

DIVISION IV TRANSITIONAL AND FINAL

11. A member of the Order who practises within a joint-stock company constituted for the purpose of carrying on professional activities before the date of coming into force of this Regulation must comply with this Regulation not later than one year following that date.

12. This Regulation comes into force on the fifteenth day following the date of its publication in the *Gazette officielle du Québec*.

SCHEDULE A

LIST OF PROFESSIONAL ORGANIZATIONS THAT EXERCISE THE SAME CONTROL AS A PROFESSIONAL ORDER

— Any association of translators, terminologists or interpreters that is a member of the Canadian Translators, Terminologists and Interpreters Council;

— Any order of accountants governed by the law of another Canadian province or territory;

— Any law society governed by the law of another Canadian province or territory.

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Draft Regulation

Real Estate Brokerage Act
(2008, c. 9)

Regulation

Notice is hereby given, in accordance with sections 10 and 11 of the Regulations Act (R.S.Q., c. R-18.1), that the Regulation to enact transitional measures for the application of the Real Estate Brokerage Act, appearing below, may be made by the Government on the expiry of 45 days following this publication.

The draft Regulation ensures a smooth transition between the current system and the system that will apply once the Real Estate Brokerage Act (2008, c. 9) comes into force. The draft Regulation contains provisions related to the training of brokers, trust accounts, various committees and directors of the Association des courtiers et agents immobiliers du Québec.

Further information on the draft Regulation may be obtained by contacting Pierre Rhéaume, Director General, Encadrement du secteur financier et des personnes morales, Ministère des Finances, 8, rue Cook, 4^e étage, Québec (Québec) G1R 0A4; telephone: 418 646-7572; fax: 418 646-5744; e-mail: pierre.rheaume@finances.gouv.qc.ca

Any person wishing to comment on the draft Regulation is requested to submit written comments within the 45-day period to the Minister of Finance, 12, rue Saint-Louis, 1^{er} étage, Québec (Québec) G1R 5L3.

RAYMOND BACHAND,
Minister of Finance

Regulation to enact transitional measures for the application of the Real Estate Brokerage Act

Real Estate Brokerage Act
(S.Q. 2008, c. 9, s. 157)

1. A person who, on (*insert the date of the day before the date of coming into force of the Real Estate Brokerage Act (2008, c. 9)*), holds a chartered real estate broker's certificate, chartered real estate agent's certificate or affiliated real estate broker's certificate issued by the Association des courtiers et agents immobiliers du Québec under the Real Estate Brokerage Act (R.S.Q., c. C-73.1), and who, on that date, represents a partnership or a legal person that holds a chartered real estate broker's certificate, in accordance with section 7 of that Act, or manages an establishment or acts as an assistant to that person who manages an establishment, in accordance with section 13 of that Act, is deemed to have the competence in management of professional activities of brokers and agencies required to be an executive officer of the agency under the Real Estate Brokerage Act (2008, c. 9).

2. A real estate broker's licence is issued to a natural person who, on (*insert the date of the day before the date of coming into force of the Real Estate Brokerage Act (2008, c. 9)*), represents a partnership or a legal person that holds a chartered real estate broker's certificate, in accordance with section 7 of the Real Estate Brokerage Act (R.S.Q., c. C-73.1), on that date, manages an establishment or acts as an assistant to that person, in accordance with section 13 of the Real Estate Brokerage Act (R.S.Q., c. C-73.1), without holding a certificate issued by the Association des courtiers et agents immobiliers du Québec.

3. A person who, on (*insert the date of the day before the date of coming into force of section 13 of the Real Estate Brokerage Act (2008, c. 9)*), represents a partnership or a legal person that is deemed to hold a licence under section 147 of the Real Estate Brokerage Act (2008, c. 9), is deemed to be the executive officer of the partnership or the legal person.

4. A natural person who, not more than 2 years after the expiry or relinquishment of the person's real estate agent or broker's certificate issued in accordance with the Real Estate Brokerage Act (R.S.Q., c. C-73.1), files for a real estate broker's licence is exempt from the obligation to meet the conditions set out in paragraphs 2 and 4 of section 1 of the Regulation respecting the issue of broker's and agency licences approved by Order in Council (*insert the number and date of the Order in Council approving that Regulation*) if the person has taken all additional training imposed to holders of real estate broker's licences by the Organization since (*insert the date of coming into force of the Real Estate Brokerage Act (2008, c. 9)*).

Despite the first paragraph, the person who held an affiliated real estate agent's certificate may act on his or her account only when the person meets the qualification requirements imposed by the Organization.

5. A person who, as of (*insert the date of coming into force of the Real Estate Brokerage Act (2008, c. 9)*), has taken all additional training imposed to holders of real estate broker's licences by the Organization since that date and applies for a real estate broker's licence within 2 years of the following events, is exempt from the obligation to meet the conditions set out in paragraphs 2 and 4 of section 1 of the Regulation respecting the issue of broker's and agency licences approved by Order in Council (*insert the number and date of the Order in Council approving that Regulation*):

(1) the expiry or relinquishment of the person's chartered real estate agent's certificate or chartered or affiliated real estate broker's certificate issued under the Real Estate Brokerage Act (R.S.Q., c. C-73.1); or

(2) the time when the person ceased to act as the representative of a partnership or legal person that holds a chartered real estate broker's certificate, in accordance with section 7 of the Real Estate Brokerage Act (R.S.Q., c. C-73.1) or as the manager or assistant manager of an establishment in accordance with section 13 of the Real Estate Brokerage Act (R.S.Q., c. C-73.1).

Such a person is deemed to have the competence in management of professional activities of brokers and agencies required to be an agency executive officer if the person has taken all additional training imposed by

the Organization to brokers qualified as agency executive officers since (*insert the date of coming into force of the Real Estate Brokerage Act (2008, c. 9)*).

6. A broker or an agency that, on (*insert the date of coming into force of the Real Estate Brokerage Act (2008, c. 9)*), holds a licence under sections 146 to 148 of the Real Estate Brokerage Act (2008, c. 9) must pay the fees payable in accordance with section 45 of the Regulation respecting the issue of broker's and agency licences approved by Order in Council (*insert the number and date of the Order in Council approving that Regulation*) and the fee to the Real Estate Indemnity Fund in accordance with section 15 of the Regulation respecting the Real Estate Indemnity Fund and determination of the professional liability insurance premium approved by Order in Council (*insert the number and date of the Order in Council approving that Regulation*). The fees are reduced by an amount corresponding to the fees paid on 1 January 2010 under the By-law respecting chargeable fees and specialist titles of the Association des courtiers et agents immobiliers du Québec approved by Order in Council 1866-93 dated 15 December 1993 and the Regulation respecting the application of the Real Estate Brokerage Act made by Order in Council 1863-93 dated 15 December 1993, in proportion to the number of months remaining in the period from 1 May 2010 to 31 December 2010.

7. The following persons are deemed to meet the conditions set out in paragraphs 2 and 4 of section 1 of the Regulation respecting the issue of broker's and agency licences approved by Order in Council (*insert the number and date of the Order in Council approving that Regulation*):

(1) a person who

(a) prior to the coming into force of the Real Estate Brokerage Act (2008, c. 9), has obtained an attestation of college studies for the program provided for in section 9 of the Regulation respecting the application of the Real Estate Brokerage Act made by Order in Council 1863-93 dated 15 December 1993;

(b) has applied for the issue of a real estate broker's licence within 3 months following the coming into force of the Real Estate Brokerage Act (2008, c. 9) and not later than 2 years after obtaining the attestation of college studies mentioned in subparagraph a; and

(c) has passed the examination provided for in section 20 of the Regulation respecting the application of the Real Estate Brokerage Act made by Order in Council 1863-93 dated 15 December 1993 for the category of affiliated real estate agent's certificate;

(2) a person who

(a) prior to the coming into force of the Real Estate Brokerage Act (2008, c. 9), has started the program leading to the attestation of college studies provided for in section 9 of the Regulation respecting the application of the Real Estate Brokerage Act made by Order in Council 1863-93 dated 15 December 1993;

(b) has obtained the attestation of college studies mentioned in subparagraph *a* within 12 months of the coming into force of the Real Estate Brokerage Act (2008, c. 9);

(c) applies for the issue of a real estate broker's licence within 3 months after obtaining the attestation of college studies mentioned in subparagraph *a*; and

(d) has passed the examination provided for in section 20 of the Regulation respecting the application of the Real Estate Brokerage Act made by Order in Council 1863-93 dated 15 December 1993 for the category of affiliated real estate agent's certificate.

After the issue of the broker's licence, the person has the same rights and is subject to the same restrictions as the affiliated real estate agent referred to in section 146 of the Real Estate Brokerage Act (2008, c. 9).

8. The following persons are deemed to meet the conditions set out in paragraphs 2 and 4 of section 1 of the Regulation respecting the issue of broker's and agency licences approved by Order in Council (*insert the number and date of the Order in Council approving that Regulation*):

(1) a person who

(a) prior to the coming into force of the Real Estate Brokerage Act (2008, c. 9), has obtained the attestation of college studies provided for in section 13 of the Regulation respecting the application of the Real Estate Brokerage Act made by Order in Council 1863-93 dated 15 December 1993;

(b) has applied for a real estate broker's licence within 3 months following the coming into force of the Real Estate Brokerage Act (2008, c. 9) and not later than 2 years after obtaining the attestation mentioned in subparagraph *a*; and

(c) has passed the examination provided for in section 20 of the Regulation respecting the application of the Real Estate Brokerage Act made by Order in Council 1863-93 dated 15 December 1993 for the category of chartered real estate broker's certificate;

(2) a person who

(a) prior to the coming into force of the Real Estate Brokerage Act (2008, c. 9), has started the program leading to the attestation of college studies provided for in section 13 of the Regulation respecting the application of the Real Estate Brokerage Act made by Order in Council 1863-93 dated 15 December 1993;

(b) has obtained the attestation of college studies mentioned in subparagraph *a* within 18 months following the coming into force of the Real Estate Brokerage Act (2008, c. 9);

(c) has applied for the issue of a real estate broker's licence within 3 months after obtaining the attestation of college studies mentioned in subparagraph *a*; and

(d) has passed the examination provided for in section 20 of the Regulation respecting the application of the Real Estate Brokerage Act made by Order in Council 1863-93 dated 15 December 1993 for the category of chartered real estate broker's certificate.

That person may act on the person's own account and is deemed to have the competence in management of professional activities of brokers and agencies required to be an agency executive officer where, during at least 3 of the 5 preceding years, the person held an affiliated real estate agent's certificate issued by the Association des courtiers et agents immobiliers du Québec under the Real Estate Brokerage Act (R.S.Q., c. C-73.1), has acted as broker for an agency's account or has engaged in brokerage-related activities provided for in section 1 of the Real Estate Brokerage Act (R.S.Q., c. C-73.1) or section 1 of the Real Estate Brokerage Act (2008, c. 9).

9. An insurance or securities representative governed by the Act respecting the distribution of financial products and services (R.S.Q., c. D-9.2) who, prior to the coming into force of the Real Estate Brokerage Act (2008, c. 9), has started the courses required by the Regulation respecting brokerage activities in connection with loans secured by immovable hypothec approved by Order in Council 834-99 dated 7 July 1999, successfully completes them within 12 months following the coming into force of the Real Estate Brokerage Act (2008, c. 9) and applies for a mortgage broker's licence within 3 months following the completion of the courses is exempt from the obligation to meet the conditions set out in paragraphs 2 and 4 of section 1 of the Regulation respecting the issue of broker's and agency licences approved by Order in Council (*insert the number and date of the Order in Council approving that Regulation*).

10. Every trust account existing on (*insert the date that precedes the date of coming into force of the Real Estate Brokerage Act (2008, c. 9)*) is deemed to be a trust account governed by the Regulation respecting records, books and registers, trust accounting and inspection of brokers and agencies approved by Order in Council (*insert the number and date of the Order in Council approving that Regulation*).

11. A holder of a licence issued by the Organization, other than a broker carrying on activities for an agency's account, who does not have a trust account on (*insert the date of coming into force of the Real Estate Brokerage Act (2008, c. 9)*) must, within 3 months following that date, open a general trust account and send the declaration related to the opening of accounts required under section 29 of the Regulation respecting records, books and registers, trust accounting and inspection of brokers and agencies approved by Order in Council (*insert the number and date of the Order in Council approving that Regulation*) to the Organization.

12. The declarations related to the opening of trust accounts provided for in sections 111 and 113 of the By-law of the Association des courtiers et agents immobiliers du Québec approved by Order in Council 1865-93 dated 15 December 1993 are deemed to be the declarations related to the opening of accounts required by sections 29 and 30 of the Regulation respecting records, books and registers, trust accounting and the inspection of brokers and agencies approved by Order in Council (*insert the number and date of the Order in Council approving that Regulation*).

13. Despite sections 57 to 59 of the Real Estate Brokerage Act (2008, c. 9), the members of the board of directors of the Association des courtiers et agents immobiliers du Québec, appointed by the Government under section 81 of the Real Estate Brokerage Act (R.S.Q., c. C-73.1) and in office on (*insert the date of the day before the date of coming into force of the Real Estate Brokerage Act (2008, c. 9)*), remain in office until they are replaced or reappointed in accordance with the terms and conditions provided for in the Real Estate Brokerage Act (2008, c. 9).

Despite sections 57 to 59 of the Real Estate Brokerage Act (2008, c. 9), the members of the board of directors of the Association des courtiers et agents immobiliers du Québec, elected from among the members of the Association under section 81 of the Real Estate Brokerage Act (R.S.Q., c. C-73.1) and in office on (*insert the date of the day before the date of coming into force of the Real Estate Brokerage Act (2008, c. 9)*), remain in office until the end of their term in accordance

with section 80 of the Real Estate Brokerage Act (R.S.Q., c. C-73.1) or until they are replaced or re-elected in accordance with the terms and conditions provided for in the Real Estate Brokerage Act (2008, c. 9) and the Internal By-law of the Organisme d'autoréglementation du courtage immobilier du Québec.

For the purposes of section 58 of the Real Estate Brokerage Act (2008, c. 9), the Minister appoints a third director when the number of directors elected to the board of directors of the Organization goes from 9 to 8 following a first election to the board of directors in accordance with the terms and conditions provided for in the Real Estate Brokerage Act (2008, c. 9) and the Internal By-law of the Organisme d'autoréglementation du courtage immobilier du Québec.

14. The insurance fund established by the Association des courtiers et agents immobiliers du Québec under section 79.1 of the Real Estate Brokerage Act (R.S.Q., c. C-73.1) is deemed to be established under section 52 of the Real Estate Brokerage Act (2008, c. 9).

15. Despite section 52 of the Real Estate Brokerage Act (2008, c. 9), sections 5 and 6 and subparagraphs 7 and 7.1 of the first paragraph of section 74 of the Real Estate Brokerage Act (R.S.Q. c. C-73.1), and section 61.1 of the Regulation respecting the Association des courtiers et agents immobiliers du Québec approved by Order in Council 1865-93 dated 15 December 1993 continue to apply, with the necessary modifications, to every broker or agency that holds a licence issued by the Organisme d'autoréglementation du courtage immobilier du Québec, until the due date of the premium payable to the insurance fund following the coming into force of the Real Estate Brokerage Act (2008, c. 9).

16. The members of the board of directors of the Real Estate Indemnity Fund, appointed under section 46 of the Real Estate Brokerage Act (R.S.Q., c. C-73.1), constituted under section 9.14 of the Real Estate Brokerage Act (R.S.Q., c. C-73) and continued under section 44 of the Real Estate Brokerage Act (R.S.Q., c. C-73.1), in office on (*insert the date of the day before the date of coming into force of the Real Estate Brokerage Act (2008, c. 9)*), become members of the indemnity committee appointed under section 105 of the Real Estate Brokerage Act (2008, c. 9), without further formalities, until they are replaced or reappointed in accordance with the Real Estate Brokerage Act (2008, c. 9) and the Regulation respecting the Real Estate Indemnity Fund and determination of the professional liability insurance premium.

17. The discipline committee established under section 128 of the Real Estate Brokerage Act (R.S.Q., c. C-73.1) is deemed to be, as of (*insert the date of coming into force of the Real Estate Brokerage Act (2008, c. 9)*), established under section 93 of the Real Estate Brokerage Act (2008, c. 9).

The members, appointed under section 131 of the Real Estate Brokerage Act (R.S.Q., c. C-73.1), of the discipline committee established under section 128 of that Act, in office on (*insert the date of the day before the date of coming into force of the Real Estate Brokerage Act (2008, c. 9)*), become the members of the discipline committee established under section 93 of the Real Estate Brokerage Act (2008, c. 9), without further formalities, until they are replaced or reappointed in accordance with the Real Estate Brokerage Act (2008, c. 9). Despite the foregoing, the substitute chair appointed under section 131 of the Real Estate Brokerage Act (R.S.Q., c. C-73.1) becomes one of the vice-chairs of the discipline committee established under the Real Estate Brokerage Act (2008, c. 9).

18. The professional inspection committee established under section 107 of the Real Estate Brokerage Act (R.S.Q., c. C-73.1) becomes, on (*insert the date of coming into force of the Real Estate Brokerage Act (2008, c. 9)*), the inspection committee established under section 73 of the Real Estate Brokerage Act (2008, c. 9).

The members, appointed under section 110 of the Real Estate Brokerage Act (R.S.Q., c. C-73.1), of the professional inspection committee established under section 107 of the Real Estate Brokerage Act (R.S.Q., c. C-73.1), in office on (*insert the date of the day before the date of coming into force of the Real Estate Brokerage Act (2008, c. 9)*), become the members of the inspection committee established under section 73 of the Real Estate Brokerage Act (2008, c. 9), without further formalities, until they are replaced or reappointed in accordance with the Real Estate Brokerage Act (2008, c. 9) and the Regulation respecting records, books and registers, trust accounting and inspection of brokers and agencies.

19. The committee established under section 25.2 of the Regulation respecting the Association des courtiers et agents immobiliers du Québec approved by Order in Council 1865-93 dated 15 December 1993 becomes, on (*insert the date of coming into force of the Real Estate Brokerage Act (2008, c. 9)*), the committee referred to in section 42 of the Real Estate Brokerage Act (2008, c. 9).

The members, appointed under section 25.2 of the Regulation respecting the Association des courtiers et agents immobiliers du Québec approved by Order in Council 1865-93 dated 15 December 1993, of the committee established under that section, in office on (*insert*

the date of the day before the date of coming into force of the Real Estate Brokerage Act (2008, c. 9)), become the members of the committee referred to in section 42 of the Real Estate Brokerage Act (2008, c. 9), without further formalities, until they are replaced or reappointed in accordance with the Regulation respecting the issue of broker's and agency licences approved by Order in Council (*insert the number and date of the Order in Council approving that Regulation*).

20. The Financing fund of the Association des courtiers et agents immobiliers du Québec for public information, established under section 148 of the Regulation respecting the Association des courtiers et agents immobiliers du Québec approved by Order in Council 1865-93 dated 15 December 1993, becomes, on (*insert the date of coming into force of the Real Estate Brokerage Act (2008, c. 9)*), the Financing fund of the Organisme d'autoréglementation du courtage immobilier du Québec established under section 47 of the Real Estate Brokerage Act (2008, c. 9).

21. Business cards, signs or any other advertisement already used in accordance with the Real Estate Brokerage Act (R.S.Q., c. C-73.1) by a real estate broker or agent, before the coming into force of the Real Estate Brokerage Act (2008, c. 9), may be used for the 18 months following the coming into force of the Real Estate Brokerage Act (2008, c. 9).

22. The rules provided for in sections 26 and 27 of the Regulation respecting the application of the Real Estate Brokerage Act made by Order in Council 1865-93 dated 15 December 1993 and those provided for in sections 85, 86, 87, 89, 90, 94, 99, 100 and Schedules 1 to 5 to the Regulation respecting the Association des courtiers et agents immobiliers du Québec approved by Order in Council 1865-93 dated 15 December 1993 continue to apply for the 18 months following the coming into force of the Real Estate Brokerage Act (2008, c. 9), with the necessary modifications.

23. The licence applied for or held by a person who has held a certificate issued in accordance with the Real Estate Brokerage Act (R.S.Q., c. C-73.1) is subject, with the necessary modifications, to any suspension, cancellation, revocation or restriction of the right to practise affecting that certificate on (*insert the date of coming into force of the Real Estate Brokerage Act (2008, c. 9)*).

24. A person who, before the coming into force of the Real Estate Brokerage Act (2008, c. 9), has been the subject of a decision of the board of directors confirming a recommendation of the discipline committee of the Association des courtiers et agents immobiliers requiring that the person take a course or training, may not be issued a licence or maintain his or her licence unless the

person shows that he or she has successfully completed, if applicable, the course or training that was recommended, or any other training considered equivalent by the Organization and, where applicable, obtains from the board of directors of the Organization an extension of the period for completing the course or training.

25. The effects on a certificate issued by the Association des courtiers et agents immobiliers du Québec of any decision or order of the discipline committee of the Association des courtiers et agents immobiliers du Québec or a court, resulting from a disciplinary complaint, becoming final before or after the coming into force of the Real Estate Brokerage Act (2008, c. 9), are deemed to continue for the licence held by the person or partnership concerned by the decision, with the necessary modifications.

26. Every decision of the discipline committee of the Association des courtiers et agents immobiliers du Québec or a court, resulting from a disciplinary complaint, becoming final before or after the coming into force of the Real Estate Brokerage Act (2008, c. 9), that orders a person or a partnership to perform an act, not to do or to cease doing something or that restricts the right to practise or the professional activities of a person or partnership, continues to produce its effects with respect to the person or partnership, under the same terms and conditions, with the necessary modifications.

27. A person or partnership that has been the subject of a decision of the discipline committee or a court, resulting from a disciplinary complaint, becoming final before or after the coming into force of the Real Estate Brokerage Act (2008, c. 9), may not apply for the issue of a licence under the Real Estate Brokerage Act (2008, c. 9) until the end of the suspension or prohibition of issue imposed on the person by the discipline committee under the Real Estate Brokerage Act (R.S.Q., c. C-73.1).

28. A natural person who, on *(insert the date of the day before the date of coming into force of the Real Estate Brokerage Act (2008, c. 9))*, holds a chartered real estate broker's certificate issued by the Association des courtiers et agents immobiliers du Québec under the Real Estate Brokerage Act (R.S.Q., c. C-73.1), and carries on activities under a name other than the person's name, may continue to act on his or her account under that name or under another name.

29. Except for a document concerning additional training, the issue of a certificate or licence, obtaining and use of a specialist title, discipline, overseeing of the

carrying on of the activities of brokers and agencies, professional inspection and indemnification, a document in the possession of the Association des courtiers et agents immobiliers du Québec on *(insert the date of the day preceding the date of coming into force of the Real Estate Brokerage Act, (2008, c. 9))* is deemed not to be a document of the Organization for the purposes of section 61 of the Real Estate Brokerage Act (2008, c. 9).

30. This Regulation comes into force on *(insert the date of coming into force of the Real Estate Brokerage Act (2008, c. 9))*.

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Draft Regulation

Real Estate Brokerage Act
(2008, c. 9)

Various regulations

Notice is hereby given, in accordance with sections 10 and 11 of the Regulations Act (R.S.Q., c. R-18.1), that the draft regulations appearing below may be submitted to the Government for approval with or without amendment on the expiry of 45 days following this publication.

— Regulation respecting the issue of broker's and agency licences;

— Regulation respecting records, books and registers, trust accounting and inspection of brokers and agencies;

— Regulation respecting disciplinary proceedings of the Organisme d'autoréglementation du courtage immobilier du Québec;

— Regulation respecting the Real Estate Indemnity Fund and determination of the professional liability insurance premium;

— Regulation respecting brokerage requirements, professional conduct of brokers, advertising and additional training;

— Regulation respecting contracts and forms.

The draft Regulation respecting the issue of broker's and agency licences prescribes the rules concerning the issue of licences, in particular, the documents and information to be filed with licence applications, licence fees and reasons for suspension or revocation.