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Alberta

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Real Estate Act Rules Review Phase 1

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DISCUSSION PAPER: RULES REVIEW PHASE 1

INTRODUCTION AND BACKGROUND

History

The [Real Estate Act Rules](#) (Rules) contain most of the requirements affecting licensee business activities, including the licensing structure they operate under, their standards of practice, and most other activities required in order to protect consumers.

The Rules, as they exist today, originally came into effect on October 1, 2006. Since that time, Rules have been added, adjusted, or removed by the Council, the Minister, the Minister-appointed Administrator, and the current Industry Councils, as necessary, to facilitate certain activity, and to allow regulation to adapt to changes in the industry.

Major changes since 2006 include:

- 2008: The addition of Rules for Designated Agency and Transaction Brokerage in real estate
- 2014: The addition of Rules requiring written service agreements for some sectors
- 2020-2021: Rules changes to facilitate amendments to the *Real Estate Act*, including the removal of Rules for real estate appraisal, and addition of Rules for condominium managers, and separating out standards of practice for real estate licensees who provide property management services

There has also been numerous smaller scale and housekeeping changes throughout the years.

Rules Review

As part of its 2022-2025 Strategic Plan, RECA has made Regulatory Excellence a strategic priority, and has committed to a comprehensive review of the Rules. To facilitate this review, the Board created a Rules Review Steering Committee (Committee) made up of industry licensee representatives from each Industry Council, and a non-industry, public member as Steering Committee Chair. The Committee has created a consultation framework for obtaining meaningful feedback from industry stakeholders.

Phase 1 Consultation: February-May 2023 (WE ARE HERE)

Reach out to key stakeholder groups asking for feedback on where they see issues or problems with the current Rules, and where they could potentially be changed to reduce red tape, improve consumer protection, or to align with current technologies and market realities.

Phase 2 Consultation: July 2023-May 2024

The Committee will review all feedback from Phase 1 and propose new draft Rules to address issues raised. The Committee will then ask all licensees and key stakeholder groups to provide feedback on those proposed Rules. In recognition of the volume of Rules involved, this Phase will be broken into three sections:

1. Licensing Framework
2. Practice Standards
3. Records, Reporting, and the remaining Rules

Phase 3 Consultation: June–November 2024

After adjusting Rules based on the feedback from Phase 2, the Committee will once again reach out to key stakeholder groups to receive feedback on any issues or impacts adopting the proposed Rules may have.

The authority to create Rules for the various sectors is given to the Industry Councils in section 12 of the *Real Estate Act*.

Currently, under the Real Estate Ministerial Regulation, the Minister of Service Alberta retains the ultimate authority to approve new Rules proposed by the Industry Councils until June 30, 2025.

CONSULTATION CONSIDERATIONS

In Phase 1, RECA is asking major stakeholder groups to provide input on where they see issues in the current Rules and suggest ways Rules could be changed to improve the industry, while maintaining or increasing consumer protection.

Many of the questions in this Discussion Paper were developed based on feedback already received from stakeholders through RECA’s strategic planning process in 2021–2022, and from other ongoing stakeholder meetings. However, feedback is not limited to these questions. Please feel free to provide any feedback on any Rule you believe could be amended or removed to improve the industry or reduce red tape without harming consumer protection.

Please review the information below prior to providing feedback.

Licensing Structure

The licensing structure for the industries RECA regulates is set in Part 1 of the Rules. When the Rules were originally written, RECA governed real estate, mortgage, and real estate appraisal, and there were no sector-specific practice areas under real estate licences. At the time of the creation of the Rules, RECA was also governed by a single Council. Under the modernized governance model, licensing and standards of practice are the domain of four Industry Councils:

- Commercial Real Estate Broker and Commercial Property Manager Industry Council (includes rural/agri-business licensees)
- Mortgage Broker Industry Council
- Residential Property Manager Industry Council (includes condominium manager licensees)
- Residential Real Estate Broker Industry Council

The current licensing structure does not align with the modernized governance model that came into force on December 1, 2020. The current licensing structure is described below:

Current Licence Structure

RECA currently issues licences in three broad industries: real estate brokerage, mortgage brokerage, and condominium management.

Real estate licence structure

- There are three classes of real estate licence: associate, associate broker, and broker
- A real estate licence can contain four practice areas: residential, commercial, rural, and property management

- A licensee can practice in a particular practice area when the licensee completes education specific to that practice area
- Real estate associates only require education in one practice area to be able to practice, limited to the practice area in which they received education
- All real estate associate brokers and brokers must be qualified in all four practice areas by taking the necessary education, completed additional broker education, and have two years of experience in the last five years

Mortgage broker licence structure

- There are two classes of mortgage licence: associate and broker
- Mortgage associates are required to complete a fundamentals course and a practice course
- Mortgage brokers are required to complete an additional broker course, and have two years of experience in the industry within the last 5 years

Condominium manager licence structure

- There are three classes of condominium manager licence: associate, associate broker, and broker
- Condominium manager associates are required to complete a fundamentals course and a practice course
- Condominium manager brokers are required to complete an additional broker course, and have two years of experience in the industry within the last five

Licence Structure Questions for Consideration:

REMEMBER: consider all potential changes through the lens of consumer protection. Does the Rule facilitate consumer protection?

- Should RECA amend the Rules to better align the licensing structure to the current governance model? If so, what is the best way to align them?
- Should RECA move to single-sector licensing? For example, should each practice area under real estate be a separate licence?
- Should RECA move to licence specialization? For example, in the commercial industry, should licensees specialize in office, industrial, retail, commercial property management, agri-business, and be limited in where they can practice based on specialization? Or for example, should condominium manager licensees specialize in commercial or residential condominiums, and be governed by different Industry Councils accordingly?
- Does single-sector or specialized licensing increase consumer protection by ensuring licensees are fully competent in the specific sector or specialization?
- Should RECA consider a special licence class for “team” leads, and/or require special qualifications for them?
- Are there any other issues with Part 1 of the Rules you would like to bring to RECA’s attention?

Licensing Decisions and Notifying RECA

Part 1 of the Rules also provides the Registrar the authority to refuse, suspend, or cancel a licence under certain conditions to ensure consumer protection, and outlines the notification requirements for individuals when certain events happen to them.

Licensing Decisions and Notification Questions for Consideration:

REMEMBER: *consider all potential changes through the lens of consumer protection. Does the Rule facilitate consumer protection?*

Given changes in technology, society, and the industry since 2006, should there be any changes to the authority of the Registrar in Rules 34-39, or changes to the types of situations that require Registrar intervention in those Rules?

Should there be any changes, removals, or additions to the types of events individuals or brokerages are required to report to the Registrar under Rules 32, 40 and 51(3)(g)? Should the timeframe for notification change?

Are there any other issues with Part 1 of the Rules you would like to bring to RECA's attention?

Standards of Practice

The Industry Councils set the standards of practice for their industries in Part 2 of the Rules.

- Rules 41-46 outline standards for all licensees.
- Rules 47-63 outline real estate licensee standards.
- Rules 64-75 outline mortgage licensee standards.
- Rules 80.1-80.8 outline property manager standards*
- Rules 80.81-80.89 outline condominium manager standards

**This section was created in 2020 as part of the Real Estate Amendment Act 2020. However, please remember that currently, property managers have real estate licences with the practice area for property management and are not a separately licensed industry.*

Please review the Rules that apply to all licensees and to the specific sectors you represent or are licensed in.

Standards of Practice Questions for Consideration:

REMEMBER: *consider all potential changes through the lens of consumer protection. Does the Rule facilitate consumer protection?*

- Given changes in communications technology, including the expansion of the Internet and social media in our society, should changes be made to Rules concerning advertising, who is responsible for them, what disclosures have to be made in them, or how incentives and inducements or guaranteed sales programs work?
- Are the current conflict of interest disclosure requirements adequate for consumer protection?
- Some jurisdictions, including B.C., have banned dual agency (transaction brokerage). Are the Rules around transaction brokerage working in Alberta? Should they continue, be modified, removed?

- Rules 49-52, 65-68, 80.2-80.5, and 80.82-80.85 outline brokerage and broker responsibilities and prohibitions for each industry, including limits to whom brokerages can pay commissions, how referral payments work, and how broker delegation works. In light of the increase in “teams” within a brokerage, particularly in residential real estate and mortgage brokerage, and in light of the fact that some brokerages have hundreds of licensees registered to them, are there any considerations for changing these broker responsibilities and prohibitions? Or for associate and associate broker responsibilities and prohibitions? Should brokerages with more associates have more requirements to ensure appropriate associate supervision?
- Rules 62 and 75 outline requirements for personal trades in real estate and deals in mortgages, respectively. Many licensees trade in real estate or deal in mortgages on their own behalf or on behalf of family members or other close associates. Are the current disclosure Rules adequate for consumer protection?
- In 2018, RECA consulted stakeholders concerning potential changes to mortgage standards of practice, including changes to the intermediary relationship, private lending, document verification to prevent mortgage fraud, and mortgage risk and product suitability disclosures. Are any Rules missing in these areas that may improve consumer protection without creating any red tape?
- Condominium manager standards of practice have only been in place since December 1, 2021. After the first year in force, are there any areas in need of adjustment?
- Are there any other issues with Part 2 of the Rules you would like to bring to RECA’s attention?

Accounting, Records, and Reporting

Money held in trust for consumers is one of the primary reasons industry licensees are regulated. More than \$1 billion is held in trust by licensees in Alberta at any given time, and consumers must be able to trust licensees with handling those funds.

An important part of consumer protection is also proper documentation of relationships and transactions, and proper reporting of information to the regulator and other authorities.

Part 3 of the Rules covers all of the accounting, records, and reporting requirements of licensees.

Accounting, Records, and Reporting Questions for Consideration:

REMEMBER: *consider all potential changes through the lens of consumer protection. Does the Rule facilitate consumer protection?*

As a result of previous changes to the Rules (section 97), commission funds from a lawyer’s office cannot be deposited into a statutory real estate trust account. Commission funds from a lawyer’s office must be deposited into the general or commission accounts. The previous practice of depositing commission funds from the lawyer’s office into the statutory real estate trust account is theoretically incorrect as the commission funds from the lawyer are not trust funds. In practice this means that if the deposit held in trust is insufficient to cover the co-operating brokerage’s commission, then the listing brokerage is required to issue two cheques

– one from the trust account for the full amount of the deposit and one from the general/commission to make up the difference. This has caused issues from a practical standpoint. Should the Rules be amended to allow the listing brokerage to transfer the deposit being held in trust into their general or commission account once the transaction has completed and pay the co-operating brokerage with one a single cheque? A completed transaction would in theory require performance from all parties and possession to have taken place.

- Currently, the Given changes in document storage technology (the cloud), and the proliferation of electronic agreements and contracts, physical storage in Alberta has become more challenging. Should the Rules be changed to Rules require brokerages to keep copies of all records physically within Alberta. This is so RECA's power to demand the production of documents in investigations remains viable and within RECA's jurisdiction. accommodate these technologies more fully, without being detrimental to consumer protection? Please keep in mind that electronic storage location is also governed by privacy legislation outside of RECA's jurisdiction.
- Electronic money transfers are becoming the standard for many deposit transactions, commission payments and more. Should the Rules be updated to better reflect this reality?
- To ensure consumer money is protected, the Rules require brokerages to report on their trust accounting annually, including review by a licensed accountant, and requires brokerage records, including accounting records, to be accessible and reviewed by the RECA Practice Review team. Are there any Rules surrounding trust reporting or RECA Practice Reviews that could be changed to reduce red tape without sacrificing consumer protection?
- Are there any other issues with Part 3 of the Rules you would like to bring to RECA's attention?

Errors and Omissions Insurance

Part 4 of the Rules outlines requirements for licensees regarding errors and omissions insurance. The RECA Board has the authority to set the requirements for errors and omissions insurance.

Current requirements for real estate licensees, including property managers, are Division 1 of Part 4 of the Rules. All real estate licensees of all licence classes, including property managers, are required to participate in a reciprocal insurance exchange called the Real Estate Insurance Exchange.

Mortgage industry requirements are under Division 2 of Part 4 of the Rules. Mortgage brokerages must obtain errors and omissions insurance from an approved provider that includes extended coverage for fraudulent acts and must be sufficient to pay a minimum of \$500,000 for a single instance involving the brokerage, and \$1 million to cover all instances for a one-year period.

Condominium manager requirements are under Division 3.1 of Part 4 of the Rules. All condominium manager brokerages are required to obtain errors and omissions insurance for

the brokerage and its licensees, that includes a minimum of \$1 million coverage for all instances during a one-year period.

Errors and Omissions Insurance Questions for Consideration:

REMEMBER: *consider all potential changes through the lens of consumer protection. Does the Rule facilitate consumer protection?*

- Should there be any changes to the required coverage amounts for errors and omissions insurance?
- Specific to “tail” coverage (coverage that extends beyond a brokerage closing), the mortgage brokerage industry has operated with 60 days tail coverage required under RECA’s Errors and Omissions Guidelines, however, recent feedback has indicated this is not adequate. Should RECA consider Rules setting required tail coverage? And if so, how long should that coverage requirement be for?
- Currently mortgage and condominium manager licensee errors and omissions insurance must contain terms and conditions approved by the Registrar. Should this continue?
- Are there any other issues with Part 4 of the Rules you would like to bring to RECA’s attention?

Forms and Consumer Relationships Guide

Schedule 1 of the Rules outlines the content required for relationship forms used by licensees who trade in residential real estate and makes it mandatory for residential real estate licensees to provide and discuss the Consumer Relationships Guide with all potential clients.

RECA does not mandate use of certain relationship agreements, however, the written service agreements required by real estate licensees must contain certain consumer protection content mandated by RECA.

Informed consent is an important part of consumer protection. In 2008, it became mandatory for licensees to obtain their client’s acknowledgement that they were informed of the various relationship options available to them through the Consumer Relationships Guide (then called the Agency Relationships Guide). The document outlined sole agency, customer status, transaction brokerage, and designated agency, and explained the duties and obligations of each type of relationship. In 2014, it became the Consumer Relationships Guide, and the content has not been amended since.

Forms Questions for Consideration:

REMEMBER: *consider all potential changes through the lens of consumer protection. Does the Rule facilitate consumer protection?*

- Is the mandated content in real estate written service agreements adequate?
- Should presenting, discussing, and signing the Consumer Relationships Guide continue to be mandatory for real estate licensees when dealing with clients? Are there other ways of obtaining informed consent?

- Should there be a document equivalent to the Consumer Relationships Guide for mortgage brokerages?
- Are there any other issues with Schedule 1 of the Rules you would like to bring to RECA's attention?

Education Code of Conduct for Learners

Schedules 3 and 4 of the Rules outline the Education Code of Conduct for Learners. These set the principles of RECA's education philosophy and outlines the compliance process for reviews concerning breaches of the Education Code of Conduct.

The Industry Councils have the authority to set the educational requirements for licensees to ensure licensees are competent to assist consumers in the public interest.

The Code of Conduct was recently altered to remove references to RECA delivering education, in line with the required divestment of the delivery of education by December 1, 2022.

Education Code of Conduct Questions for Consideration:

REMEMBER: *consider all potential changes through the lens of consumer protection. Does the Rule facilitate consumer protection?*

- Are there any changes to the Education Code of Conduct that could be made to enhance consumer protection?

Administrative Penalties

Schedule 5 outlines the Administrative Penalties for contravening certain Rules. All Administrative Penalties must follow this schedule.

Administrative Penalties Questions for Consideration:

REMEMBER: *consider all potential changes through the lens of consumer protection. Does the Rule facilitate consumer protection?*

- Do the Administrative Penalty amounts in Schedule 5 continue to make sense in 2023 and beyond?

Rules Harmonization and Labour Mobility

Under the *Canada Free Trade Agreement* and other initiatives, RECA has actively worked with regulators in other jurisdictions to allow licensees in those jurisdictions to become licensed in Alberta, and vice versa, with minimal red tape, and by ensuring the educational standards and standards of practice are largely similar.

You can find a chart explaining how certain Rules apply in different jurisdictions in Appendix A.

Rules Harmonization and Labour Mobility Questions for Consideration:

REMEMBER: *consider all potential changes through the lens of consumer protection. Does the Rule facilitate consumer protection?*

- Should RECA work with other jurisdictions to further ensure Rules harmonization?
- Should RECA consider moving towards the way other jurisdictions have enacted Rules to apply to certain situations that are currently different in Alberta?

HOW TO PROVIDE FEEDBACK

FEEDBACK PERIOD FOR PHASE 1 CONSULTATION: February 9, 2023 – May 9, 2023

Written Submissions

For Phase 1 consultation, RECA is asking for formal, written submissions.

Trade associations, consumer groups, and other organizational stakeholders: As part of the feedback process, RECA recommends organizations create their own Rules Review Committees to determine issues of note with the Rules, and to formalize their submissions.

Brokers: Please consider involving your management teams and some of your associates into informal committees to allow for robust discussion before making your submissions.

Written submissions can be sent by email to consultation@reca.ca, or mailed directly to RECA at:

ATTN: Janice Harrington, COO
Real Estate Council of Alberta
202, 1506 11 Avenue SW
Calgary, AB,
T3C0M9

Direct Meetings with Organizations

RECA staff would like to invite stakeholder organizations to meet directly as part of this consultation. These meetings can occur virtually or in-person, and can involve a single organization, or several related organizations together. To allow time for organizations to form committees and hold meetings, the direct meetings with RECA will be scheduled for March or April 2023.

This option is for trade associations, consumer groups, large brokerages, or other regulators.

If you would like to arrange a direct meeting with RECA, please reach out to consultation@reca.ca with your request.

Brokerage Presentations

If any brokerages or other stakeholders would like more information on the Rules, how they came to be, how they are applied, and to discuss where certain issues occurring as licensees navigate their business under the standards in the Rules, RECA's Regulatory Compliance Advisors can make a brokerage visit and give presentations on the Rules.

Rules Review on RECA's website

All the information the Rules Review will be in a central location on RECA's website.

Consumers

Consumers are welcome to provide feedback to consultation@reca.ca, to attend the town halls, or to participate via a consumer group.

Appendix A

Real Estate Act Rules Review – Real Estate

Licensing Structure

Real Estate Act Rules ss.2-4.2

Alberta	British Columbia	Ontario	Saskatchewan
<p>Current Licence Structure RECA currently issues licences in three broad industries: real estate brokerage, mortgage brokerage, and condominium management.</p> <p>Real estate licence structure</p> <ul style="list-style-type: none"> • There are four classes of real estate licences: (1) brokerage, (2) broker, (3) associate broker, (4) associate. • A real estate licence can contain four practice areas: residential, commercial, rural, and property management • A licensee can practice in a particular practice area when the licensee completes education specific to that practice area • Real estate associates only require education in one practice area to be able to practice, limited to the practice area in which they received education • All real estate associate brokers and brokers must be qualified in all four practice areas by taking the necessary education, completed additional broker education, and have two years of experience in the last five years <p>Condominium manager licence structure</p> <ul style="list-style-type: none"> • There are three classes of condominium manager licence: associate, associate broker, and broker • Condominium manager associates are required to complete a fundamentals course and a practice course • Condominium manager brokers are required to complete an additional broker course, and have two years of experience in the industry within the last five 	<p>Section 5 of the <i>Real Estate Services Act</i> sets out the licence levels and categories in British Columbia. These include (1) a brokerage licence; (2) a managing brokerage licence (a) an associate broker licence; and (4) a representative licence.</p> <p>Part 2, Division 1 of the <i>Real Estate Services Rules</i> deals with Licence Categories.</p> <p>Part 2, Division 3 of the <i>Rules</i> sets out Qualification Requirements for the various Licence Categories.</p>	<p>There are three major classes including (1) brokerage, (2) broker, and (3) salesperson.</p> <p>The three licence classes are defined in the Interpretation section of the <i>Real Estate and Business Brokers Act</i>.</p> <p>The requirements and conditions for registration as brokers or salespersons can be found in section 4 and 5 of the <i>Ontario Regulations 567/05 General</i>, respectively.</p> <p>The requirements and conditions for registration as a brokerage can be found in sections 6 and 7 of the above mentioned <i>Regulations</i>.</p> <p>Registration of salespersons and brokers with a brokerage is required in order to trade. There is also a requirement for every brokerage to have a broker of record.</p>	<p>The Saskatchewan <i>Real Estate Act</i> and <i>The Real Estate Bylaws</i> set out the five licence classes, which include (1) brokerage; (2) broker; (3) branch manager; (4) associate broker; and (5) salesperson.</p> <p>Part III of the Saskatchewan <i>Real Estate Act</i> establishes the above stipulated licence classes.</p>

Disclaimer: This chart is to assist stakeholders by providing some context from Rules in other jurisdictions. RECA makes no claims as to the current accuracy of the legislation from other jurisdictions presented in this chart. This chart is simply a guiding point. For complete sets of legislation in the different jurisdictions, please visit their respective regulatory body's websites.

Event Notification
Real Estate Act Rules
 ss.32, 34-39, 40, 51(3)(g)

Alberta	British Columbia	Ontario	Saskatchewan
<p>Licenseses must immediately notify the registrar in writing, when certain events occur (name change, discipline, criminal proceedings, etc.). to immediately notify the Registrar of a change in the information.</p> <p>Brokerages must immediately notify the Registrar, in writing, when certain events occur (change of brokerage address, change of directors, stakeholders, shareholders, misconduct related to fraud, etc.).</p> <p>Immediately is defined as "without delay," and in the absence of extraordinary circumstances, written notification to the Registrar should occur not more than five (5) days after the event in question.</p>	<p>Notification requirements for licenseses and brokerages are set out in sections 21 to 24 of the <i>Real Estate Services Rules</i>. The headings of each section are provided below. Given the length of each section, please refer to the <i>Real Estate Service Rules</i> for complete details of each section</p> <p>21 Licensee must reply promptly to superintendent</p> <p>22 Brokerage must give immediate notice respecting solvency</p> <p>23 Licensee must give notice of discipline, bankruptcy or criminal proceedings</p> <p>24 Brokerage must give notice of business changes</p>	<p>Notification requirements for registrants are set out in section 28 of the <i>Real Estate and Business Brokers Act</i>.</p> <p>Notice of changes to registrar</p> <p>28 Notice of changes to registrar</p> <p>(1) Every registrant shall, within five days after the event, provide notice to the registrar of,</p> <p>(a) any change in the registrant's address for service;</p> <p>(b) in the case of a corporation or partnership, any change in the officers or directors;</p> <p>(c) any change in the information that was included in a registrant's application for registration; and</p> <p>(d) any change to such other information as may be prescribed.</p> <p>(2) Every broker or salesperson shall, within five days after the event, notify the registrar in writing of,</p> <p>(a) any change in address for service; and</p> <p>(b) the commencement or termination of his or her employment by a brokerage and the date of the commencement or termination.</p>	<p>Notification requirements for brokerages are set out in section 33 of the <i>Saskatchewan Real Estate Act</i>.</p> <p>Notice of changes</p> <p>33(1) A brokerage shall notify the Commission in writing no later than five days after the occurrence of any of the following:</p> <p>(a) a change in the address of its main office or a change in the address of a branch office;</p> <p>(b) the opening or closing of a trust account;</p> <p>(c) a change in the membership or ownership of the brokerage, if the brokerage is a sole proprietor or firm;</p> <p>(d) a change in its business name, if the brokerage is a firm or corporation;</p> <p>(e) a change in its officers or directors, if the brokerage is a corporation;</p> <p>(f) a change in the designation of the official, if the brokerage is a firm described in subsection 21(4) or a corporation;</p> <p>(g) any amalgamation to which it has been a party, if the brokerage is a corporation.</p> <p>(2) No later than five days after changing his or her address for service, a registrant shall notify the Commission in writing of his or her new address for service.</p> <p>(3) Where a brokerage intends to discontinue its operation or</p>

merge with another brokerage, it shall notify the Commission at least 10 days prior to the discontinuance or merger

Standards of Practice
Real Estate Act Rules
 ss.41-46, 47-63, 80.1 -80.89

Alberta	British Columbia	Ontario	Saskatchewan
<p>Industry Standards of Practice can be found in Part 2 of the <i>Real Estate Act Rules</i>.</p> <p>Rules 41-46 outline the Standard of Practice for all licensees including that licensees must (1) act honestly and be competent; (2) cannot mislead or deceive; must enter into written service agreements; (4) must protect client information; (5) must disclose receipt of referrals; and (6) must provide oversight for administrative employees and assistants</p> <p><i>Rules 49-52, 65-68, 80.2-80.5, and 80.82-80.85</i> outline brokerage and broker responsibilities and prohibitions for each industry, including limits to whom brokerages can pay commissions, how referral payments work, and how broker delegation works.</p>	<p>The equivalent of the Standards of Practice can be found in Part 3 – General Responsibilities of Licensees of the <i>Real Estate Services Rules</i></p> <p>Managing broker responsibilities include, supervision, knowledge of improper conduct, accounts and records, notice to parties respecting deposits, and more.</p> <p>Associate broker and representative responsibilities include, record management, keeping the managing broker informed, responding promptly to the managing broker, supervision of employees, knowledge of improper conduct, and more.</p>	<p>The equivalent of the Standards of Practice can be found in <i>Ontario Regulation 580</i> (Code of Ethics) starting at section 3.</p>	<p>The Standards of Practice are found in Part 7 – Conduct & Trade Practices of the <i>Saskatchewan Real estate Commission Bylaws</i> starting at section 701.</p> <p>701 - No registrant shall make or permit to be made, whether orally or otherwise, a statement, record, report, notice or other document required by this Act, the regulations or the bylaws that: (a) contains an untrue statement of a material fact; or (b) omits to state a material fact.</p> <p>702 - A registrant shall protect and promote the interests of his or her client. This primary obligation does not relieve the registrant from the obligation of dealing fairly with all other parties to the transaction.</p> <p>702.1 – A registrant shall not engage in conduct that is disgraceful, unprofessional or unbecoming of a registrant in the course of his or her practice.</p>

Accounting, Records, and Reporting
Real Estate Act Rules
 ss. 81-103, 110.01-110.11, 110.21-110.32

Alberta	British Columbia	Ontario	Saskatchewan
<p>The <i>Real Estate Act Rules</i> require brokerages to keep copies of all records located in a physical premise within Alberta. This ensures RECA's power to demand the production of documents in investigations is not hampered.</p> <p>The <i>Real Estate Act Rules</i> also require brokerages to report on their trust account activity annually. This demands an Accountant's Report in the prescribed form and containing the information required by the Registrar.</p> <p>The <i>Real Estate Act Rules</i> also place restrictions on what brokerages can do with commissions that have already been earned but remain in the trust account. Currently the brokerage cannot pay those funds into a commission trust account or their general account if there is a co-operating brokerage that is owed a commission. The co-operating brokerage must be paid first directly from the trust account with any additional funds from the lawyer being deposited in the general or commission account of the listing brokerage.</p>	<p>Brokerage Accounting provisions can be found in Part 7 of the <i>Real Estate Services Rules</i>.</p> <p>Brokerage Records and Reporting provisions can be found in Part 8 of the <i>Real Estate Services Rules</i>.</p>	<p>Brokerage Accounting, Records, and Reporting provisions are found in various sections found in the <i>Real Estate and Business Brokers Act</i>, <i>Ontario Regulations 567/05 (General)</i>, <i>Ontario Regulations 579/05 (Education Requirements, Insurance Records, and Other Matters)</i>, and <i>Ontario Regulations 580 (Code of Ethics)</i>.</p>	<p>Brokerage Accounting, Records, and Reporting provisions can be found in Part Six – Records & Handling of Trust Accounts of the <i>Saskatchewan Real estate Commission Bylaws</i> starting at section 601.</p>

Errors and Omissions Insurance

Real Estate Act Rules
ss.111-116, 118.1-118.3

Alberta	British Columbia	Ontario	Saskatchewan
<p>All real estate licensees of all licence classes, including property managers, are required to participate in a reciprocal insurance exchange called the Real Estate Insurance Exchange.</p> <p>Condominium manager requirements are can be found in Division 3.1 of Part 4 of the <i>Rules</i>. All condominium manager brokerages are required to obtain errors and omissions insurance for the brokerage and its licensees, that includes a minimum of \$1 million coverage for all instances during a one-year period.</p>	<p>The Errors & Omissions assessment is used by the Real Estate Errors & Omissions Insurance Corporation to cover the costs of defending BC real estate professionals against claims. Every licensed real estate professional is required to participate in the fund, which protects them from financial loss from errors, omissions, or negligence, and ensures that consumers who have lost money because of a real estate professional's negligence will be compensated.</p>	<p>All real estate salespersons and brokers in Ontario must participate in RECO's insurance program.</p> <p>RECO works with insurance broker Alternative Risk Services and the total cost of insurance, including taxes and expenses, for the 2022-2023 policy period is \$500.00</p> <p>Section 11 of the Ontario Regulations 579/05 (Education Requirements, Insurance, Records, and Other Matters) establishes the requirement for all registrants to be insured under a group insurance policy.</p>	<p>All registrants must participate in Errors and Omissions Insurance as per section 18.1(2) of the <i>Real Estate Regulations</i>. The actual amount is set out in section 410 of the <i>Real Estate Bylaws</i>.</p>

Forms and Consumer Relationship Guide

Real Estate Act Rules
s.123

Alberta	British Columbia	Ontario	Saskatchewan
<p>Schedule 1 of the <i>Rules</i> outlines the content required for relationship forms used by licensees who trade in residential real estate and makes it mandatory for residential real estate licensees to provide and discuss the Consumer Relationships Guide with all potential clients.</p> <p>RECA does not mandate use of certain relationship agreements, however, the written service agreements required by real estate licensees must contain certain consumer protection content mandated by the <i>Rules</i>.</p> <p>Informed consent is an important part of consumer protection. In 2008, it became mandatory for</p>	<p>Part 5 – Relationships with Principals and Parties and Part 6 – Dealing with other Licensees and Unlicensed Persons of the <i>Real Estate Services Rules</i> establishes the requirements for licensees when interacting with clients, customers, and other licensees.</p>	<p><i>Ontario Regulations 580/05: Code of Ethics</i> establish the requirements for licensees when interacting with clients, customers, and other licensees. The <i>Code of Ethics</i> also provides information of current forms to be used.</p>	<p>Sections 732 to 734 of <i>The Real Estate Bylaws</i> stipulate the requirements around Service Agreements.</p>

licensees to obtain their client's acknowledgement that they were informed of the various relationship options available to them through the Consumer Relationships Guide (then called the Agency Relationships Guide). The document outlined sole agency, customer status, transaction brokerage, and designated agency, and explained the duties and obligations of each type of relationship. In 2014, it became the Consumer Relationships Guide, and the content has not been amended since.			
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Education Code of Conduct for Learners <i>Real Estate Act Rules</i> s.16.1			
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Alberta	British Columbia	Ontario	Saskatchewan
<p>Schedules 3 and 4 of the Rules outline the Education Code of Conduct for Learners. These set the principles of RECA's education philosophy and outline the compliance process for reviews concerning breaches of the Education Code of Conduct.</p> <p>The Industry Councils have the authority to set the educational requirements for licensees to ensure licensees are competent to assist consumers. The Code of Conduct was recently altered to remove references to RECA delivering education, in line with the required divestment of the delivery of education by December 1, 2022.</p>	<p>BCFSA has standards of academic conduct and classroom participation policies that must be adhered to by learners. These policies do not reside in legislation.</p>	<p>Requires third-party education provider (Humber College) to have standards in place for learner misconduct. Nothing in their Rules concerning it beyond being honest as a general Rule in all aspects of their practice as a licensee.</p>	<p>The Saskatchewan Real Estate Commission's Education Code of Conduct for Learners can be found on their website at the following link: http://www.srec.ca/edctncode.asp.</p> <p>The Education Code of Conduct for Learners is not enshrined in legislation.</p>

Administrative Penalties <i>Real Estate Act</i> s.83			
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Alberta	British Columbia	Ontario	Saskatchewan
<p>Administrative Penalties If RECA's Registrar determines there is sufficient evidence of conduct deserving of sanction, the Registrar may issue an administrative penalty. The administrative penalty will provide a general overview of the facts that led to the contravention of the legislation and include the amount of the penalty.</p> <p>Administrative penalty amounts are set out in Schedule 5 of the <i>Real Estate Act Rules</i></p>	<p>Administrative Penalties are set out in Part 4 Division 5 of the <i>Real Estate Services Act</i> – starting at section 56 – and Part 2 Division 6 of the <i>Real Estate Services Rules</i> – starting at section 26.</p>	<p>Administrative Penalties are established in PART VI.1 of the <i>Real Estate and Business Brokers Act</i> – starting at section 43.1.</p>	<p>Disciplinary powers are set out in section 38 of the <i>Saskatchewan Real Estate Act</i>.</p> <p>Offences and Penalties are established in sections 88 to 89.1 of the Act.</p> <p>Penalty amounts are set out in section 19.2 of the <i>Real Estate Act Regulations</i>.</p>

Rules Harmonization and Labour Mobility

Alberta	British Columbia	Ontario	Saskatchewan
<p>The basis of the Canadian Free Trade Agreement (CFTA) and the New West Partnership Trade Agreement (NWPTA) is to promote an open, efficient, and stable domestic market for long-term job creation and economic growth. RECA strongly supports these agreements.</p> <p>If the originating jurisdiction has education and occupational standards, RECA will facilitate labour mobility to real estate and mortgage brokers licensed and conducting brokerage activities in other Canadian jurisdictions when:</p> <p>(a) a licensed professional (or one who is eligible to be re-licensed) wishes to move to Alberta to set up residence and conduct brokerage activities in Alberta</p> <p>(b) a licensed professional (or one who is eligible to be re-licensed) wishes to maintain their residence in another Canadian jurisdiction but wishes to conduct brokerage activities in Alberta</p>	<p>The Canadian Free Trade Agreement ensures that workers certified to practice in one province or territory are entitled to be certified in that occupation in B.C. without having to complete additional material training, experience, examinations or assessments.</p> <p>If you are currently licensed, qualified to be licensed*, or if you have been unlicensed for less than one year in one of the Canadian provinces or territories listed below, you can apply for licensing in B.C. without writing BCFSAs licensing examination.</p> <p><i>*Qualified to be Licensed: An individual who has completed the required pre-licensing education in their home jurisdiction within the last year and is currently eligible for licensing in that jurisdiction without any additional requirements.</i></p>	<p>The Ontario Labour Mobility Act allows individuals who hold a valid real estate salesperson or broker licence in a Canadian jurisdiction the opportunity to write the Interprovincial Challenge Examination in Ontario. Upon successfully completing the exam, qualified individuals may apply to RECO for registration as a salesperson or broker.</p>	<p>The Saskatchewan Real Estate Commission defines licensing/registration reciprocity as the recognition of occupational standards from other jurisdictions that have occupational standards.</p> <p>The Saskatchewan Real Estate Commission will recognize applicants trading in real estate from all Canadian jurisdictions that have occupational standards. These applicants will be eligible for licensing/registration reciprocity without additional education requirements; however, individuals are required to review information on Saskatchewan-specific issues and to sign a declaration (included in the licence application) that acknowledges their obligations to:</p> <ol style="list-style-type: none"> a) know, understand and practice in strict accordance with <i>The Real Estate Act of Saskatchewan</i> including the Regulations and Bylaws; b) familiarize themselves with the laws of Saskatchewan as they apply to real estate; c) only engage in work or provide services when they are competent to do so; and, d) abide by any restrictions or conditions that may be imposed upon the issuance of their licence (restrictions related to specific areas of practice or educational requirements addressing practice issues unique to Saskatchewan).

Real Estate Act Rules Review - Mortgage

<i>Real Estate Act Rules/Sections</i>	RECA	Ontario	British Columbia
<p>Licensing Structure <i>Real Estate Act Rules s.2-4.2</i></p>	<p>Mortgage broker licence structure</p> <ul style="list-style-type: none"> • There are two classes of mortgage licence: associate and broker • Mortgage associates are required to complete a fundamentals course and a practice course • Mortgage brokers are required to complete an additional broker course, and have two years of experience in the industry within the last 5 years • Licensees should be aware, that in Alberta, mortgage administration is included in a mortgage brokerage licence as part of the Real Estate Act (not the Rules). 	<p>“mortgage administrator” means a corporation, partnership, sole proprietorship or other entity that has a mortgage administrator’s licence;</p> <p>“mortgage agent” or “agent” means an individual who has a mortgage agent’s licence;</p> <p>“mortgage broker” or “broker” means an individual who has a mortgage broker’s licence;</p> <p>“mortgage brokerage” or “brokerage” means a corporation, partnership, sole proprietorship or other entity that has a brokerage licence;</p> <p>In Ontario, mortgage administration is not included in a mortgage brokerage licence. It is a separate licence.</p>	<p>B.C. is divided into two categories for Mortgage professionals:</p> <ul style="list-style-type: none"> • Submortgage Broker • Mortgage Broker <p>In BC, licensees can do mortgage administration as part of their mortgage brokerage licence, as long as the proper written agreements are in place.</p>
<p>Standards of Practice <i>Real Estate Act s. 64-75</i></p>	<p>A mortgage brokerage must:</p> <p>(a) only deal in mortgages, as the case may be, in the name that appears on the brokerage’s licence;</p> <p>(b) ensure the name of the brokerage is clearly indicated in the course of dealing in mortgages, including any related advertisements; and</p> <p>(c) disclose to borrowers in writing:</p> <p>(i) the nature of its service relationship with the borrower;</p> <p>(ii) the nature of its relationship with the lender;</p> <p>(iii) the range of lenders whose products it offers;</p> <p>(iv) how it will be compensated for the transaction;</p>	<p>Dealing in mortgages</p> <p>2 (1) For the purposes of this Act, a person or entity is dealing in mortgages in Ontario when he, she or it engages in any of the following activities in Ontario or holds themselves out as doing so:</p> <ol style="list-style-type: none"> 1. Soliciting another person or entity to borrow or lend money on the security of real property. 2. Providing information about a prospective borrower to a prospective mortgage lender, whether or not this Act governs the lender. 3. Assessing a prospective borrower on behalf of a prospective mortgage lender, whether or not this Act governs the lender. 4. Negotiating or arranging a mortgage on behalf of another person or entity, or 	<p>A supplier must not commit or engage in a deceptive act or practice in respect of a consumer transaction.</p> <p>A supplier must not commit or engage in an unconscionable act or practice in respect of a consumer transaction.</p> <p>Section 14 of the Mortgage Brokers Act outlines prohibition on misleading advertising, including how licensees must advertise in the name under which they are registered in all advertising.</p>

(v) the nature of any other monies or benefits it will receive from the lender and the factors that influence payment of any additional monies or benefits; and
(vi) any additional fees payable by the borrower.

Section 70 allows licensees to advertise incentives and inducements as long as those incentives and inducements are offered through the brokerage.

Section 71 outlines how licensees cannot collect fees until after written confirmation to fund the mortgage has been provided by a lender, and the lender provides an initial disclosure statement and allowed two business days to pass.

Section 72 requires brokerages to disclose, in writing, the steps they took to verify information obtained to all parties, and maintain this disclosure in the brokerage file.

Section 75 requires licensees who are dealing on their own behalf, to disclose, in writing, their interest in the transaction, that they are a licensee, their brokerage name, details of any negotiations for further disposition, and any information that could materially affect acceptance of the mortgage.

Private lending is handled in Rules 73 and 74.

Licensees are required to advertise using their licensed name (if they use a name), and to clearly indicate their brokerage.

attempting to do so.

5. Engaging in such other activities as may be prescribed.

Prohibition re carrying on business

(2) No person or entity shall carry on the business of dealing in mortgages in Ontario unless he, she or it has a brokerage licence or is exempted from the requirement to have such a licence.

Prohibition re dealing

(3) No individual shall deal in mortgages in Ontario for remuneration, whether direct or indirect, as an employee or otherwise, unless he or she has a mortgage broker's or agent's licence and is acting on behalf of a mortgage brokerage or is exempted from the requirement to have such a licence.

Trading in mortgages

3 (1) For the purposes of this Act, a person or entity is trading in mortgages in Ontario when he, she or it engages in any of the following activities in Ontario, or holds themselves out as doing so:

1. Soliciting another person or entity to buy, sell or exchange mortgages.
2. Buying, selling or exchanging mortgages on behalf of another person or entity.
3. Buying, selling or exchanging mortgages on the person's or entity's

Section 8 of the Mortgage Brokers and Agents: Standards of Practice Regulation outlines advertising requirements, including all advertising having the licensee's name, and the authorized name and licence number of their brokerage.

<p>Accounting, Records, and Reporting <i>Real Estate Act</i> s.104-109</p>	<p>A brokerage shall keep separate and have available at its registered business office in Alberta or the City of Lloydminster all records for each mortgage deal or potential deal including signed copies of each service agreement, mortgage administration agreement, commitment letters, mortgage applications, credit bureau reports, cost of credit disclosures, investor lender disclosure, banking records, accounts and supporting documentation made in the course of the brokerage's business in relation to a mortgage deal or potential deal in Alberta.</p> <p>(2) The records must identify each mortgage deal by a sequential code and use that code for the corresponding trust ledger if applicable and must contain the following:</p> <p>(a) the nature of the mortgage deal or potential deal;</p> <p>(b) a description of the real estate;</p> <p>(c) the mortgage amount;</p> <p>(d) the names of the lenders and borrowers;</p> <p>(e) the amount of the deposit or investment received, if any, and a record of the disbursements;</p> <p>(f) the amount of commission or other remuneration received, if any, and the name of the party paying it; and</p> <p>(g) the extent of the distribution of the client's information to third parties.</p> <p>(3) If the brokerage keeps in Alberta money received in trust in connection with other business, the brokerage shall keep it separate from money received in trust in connection with mortgage dealings in Alberta.</p>	<p>Establishment of trust account</p> <p>4. (1) If a brokerage is required by the standards of practice to establish a mortgage brokerage trust account, the brokerage shall notify the Chief Executive Officer as soon as practicable and, in any event, no later than five days after the brokerage is required to establish the account.</p> <p>(2) When a mortgage administrator is required by the standards of practice to establish a mortgage administrator's trust account, the mortgage administrator shall notify the Chief Executive Officer as soon as practicable and, in any event, no later than five days after the mortgage administrator is required to establish the account.</p> <p>Location of records</p> <p>5. (1) If a brokerage or mortgage administrator intends to retain its records at premises in Ontario other than its principal place of business in Ontario, if any, the brokerage or mortgage administrator shall notify the Chief Executive Officer and shall specify the premises at which the records are to be kept.</p> <p>(2) Subsection (1) applies only with respect to the records that the brokerage or mortgage administrator is required to retain under the applicable standards of practice.</p>	<p>Statements and records</p> <p>Every registered mortgage broker shall</p> <p>(a) keep such books and records as are necessary for the proper recording of his business transactions and financial affairs,</p> <p>(b) file with the registrar, at the time of application to be registered and thereafter annually and at other times that the registrar may require, financial reports</p> <p>(i) in a form satisfactory to the registrar,</p> <p>(ii) in a form certified by the mortgage broker, or by a director or partner of the mortgage broker, and</p> <p>(iii) if required by the registrar and if he or she considers it warranted in the particular circumstances, reported on by auditors engaged by the mortgage broker,</p> <p>(c) file with the registrar the other information that the registrar may require in the form that the registrar may specify,</p> <p>(d) keep and maintain a record showing</p> <p>(i) the repayment terms of each mortgage,</p> <p>(ii) the total amount actually paid or to be paid to the mortgagor of each mortgage, and</p> <p>(iii) the fees, expenses, costs and other charges required to be borne by the mortgagor in respect of each mortgage transaction, and</p> <p>(e) keep and maintain up to date trust records in connection with his business to record</p> <p>(i) all trust money received by him,</p> <p>(ii) all disbursements of trust money made by him, and</p> <p>(iii) the unexpended balance of trust money held by him in total and separately for each person for whom that money is held.</p>
<p>Administrative Penalties <i>Real Estate Act</i> s.83</p>	<p>If RECA's Registrar determines there is sufficient evidence of conduct deserving of sanction with respect to, typically, one or two straightforward issues, the Registrar may issue an administrative penalty. The administrative penalty will provide a</p>	<p>38 (1) An administrative penalty may be imposed under section 39 or 40 for either of the following purposes:</p> <p>1. To promote compliance with the requirements established under this Act.</p> <p>2. To prevent a person or entity from</p>	<p>8.1 (1) The registrar may file in a Supreme Court registry an order under section 8 by filing in the registry a copy of the order certified as a true copy by the registrar.</p> <p>(2) An order of the registrar filed under subsection (1) has the same force and effect,</p>

	<p>general overview of the facts that led to the contravention of the legislation and include the amount of the penalty. Administrative penalty amounts are set out in Schedule 2 of the Bylaws made pursuant to the <i>Real Estate Act</i></p>	<p>deriving, directly or indirectly, any economic benefit as a result of contravening or failing to comply with a requirement established under this Act.</p> <p>General administrative penalties 39 (1) If the Chief Executive Officer is satisfied that a person or entity is contravening or not complying with or has contravened or not complied with a requirement established under this Act, other than a requirement for which a penalty is provided under section 40 or a requirement prescribed under clause 55 (6) (a), the Chief Executive Officer may, by order, impose an administrative penalty on the person or entity in accordance with this section and the regulations.</p>	<p>and all proceedings may be taken on the order, as if it were an order of the Supreme Court.</p>
<p>Errors and Omissions Insurance <i>Real Estate Act</i> Rules s.117-118</p>	<p>117 In this Division, "brokerage" means mortgage brokerage. 118 (1) Every brokerage must have insurance against liability for errors and omissions and additional coverage for loss resulting from fraudulent acts in the carrying on of the business of a mortgage broker in accordance with these Rules. The errors and omissions insurance must: (a) be in a form of insurance and terms and conditions approved by the registrar (b) include extended coverage for loss from fraudulent acts; and (c) is sufficient to pay a minimum of: (i) \$500,000 with respect to any one occurrence involving the brokerage or any broker or associate authorized to deal in mortgages on behalf of the brokerage; and (ii) \$1,000,000 with respect to all occurrences during a 365-day period involving the brokerage or any broker or associate authorized to deal in mortgages on behalf of the brokerage. (2) Every mortgage brokerage shall, at all times while it holds an authorization, maintain errors and omissions insurance in the form of insurance and terms and conditions approved by the registrar.</p>	<p>Errors and omissions insurance requirements</p> <p>All mortgage brokerages and administrators are required by law to carry E&O insurance in a form approved by FSRA, with extended coverage for fraudulent acts. This E&O insurance must cover a minimum of \$500,000 with respect to any one occurrence and \$1 million with respect to all occurrences in a given year. These requirements for insurance are detailed in Ontario Regulations 188/08 and 189/08 of the Act. The CEO has approved the policies of several E&O insurance providers. For a list of these providers, including contact information, refer to FSRA's E&O insurance providers page. The law requires all mortgage brokerages and administrators to have E&O insurance at all times without exception, whether or not they are doing business. If a mortgage brokerage's or administrator's E&O insurance policy is cancelled or not renewed, FSRA must be immediately notified. Failure to comply with this requirement may result in an administrative monetary penalty and/or revocation of the brokerage's licence.</p>	