Real Estate Council Alberta

reca.ca

Disclose Cost of Services

RECA Resource
Information Bulletins

LAST REVISED
August 2026
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Purpose

This bulletin applies to licensees. It explains a licensee's duty to disclose how they are paid, including the fee structure, advance fees, and the specific fee restrictions that apply to mortgage brokers.

Regulatory status: Information Bulletins provide guidance on how RECA interprets and applies existing legislative requirements. They do not create new legal requirements or amend the *Real Estate Act* or the *Real Estate Act* Rules.

Why this matters

If you are a mortgage or real estate broker, you may receive payment for your services only through your brokerage.

Your client is entitled to know how you will receive payment or other compensation. You must disclose the exact costs (fees and disbursements) or explain how to calculate them.

If you provide services to a client and receive payment from a third party, it is your responsibility to disclose how you receive that payment. If the client requests more information about the payment arrangements, it is your duty to be accurate and honest in all your answers.

What the Rules require

Fee structure and negotiation. You must not suggest that commissions or fees are set across the industry, or represent that any council, board, association, or other industry body sets a minimum fee. This would be false and misleading, as the client and brokerage can negotiate all fees.

The client must clearly understand that each brokerage sets its own fee structure. The brokerage decides whether fees are negotiable. If the licensee has a standard commission rate for certain services, it is acceptable to advise the client of this rate. Negotiations can follow at the discretion of the brokerage and the licensee.

Receipt of advance fees. Before you receive any money for your business, you must ensure there is a written service agreement in place that acknowledges the trust arrangement and sets out the terms for receiving advance fees and how you will hold and disburse them.

Fee restrictions (mortgage brokers). The Rules state that a mortgage brokerage must not charge, collect, or attempt to collect a fee from a person for assisting the person in obtaining a mortgage from a lender until the following conditions are met:

- the lender has given a written commitment to fund the mortgage, which has been accepted by the borrower, and the commitment has been provided to the borrower or the borrower's associate; and
- the person receives an initial disclosure and at least two business days have passed since the person received it, or the person has waived the required delivery period under the *Consumer Protection Act*.

These restrictions apply to a mortgage where the borrower is an individual and the credit arrangement is primarily for personal, family, or household purposes. Please note that a written commitment means the borrower has met all lenders' conditions.

This restriction does not apply to fees paid by the brokerage to third parties (e.g., credit reports, Alberta Registries, courier, appraisal services), provided the brokerage has a written agreement with the third party for compensation for such fees.

Best Practices

Best practices go beyond the minimum requirements outlined above. They are not mandatory, but they reflect the level of service RECA encourages licensees to provide.

- You should never hesitate to have an open and frank discussion with a potential client, and you should do so before signing a service agreement.
- If the exact fee is unknown, you should provide a reasonable estimate, along with an explanation of the factors that will affect it.
- It is important that the client receives full information on all matters that affect the cost of services and on how payment will be received. This can help you avoid confusion or misunderstanding when service cost information is clear from the beginning of the relationship.

Related Information

Legislation	Relevant Sections

Real Estate Act	ss. 18(2), 18(3)
Real Estate Act Rules	s. 41(c), 43(1)(2)(b)(viii), 44, 45, 56, 65(c), 70, 71, 73(1)(2)(b)(viii)
Additional Resource: Information Bulletins	Cost of Credit Disclosure - Mortgage Brokerage Referrals - Licence Requirements