
Issue No. 28 – August 2020

BULLETIN

The *Real Estate Act* and Related Regulations ("Real Estate Legislation")

On December 2019, the Act received Royal Assent and comes into force September 1, 2020. Changes were required to the regulations under the Act to facilitate updating the regulatory framework and give effect to many of the new provisions of the Act.

The amendments are the result of information gathered from consultations with the industry, public consultations via EngageNL, as well as submissions received directly from other stakeholders and the general public.

The Real Estate Act - Effective September 1, 2020

The Real Estate Trading Act, 2019

<https://www.assembly.nl.ca/HouseBusiness/Bills/ga48session4/bill1904.htm>

The Real Estate Trading Regulations, 2019

https://www.gov.nl.ca/snl/files/NLG20200901_EXTRA.pdf

Real Estate Brokers & Salespersons to Obtain Errors and Omissions Liability Insurance

Mandatory errors and omissions liability insurance is required for all licensees as of September 1, 2020. The amendments to the **Real Estate Trading Regulations** section 3 require that all licensees carry a minimum limit of \$1,000,000 errors and omissions liability insurance, issued by an insurance company that is authorized to carry on business in the province; and be in a form satisfactory to the superintendent.

Establish a Real Estate Recovery Fund

Pursuant to subsection 25(1) of the amended **Real Estate Trading Act**, the **Real Estate Regulations** are amended to replace the requirement for the bond. Brokers and

Salespersons are required to apply to the fund at the time their bond is to expire or at the time of a new application for a real estate license.

All brokers and salespersons will pay into the fund, salesperson fee \$250 and broker fee \$450. When the fund's balance falls below the minimum balance of \$200,000, the superintendent may require an additional fee of all licensees.

The fund shall be held in trust for those persons, who, in accordance with the regulations, are entitled to receive payments out of the fund. The fund shall be audited annually and a report on that audit shall be submitted to the minister not more than 90 days after the end of the preceding fiscal year established for the fund.

Trust Account Deposits & Reconciliations

Pursuant to subsection 26(2) of the Act, a deposit may be paid electronically directly a broker's trust account.

The **Real Estate Regulations** have been amended requiring brokers to prepare a reconciliation of the trust account within 30 days of receipt of the monthly bank statement in relation to the trust account. The reconciliation should state the amount of money held in trust for each person and should notify the superintendent where a trust account reconciliation reveals a disbursement that was not authorized or a negative balance in the trust account.

The Broker shall prepare a semi-annual report relating to the trust account which shall be in the form approved by the superintendent and which shall include a balance sheet and a copy of the monthly bank reconciliations for the preceding six month period.

Adjudication of Trust Deposit Disputes

The **Real Estate Regulations** section 8 outlines a dispute mechanism when a broker is unable to resolve a trust deposit dispute. Upon application to the superintendent, a hearing will be conducted and an order issued. A copy of the order will be sent to both parties of the dispute by registered mail.

Administrative Penalties

The **Real Estate Regulations** section 16 outlines that the superintendent may order a licensee to pay an administrative penalty of not more than \$2,000 where the licensee contravenes one or more of the following provisions of the Act:

- Paragraphs 11(a), (b), (c), (d), (e), (f) or (g),
- Section 12
- Section 17
- Section 18
- Subsection 21(1) or (4) or
- Section 28 or

One or more of the following provision of the **Real Estate Regulations**:

- Section 6 or
- Section 7

Orders of Superintendent

In addition to the orders referred to in subsection 36(1) of the Act, section 14 in the **Real Estate Regulations** outlines additional orders that the superintendent can make including:

- An order requiring a licensee to complete training as determined by the superintendent
- An order prohibiting a licensee from withdrawing money from the licensee's trust account; and
- An order stopping the circulation of advertising materials that the superintendent believes to be false or misleading and requiring the licensee to correct the false or misleading advertising materials.

If you have any questions, please contact the Office of the Superintendent of Real Estate Brokers and Salespersons at email servicenlinfo@gov.nl.ca or phone 729-4834.

Renee Dyer
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September 1, 2020