

Regulations and other acts

Gouvernement du Québec

O.C. 397-2005, 27 April 2005

Real Estate Brokerage Act
(R.S.Q., c. C-73.1)

Association des courtiers et agents immobiliers du Québec

— Amendments

By-law to amend the By-law of the Association des courtiers et agents immobiliers du Québec

WHEREAS, under subparagraph 4 of the first paragraph of section 74 of the Real Estate Brokerage Act (R.S.Q., c. C-73.1), the board of directors of the Association des courtiers et agents immobiliers du Québec must determine, by by-law subject to Government approval, the conditions for and the manner of issuing, renewing, suspending, cancelling or reinstating a certificate;

WHEREAS, by Order in Council 1865-93 dated 15 December 1993, the Government approved the By-law of the Association des courtiers et agents immobiliers du Québec;

WHEREAS the board of directors of the Association adopted the By-law to amend the By-law of the Association des courtiers et agents immobiliers du Québec on 12 September 2003;

WHEREAS, under the fourth paragraph of section 74, no by-law may be adopted unless the secretary of the Association, at least 30 days before the date scheduled for its adoption by the board of directors, submits the text of the by-law to all the members of the Association;

WHEREAS the secretary of the Association submitted the text of the By-law to all the members of the Association on 18 June 2003;

WHEREAS, under section 78 of the Act, the Government shall approve with or without amendment any by-law submitted to it for approval;

WHEREAS, under sections 10 and 11 of the Regulations Act (R.S.Q., c. R-18.1), the text of the draft By-law was published in the *Gazette officielle du Québec* of 12 January 2005 with a notice that it could be submitted

to the Government for approval with or without amendment on the expiry of 45 days following that publication;

WHEREAS the 45-day period has expired;

WHEREAS it is expedient to approve the By-law without amendment;

IT IS ORDERED, therefore, on the recommendation of the Minister of Finance:

THAT the By-law to amend the By-law of the Association des courtiers et agents immobiliers du Québec, attached to this Order in Council, be approved.

ANDRÉ DICAIRE,
Clerk of the Conseil exécutif

By-law to amend the By-law of the Association des courtiers et agents immobiliers du Québec*

Real Estate Brokerage Act
(R.S.Q., c. C-73.1, s. 74, 1st par., subpar. 4)

1. The By-law of the Association des courtiers et agents immobiliers du Québec is amended in section 25 by adding the following paragraph:

“Before refusing to issue a real estate broker’s or agent’s certificate to a natural person on the grounds that the person does not meet the qualification requirement under paragraph 2 of section 21 of the Regulation respecting the application of the Real Estate Brokerage Act, or before refusing to issue a chartered real estate broker’s certificate on the grounds that a partner of the partnership or the legal person does not fulfil the requirement or condition set out in paragraph 9 of section 10 or 12, the Association shall send the file for a decision to the committee established pursuant to section 25.2 and the natural person, legal person or partner may present observations to the committee in accordance with sections 25.3 to 25.6.”.

* The By-law of the Association des courtiers et agents immobiliers du Québec was approved by Order in Council 1865-93 dated 15 December 1993 (1993, *G.O.* 2, 7077) and has not been amended since.

2. The By-law is amended by inserting the following subdivision after section 25 :

“§8. *Presentation of observations and decision*

25.1. Where the Association becomes aware that a natural person applying for the issue of a certificate has been found guilty of, by final judgment, or pleaded guilty to a criminal offence which may be related to activities as a real estate broker or agent, the Association shall, before refusing to issue the certificate on the grounds that the person does not meet the qualification requirement under paragraph 2 of section 21 of the Regulation respecting the application of the Real Estate Brokerage Act, send the file for a decision to the committee established pursuant to section 25.2 and the natural person may present observations to the committee in accordance with sections 25.3 to 25.6.

The same applies before refusing to issue a certificate to a partnership or legal person on the grounds that the partnership or person does not fulfil the requirement or condition set out in paragraph 9 of section 10 or 12.

25.2. The board of directors of the Association shall establish a committee composed of three members of the Association, including a chair, for a one-year term. On the expiry of the term, the members shall be reappointed or replaced. A committee member whose term has expired may, however, continue to examine a matter referred to the member before the expiry of the member's term.

Committee members may not be members of the board of directors of the Association or members of the professional inspection committee or the discipline committee.

25.3. The committee is to determine whether the criminal offence for which the natural person, legal person or partner of the partnership has been found guilty by final judgment or to which the person or partner has pleaded guilty is related to activities as a real estate broker or agent.

The decisions of the committee are made by a majority of votes.

25.4. The committee shall notify the natural person, legal person or partnership applying for the issue of a certificate in writing at least 30 days before the date fixed for the decision to determine whether the criminal offence for which the natural person, legal person or partner of the partnership has been found guilty by final judgment or to which the person or partner has pleaded guilty is related to activities as a real estate broker or agent.

The notice must indicate the consequences of the decision and the possibility of presenting oral or written observations at a meeting within the 30-day period and, where applicable, the possibility of producing any documents necessary to complete the file.

25.5. The committee may render its decision in the absence of the natural person, legal person or partnership applying for the issue of a certificate if the person or partnership does not attend the scheduled meeting or has not presented written observations or produced the documents necessary to complete the file. The decision to refuse to issue the certificate must include reasons.

25.6. On receiving the committee's decision, the secretary of the Association shall immediately send the decision to the natural person, legal person or partnership applying for the issue of a certificate and the decision takes effect on its notification.”.

3. This By-law comes into force on the fifteenth day following the date of its publication in the *Gazette officielle du Québec*.

6798