

HOLDING ONESELF OUT AS AN INDUSTRY MEMBER

Purpose: This bulletin describes activities of an unlicensed person that lead people to believe they are an industry member.

This bulletin applies to all unlicensed persons and industry professionals who do not hold an authorization to provide the services of an industry member.

If you represent clients as a real estate broker, property manager, mortgage broker or a real estate appraiser, you must have a licence from the Real Estate Council of Alberta (RECA).

For example, a person must hold a RECA licence if they do any of the following activities:

Real estate

A person must hold a real estate broker licence to assist or represent another person to buy or sell real estate. For example:

- offer or list real estate for sale
- advertise a property, in any form, to attract buyers
- show real estate
- hold open houses
- negotiate contracts
- write an offer or purchase contract for a buyer or seller of real estate
- write an offer to lease contract for a tenant or owner
- any conduct or act to advance an activity referred to in the above bullets

Property management

A person must hold a real estate broker licence to provide property management services for landlords and tenants. For example:

- offer or list real estate for rent or lease
- advertise a property, in any form, to attract tenants
- show property for rent or lease
- hold open houses
- negotiate a rental or lease of real estate
- approve a lease or rental application
- hold money received in connection with a lease or rental of real estate
- any conduct or act to advance an activity referred to in the above bullets

Mortgage broker

A person must hold a mortgage broker licence to deal in mortgages for borrowers and lenders. For example:

- collect borrower information for a mortgage application
- distribute borrower information to lenders
- give advice on mortgages to borrowers or lenders
- qualify an applicant for a mortgage
- act on behalf of a borrower or lender
- act as an intermediary between a borrower and lender
- negotiate a mortgage transaction
- discuss or explain any mortgage documents with the borrower or lender
- collect mortgage payments
- administer a mortgage
- buy, sell or exchange a mortgage, or offer to do so

Real estate appraisers

A person must hold a real estate appraiser licence to provide real estate appraisal services. For example:

- estimate the defined value of an identified interest in real estate to:
 - renovate, build, buy or sell property
 - finance or refinance property
 - make real estate investment decisions
 - determine valuation for taxation purposes
 - determine expropriation compensation
 - value property for matrimonial purposes, arbitration or other legal matters
 - business mergers, acquisitions or dissolutions involving real estate
 - value private property acquired by governments for public use
- signs an appraisal report
- signs an appraisal report prepared by another person

Market and promote services requires a licence

Anything you do to advertise, attract business or lead the public to believe you are real estate broker, property manager, mortgage broker or a real estate appraiser, requires a licence from RECA.

An advertisement is any activity, public notice or solicitation that promotes your business and services in any medium including electronic means, print, radio, television or publication on the Internet. It includes all promotional events, printed material, circulars, pamphlets, billboards, signs, business cards, letterhead, bench signs, fax cover sheets and other similar materials.

What happens if you do not have a licence?

If RECA receives information you are carrying on activities that require a licence, it will conduct an investigation under the *Real Estate Act* (Act).

If you are unlicensed and hold yourself out as a real estate broker, property manager, mortgage broker or real estate appraiser, you are in breach of the s.17 of the Act. The executive director of RECA may issue an administrative penalty to a maximum of \$25,000 for each breach. Where a corporation commits the breach, the executive director may also issue an administrative penalty to an officer, director or agent of the corporation.

Instead of issuing an administrative penalty, RECA may prosecute this breach through the courts. A person convicted of an offence under s.17 shall, in addition to any fine levied by the court, return all commissions or other remuneration received as a result of the unlicensed activity.

Related information

Legislation

- *Real Estate Act* - sections 1(1)(q)(r)(u.1)(v)(x), s.17, s.81(3), s.83
- Real Estate (Ministerial) Regulation - section 25
- Bylaws - Schedule 2

Information bulletins

- Acting as a Real Estate Appraiser – Jurisdiction and the *Real Estate Act*
- Assistants – Real Estate Brokerage
- Assistants – Mortgage Brokerage
- Dealing in Mortgages as a Mortgage Broker
- Dealing in Mortgages – Jurisdiction and the *Real Estate Act*
- Mortgage – When Licence Required
- Trading in Real Estate as a Real Estate Broker
- Trading in Real Estate – Jurisdiction and the *Real Estate Act*