service Alberta. These Industry Councils will be responsible for setting the standards of practice and their enforcement.

The creation of a Board of Directors made up of a member from each Industry Council and three members of the public appointed by the Minister of Service Alberta. The Board of Directors will be responsible for RECA's strategic direction and corporate governance.

What's different?

Higher proportion of consumer representation. Under the old structure, committees and Council had limited consumer representation. Of the 12 members on Council, only two were members of the public. Under the new structure the public will have greater representation through the Industry Council and Board of Directors appointments. This follows a worldwide trend in self-governance.

More authority within each industry sector. Under the existing committee/council system, the industry advisory committees were just that: advisory. They did not have the power to make rules, set standards, or undertake enforcement. Under the new governance model, Industry Councils have these responsibilities.

Industry professionals will now be elected to Industry Councils. Under the new Act, licensees will be elected directly to Industry Councils by the industry professionals who practice in those sectors.

The addition of Condominium Managers to the *Real Estate Act*

Implementing condominium manager regulation in Alberta began with the passing of the *Condominium Property Amendment Act* in 2014. Since then, RECA has worked with the Government of Alberta to create a regulatory model, standards of practice, and legislative changes required to have condominium managers regulated by RECA. When fully proclaimed, the new *Real Estate Act* will officially begin regulating condominium managers as part of the property management sectors.

On August 14, 2020, RECA began consulting stakeholders on the draft standards of practice agreed to by the Condominium Managers Implementation Advisory Committee. Take part in the consultation by going to RECA's [Industry and Government Consultation](#) page. RECA will continue to notify stakeholders with further developments.

Removal of Appraisers from the *Real Estate Act*

Appraisers first became regulated by RECA when they were added to the *Real Estate Act* in 2004. Many of the standards appraisers must meet come through their industry associations, and membership in one of the three recognized associations was a requirement for licensing with RECA. The Government of Alberta has decided appraisal regulation being moved directly to the three industry associations will adequately regulate and reduce red tape in the real estate appraisal industry.

Focusing of RECA's Mandate

Service Alberta has communicated that Regulations being developed will require RECA to divest itself from the delivery of pre-licensing and re-licensing education.

Under the new Industry Council model, each Industry Council will set out the conditions for a person to become and remain a licensee of the industry to which the Industry Council relates, including minimum standards for conduct and education requirements.

Changing Enforcement Powers

Splitting Administrative Powers. When this Act is proclaimed fully, the powers of the Executive Director of RECA to sanction licensees under certain circumstances will pass to the Registrar. The Registrar is currently a position hired by the Executive Director and derives the authority to sanction when delegated to do so by the Executive Director. Under the new Act, the Registrar will be a position appointed by, and accountable to, the Board of Directors.

Changes to lifetime withdrawals. Currently applications for lifetime withdrawals from industry are made to the Council, who may accept or deny the application. Under the new Act, applications will be made to the licensee's Industry Council, who may accept or deny the application. Additionally, Industry Councils will be required to reject applications when there are allegations of fraud or criminal activity against the licensee.

Transparency

Bill 20 expands and codifies the reporting and transparency requirements for RECA. RECA began posting Council meeting agendas and minutes in January 2018, and Bill 20 has legislated timelines around when these must be posted. Under Bill 20, RECA must also provide the Minister of Service Alberta with annual budgets and business plans for approval, and expanded the reporting requirements for the Annual Report.

Policy Directives

The Board and Industry Councils will have to follow policy directives issued by the Minister in respect to matters of concern to the Minister. These matters may relate to red tape concerns or consumer protection.

How will this all work going forward?

This is a very important question, and RECA is currently working with Service Alberta to answer it. Many of the details of how this new framework will work operationally will be worked out in the *Real Estate Act* Regulations, which Service Alberta is currently writing, and through the implementation process already underway. Service Alberta is leading the transition process, and is working closely with industry stakeholders, including representatives from the Alberta Real Estate Association, the Alberta Mortgage Brokers Association, BOMA Calgary and Edmonton, CCI North and South, the real estate legal community, and more.

When decisions are made, and processes finalized, all industry stakeholders will be notified.

When other changes are approved, RECA will inform all stakeholders immediately.

2020–2021 Licence Renewal Period



The renewal period is now open for all real estate, mortgage, appraisers, and property management professionals.

Renewal applications must be completed and submitted through [myRECA](#) by **September 30, 2020**.

Brokers must renew the brokerage licence through the My Brokerage tab in myRECA before associates and associate brokers in the brokerage are able to renew.

For more information, review the [tutorial for renewing a brokerage](#) within myRECA.

Associates and associate brokers can begin renewing once their broker has renewed the licence of the brokerage, by clicking the Renew button under the Licensing tab in myRECA.

For more information, review the [tutorial for renewing an associate or associate broker](#) within myRECA.

Paying for your licence renewal

[Renewal fees](#) are due at the time of renewal and can be paid online through myRECA using Visa, Visa Debit, and MasterCard.

Industry professionals who are unable to pay their renewal online can send a cheque, bank draft, or money order to RECA, ensuring that the payment:

1. is made payable to the **Real Estate Council of Alberta**
2. includes the **name of the brokerage or industry professional**—as it appears on their licence—for whom payment is being made
3. is received by RECA by **2:00 pm on September 30, 2020**

Due to the continuing COVID-19 pandemic, RECA will not be accepting hand-delivered cash nor offline payments at the office for the 2020-2021 licence year.

Associates and Associate Brokers

If an associate or associate broker is unable to pay their renewal online or by cheque, bank draft or money order, they should try to arrange with their broker/brokerage to pay their renewal on their behalf.

Other payment options

If none of the options listed above are possible, please [contact RECA](#).

Receipts

Receipts for renewal fees can only be accessed by the individual or brokerage that made the payment.

Education Reminder

Only managing mortgage brokers (Mortgage Broker Licence Class) are required to complete re-licensing education to renew for the 2020-2021 licence year.

If you are a managing mortgage broker, you must complete the [Mortgage Broker Update 2020](#) course before you can renew your broker or brokerage licences. To enrol:

1. login to your myRECA account
2. go to the education tab
3. go to the course catalogue
4. click enrol



Consultation On The Standards Of Practice For Condominium Managers

The Real Estate Council of Alberta (RECA) will begin regulating condominium managers in mid- to late- 2021. In preparation, RECA is preparing Standards of Practice for condominium managers, which includes required content of service agreements between condominium corporations and condominium manager brokerages.

The consultation is open to all stakeholders and the general public and will close **Thursday, November 12, 2020**. More [information on this consultation is available on reca.ca](#), including:

- the consultation paper for the Standards of Practice
- drafts of the proposed rules setting out the Standards of Practice, including required content of service agreements
- a link to the online survey, which includes questions regarding general requirements and feedback on the specific rules
- results on the previous consultation on the licensing structure for condominium managers

Please share this information about the upcoming consultation with anyone who might have an interest in the management of condominium corporations.



Re-Introducing RECA's Regulatory Compliance Advisors

The popular, without prejudice advisory services offered by RECA's practice advisors is continuing under RECA's Regulatory Compliance Advisors.

Beginning in 2012, the practice advisors offered timely, practical, confidential, without prejudice advice and guidance to brokers and broker delegates who have enforcement, standards of practice, or other regulatory issues or questions. Over the years, they have taken thousands of phone calls from brokers eager for guidance on regulatory matters. The practice advisors also gave hundreds of brokerage and association presentations on regulatory matters in that time.

Some have held the misconception that the practice advice given by the practice advisors included business advice. This has never been the case, so to clarify that misconception, RECA has changed the practice advisors to Regulatory Compliance Advisors.

Brokers and broker delegates will continue to receive the same without prejudice regulatory advice and guidance they have received for the past eight years.

Brokers and broker delegates with regulatory, standards of practice, enforcement, or other regulatory brokerage issues or questions can contact the Regulatory Compliance Advisors directly.

RECA's Regulatory Compliance Advisors are also available to do online presentations on matters of interest to your brokerage. Contact them directly to discuss their availability to arrange your brokerage's customized presentation.

Gary Siegle gsiegle@reca.ca

Regulatory Compliance Advisor – Mortgage Brokers

403-685-7925

Kristian Tzenov ktzenov@reca.ca

Regulatory Compliance Advisor – Real Estate Brokers

403-685-7948

Doug Dixon ddixon@reca.ca

Regulatory Compliance Advisor – Real Estate Brokers

403-685-7920

Properly Completed Contracts Ensure Smooth Sales

When the average person thinks about buying and selling real estate, they think about viewing multiple houses to find the perfect fit or staging their current home to attract an excited buyer.

As a real estate professional, you know that these television-worthy activities are only half of the equation when it comes to completing a trade in real estate. The other half of the equation—the paperwork—is less exciting for TV, but equally important to the process.

From accurately reflecting the property legal description in the listing to documenting conditions and price in the offer to purchase, every detail matters. Properly representing a property for sale and accurately reflecting the wishes and position of clients in an offer are part of providing competent service to your clients. But, it's not just the information about the property that is vital to get right.

Real estate is in large part about working with people, but your role at its core, is to facilitate large financial and legal transactions. Ensuring that client information is accurately and completely included on contracts at the time of signing is crucial to the process.

Real estate professionals must take the time to review the contracts with their clients, ensuring that even the simple things listed below are legible, and that the contracts include completion dates and signature dates.



Ensure the following are legible and complete on contracts:

- the clients' full name
- their contact information
- the full names of the real estate professionals and brokerage
- full addresses

RECA has recently heard from the real estate legal community that receiving incomplete real estate contracts has become a point of constant concern.

They have also commented to RECA that “the law abhors a blank.” They suggest that if a space on a contract is being left blank on purpose, you should make it clear by adding “n/a” or by crossing it off and initialing it.

By taking the time to work with clients to properly fill out contracts, real estate professionals can do their part to ensure that the sale can be processed smoothly and saves everyone from headaches—and possible heartache—down the road.



Mortgage Commitment Letters –

Get them signed before they expire



Practice reviews conducted recently by RECA have uncovered an increasing number of instances where lender commitments have been signed by borrowers after the commitment date has expired.

Industry professionals must provide competent service to all consumers and give the best possible service and advice to their clients. This means each industry professional is responsible for achieving and maintaining their competence in all areas in which they practice. Proper completion on commitment letters is part of providing competent service.

Commitment letters are legal documents between the lender and the consumer, outlining terms such as the interest rate, loan term, or other aspects related to the deal. Basically, a commitment letter sets up a borrower with the ability to buy a home, refinance their mortgage, or restructure their mortgage with a different lender.

Loan commitments take a little longer than mortgage pre-qualifications or pre-approvals because they are more thorough and represent the terms and conditions the borrower and lender agree on. The letter provides all parties with

confirmation that the lender is prepared to loan the necessary funds to the borrower.

However, once a commitment letter expires, lenders are no longer obligated to honour the terms as outlined, which puts the client at risk of having the terms of the commitment changed or cancelled altogether.

When a mortgage professional receives a commitment letter from a lender it is vital that they arrange to meet with, or otherwise review the commitment, with their clients as soon as possible. This will ensure the clients have time to understand the commitment letter and ask any questions they might have.

Should a client have a commitment fall through because of a missed deadline, that client could file a consumer complaint with RECA against the mortgage professional.

If circumstances arise where the mortgage professional can't get their clients to sign the commitment before the expiry date, the professional must obtain an extension from the lender. By getting the commitment letter signed before it expires, mortgage professionals are providing competent service to consumers.

Advertising Your Mortgage Brokerage Services



A common question RECA gets from mortgage licensees is about who can advertise their services as a “mortgage broker.” This confusion is understandable given that there are two licence classes for mortgage licensees in Alberta: associate and broker.

Mortgage Associate vs. Mortgage Broker

Both mortgage associates and mortgage brokers must meet their respective qualifications and register with a mortgage brokerage to be licensed with RECA.

The difference between the two licence classes, as defined in the *Real Estate Act* Rules, is in the industry professional’s role in the operation of a brokerage: professionals with the mortgage associate licence class are registered with, and employed within, a brokerage, whereas professionals with the mortgage broker licence class are responsible for the brokerage’s operations.

Who is a mortgage broker?

Fundamentally, any individual who is authorized under the *Real Estate Act* to broker mortgages can state they are a mortgage broker in their advertising.

According to the *Real Estate Act*, industry professionals are required to have a mortgage licence to perform the following activities:

- soliciting a person to borrow or lend money to be secured by a mortgage
- negotiating a mortgage transaction
- collecting mortgage payments
- administering mortgages
- buying, selling, or exchanging mortgages, or offering to do so
- holding oneself as a mortgage broker

So, despite the difference in their class of licence, mortgage associates are registered and approved to deal in mortgages. Therefore, they are also technically mortgage brokers and can advertise themselves with this title.

Who isn't a mortgage broker?

While industry professionals with both the mortgage associate and mortgage broker licence classes are mortgage brokers, there are individuals whose work is related to mortgages who are not mortgage brokers. Usually, these individuals work directly for the lenders and may refer to themselves as "mortgage specialists" or a similar title.

While these individuals may solicit someone to borrow or lend money and may negotiate mortgage transactions, they are not mortgage brokers and cannot refer themselves with this title if they are not authorized by RECA.

Individual who advertise themselves as a mortgage broker without authorization from RECA is in breach of section 17 of the *Real Estate Act*, which states that no person shall deal or advertise themselves as a mortgage broker who does not hold a licence to do so issued by RECA.

Advertising your services

You can also choose a title other than mortgage broker in your advertising. Keep in mind though, using phrases such as "expert" or "specialist," or dropping "mortgage" entirely from your title and using only "broker" or "owner," implies that you have a lot of experience or hold a high position in your brokerage. If the title you are considering using in your ads exaggerates your level of experience or knowledge, your position in your brokerage, or could otherwise mislead consumers, you should replace it with a more accurate option.

Basically, if you hold a mortgage industry licence with RECA, you may use the title of mortgage broker, or any title you prefer as long as the title isn't false or misleading and your brokerage approves your advertisements.

Social Media Incentives: What you need to know!

Social media accounts have become one of the most frequently used advertising platforms for real estate and mortgage brokerages. These platforms are appealing to industry professionals as they offer cost-effectiveness and a wide audience. They also provide opportunities to offer creative incentives to potential clients through industry professionals' personal social media accounts.

Incentives are a significant part of social media advertising in the industry and include extras like travel miles, gifts, contests, gift cards and trips. Any incentive offered by one industry professional within a brokerage must be offered by all industry professionals registered with the brokerage.

Being able to offer creative incentives is a great way to attract new clients. However, advertising is advertising, whether online or off, and the rules that apply to traditional advertising apply to social media advertising.

All advertising must be done on behalf of your brokerage. Industry professionals must clearly indicate their brokerage name in all advertisements and marketing materials. A brokerage name is "clearly indicated" when a reasonable consumer, under normal circumstances, can clearly distinguish the name of a brokerage in an advertisement.

Industry professionals should make sure they are familiar with their brokerage advertising policies and procedures before creating any marketing materials or posting ads online. And, if an industry professional's social media profile clearly promotes their services or their brokerage, and may include marketing tactics such as the incentives above, their profile is considered a professional profile, and it also falls under RECA's Advertising Guidelines.

Update on FINTRAC Compliance Activities During COVID-19

To assist in the elimination of money laundering and the financing of terrorist activities, real estate professionals are required by law to report all suspicious transactions to the Financial Transactions and Reports Analysis Centre of Canada (FINTRAC).

During the height of the COVID-19 pandemic, FINTRAC had relaxed some of examinations. However, they are beginning to resume desk examinations with the real estate sector to assess your brokerage's compliance program and effectiveness, as well as the compliance controls that have been put in place and adherence your adherence to your legal obligations.

Download the recent update on [FINTRAC's Compliance Activities during COVID-19](#) for more information.

RECA wins 2020 ARELLO Communication Award

Every year, the Association of Real Estate License Law Officials (ARELLO) recognizes organizations around the world for exemplary leadership in certain areas of real estate regulation.

RECA is pleased to announce it has won the 2020 ARELLO Communication Award for its suite of COVID-19 Information and Resources.

The global COVID-19 pandemic created an immense need for accurate and practical COVID-19 resources to alleviate confusion and stress for industry professionals and consumers. RECA created multiple resources to cover all [real estate](#) and [consumer](#) areas through multiple easily accessible platforms to support industry professionals and protect consumers.

RECA Management

JOSEPH FERNANDEZ

Director of Education Programs

WARREN MARTINSON

Director of Corporate Services

STACY PAQUIN

General Counsel & Corporate Secretary

CHARLES STEVENSON

Registrar

(Acting Executive Director)

VACANT

Director of Strategic Initiatives & External
Relations

CONTACT RECA

The Regulator is published by the Real Estate Council of Alberta.

Please forward any questions regarding the content of the Regulator, or any questions regarding licensing or mandatory education, to info@reca.ca



202, 1506 11 Avenue SW,
Calgary, AB T3C 0M9
Phone (403) 228-2954
Toll-free 1-888-425-2754
Fax (403) 228-3065