
Regulations and other Acts

Gouvernement du Québec

O.C. 295-2010, 31 March 2010

Real Estate Brokerage Act
(2008, c. 9)

Issue of broker's and agency licences

Regulation respecting the issue of broker's and agency licences

WHEREAS section 7 of the Real Estate Brokerage Act (2008, c. 9) provides that the Organisme d'auto-réglementation du courtage immobilier du Québec (the Organization) determines, by regulation, the period for which a broker, when new to the occupation, must carry on brokerage activities for an agency before the broker may work for the broker's own account or become an executive officer of an agency;

WHEREAS section 9 of the Act provides that the Organization determines, by regulation, the conditions permitting a broker to have the suspension of the broker's licence lifted;

WHEREAS section 42 of the Act, amended by section 142 of chapter 58 of the Statutes of 2009, provides that the Organization determines, by regulation, the operating rules of the committee to which the Organization delegates its functions and powers, and the rules concerning decision-making;

WHEREAS section 44.1 of the Act, enacted by section 144 of chapter 58 of the Statutes of 2009, provides that the Organization determines, by regulation, the terms and conditions for making public decisions of the Organization to suspend or revoke a licence or to impose conditions or restrictions on a licence;

WHEREAS paragraph 1 of section 46 of the Act provides that, in addition to its regulatory powers under the Act, the Organization may determine, by regulation, rules governing the training required to become a broker and the examinations to be taken by prospective brokers;

WHEREAS paragraph 2 of section 46 of the Act, amended by paragraph 1 of section 145 of chapter 58 of the Statutes of 2009, provides that, in addition to its regulatory powers under the Act, the Organization may determine, by regulation, rules governing additional training and the specific circumstances under which such training is compulsory for all or some of an agency's brokers or executive officers;

WHEREAS paragraphs 3, 4, 6, 7, 11 and 12 of section 46 of the Act provide that, in addition to its regulatory powers under the Act, the Organization may determine, by regulation, the terms and conditions governing the issue, suspension or revocation of a licence, and the cases in which restrictions or conditions may be imposed on a licence, the licence fees to be paid, the information and documents to be provided by a prospective broker, a broker or an agency, the particulars a licence must contain, the brokerage transactions that, with special authorization, may be engaged in occasionally or from time to time, the persons, partnerships or groups of persons or partnerships, other than brokers and agencies, that may engage in such transactions and the terms and conditions governing and the fees chargeable for such transactions, and the qualifications required of executive officers of an agency;

WHEREAS, in accordance with sections 10 and 11 of the Regulations Act (R.S.Q., c. R-18.1), a draft of the Regulation respecting the issue of broker's and agency licences was published in Part 2 of the *Gazette officielle du Québec* of 13 January 2010 with a notice that it could be submitted to the Government for approval on the expiry of 45 days following that publication;

WHEREAS it is expedient to approve the Regulation with amendments in order to clarify certain regulatory provisions or correct references;

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

THAT the Regulation respecting the issue of broker's and agency licences, attached to this Order in Council, be approved.

GÉRARD BIBEAU,
Clerk of the Conseil exécutif

Regulation respecting the issue of broker's and agency licences

Real Estate Brokerage Act (S.Q. 2008, c. 9, ss. 7, 9, 42, 44.1, and 46, pars. 1 to 4, 6, 7, 11 and 12; 2009, c. 58, ss. 142, 144 and 145)

CHAPTER I BROKER'S AND AGENCY LICENCES

DIVISION I TERMS AND CONDITIONS FOR LICENCE ISSUE

§1. Real estate and mortgage broker's licences

1. A real estate or mortgage broker's licence is issued to a natural person at least 18 years of age who makes an application to that effect to the Organisme d'auto-réglementation du courtage immobilier du Québec (the "Organization") and, in addition to meeting the requirements set out in the Real Estate Brokerage Act (2008, c. 9),

(1) is a Canadian citizen, has the status of permanent resident or has a work permit issued by Canadian immigration authorities;

(2) has passed the examination under Division VII, no more than 12 months before the licence application;

(3) if applicable, has passed all the courses or completed all the training programs required by the inspection committee under the third paragraph of section 75 of the Real Estate Brokerage Act or by the discipline committee under subparagraph 7 of the first paragraph of section 98 of that Act, or taken as a consequence of a voluntary commitment on the person's part;

(4) has demonstrated a working knowledge of the official language of Québec in accordance with section 35 of the Charter of the French language (R.S.Q., c. C-11), or meets one of the following requirements that apply to knowledge of French:

(a) has passed the examination referred to in subparagraph 2, in French;

(b) has received, full time, not less than three years of secondary or post-secondary instruction in French; or

(c) has passed the fourth or fifth year secondary-level examinations in French as a first language;

(5) has paid all fees required under this Regulation, all amounts payable to the insurance fund and the fee to be paid into the Real Estate Indemnity Fund;

(6) if applicable, has reimbursed the Organization for any indemnity amount paid pursuant to a decision of the indemnity committee concerning the person;

(7) if applicable, has not failed to comply with an order of the discipline committee or court made in connection with a disciplinary action or a remedy referred to in sections 35 and 128 of the Real Estate Brokerage Act, or has not failed to pay any fine and any interest, costs and charges owing to the Organization pursuant to a decision of the discipline committee or a judgment;

(8) if applicable, has remitted, where applicable, the sum of money to the person or partnership entitled to it, in compliance with a final judgment imposing such a penalty under subparagraph 4 of the first paragraph of section 98 of the Real Estate Brokerage Act; and

(9) if applicable, has paid every sum of money to the party to whom it is owing as a consequence of a commitment entered into during mediation or conciliation, or an arbitration award, pursuant to section 34 of the Real Estate Brokerage Act.

A person who applies for a broker's licence within 12 months after the date of a licence revocation or suspension is exempted from the requirements of subparagraphs 2 and 4 of the first paragraph if the person has completed all additional training required by the Organization since that date.

A person who applies for a real estate broker's licence within three years after his or her real estate broker's licence is replaced by a mortgage broker's licence or a real estate broker's licence with a restriction described in section 2 or after the revocation of the real estate broker's licence and who, following the revocation, held a mortgage broker's licence or a real estate broker's licence with a restriction, is also exempted from the requirements of subparagraphs 2 and 4 of the first paragraph provided that, following the replacement or revocation, the licence has not been revoked or suspended for a period of 12 months or more and the person has completed all additional training required by the Organization of holders of a real estate broker's licence.

2. A real estate broker's licence may be restricted

(1) to residential brokerage; or

(2) to commercial brokerage.

A restricted licence is issued to a natural person who makes a licence application in accordance with section 1 and passes the required examination prepared by the Organization for the particular restriction.

A licence holder who passes the required examination may have the restricted licence modified to include a second restriction or to have it become a real estate broker's licence with no restriction.

3. A real estate broker's licence restricted to residential brokerage authorizes its holder to act as an intermediary for the purchase, sale, lease or exchange of

(1) part or all of a chiefly residential immovable comprising less than five dwellings, or a vacant residential lot; and

(2) a fraction of a residential immovable that is the subject of an agreement or declaration under articles 1009 to 1109 of the Civil Code.

The licence also authorizes its holder to give a client the name and contact information of a person or partnership offering loans secured by immovable hypothec or to otherwise put them in contact with one another.

4. A real estate broker's licence restricted to commercial brokerage authorizes its holder

(1) to engage in the brokerage activities described in subparagraphs 1, 2 and 3 of the first paragraph of section 1 of the Real Estate Brokerage Act, including activities involving a vacant commercial lot, but excluding activities involving a chiefly residential immovable comprising less than five dwellings, or a vacant residential lot or a fraction of a residential immovable that is the subject of an agreement or declaration under articles 1009 to 1109 of the Civil Code;

(2) to engage in the brokerage activities described in subparagraph 5 of the first paragraph of section 1 of the Real Estate Brokerage Act; and

(3) to give a client the name and contact information of a person or partnership offering loans secured by immovable hypothec or to otherwise put them in contact with one another.

5. A broker's licence application must be filed with the following information and documents pertaining to the prospective broker if they are not already in the Organization's possession:

(1) if the prospective broker is a Canadian citizen, his or her act or certificate of birth or Canadian Citizenship Certificate;

(2) if the prospective broker is not a Canadian citizen, the document issued by Canadian immigration authorities attesting status of permanent resident, or the work permit issued by those authorities;

(3) the address of his or her establishment, including postal code, telephone and fax numbers and those of other communication devices and, if any, e-mail and website addresses. In the absence of an e-mail address, the applicant must ask the Organization to furnish one;

(4) the prospective broker's domicile address including postal code and telephone number;

(5) unless the prospective broker has passed the examination referred to in subparagraph *a* of subparagraph 4 of the first paragraph of section 1 in French, documents showing the applicant meets one of the requirements of subparagraph 4;

(6) a colour photograph taken not more than six months preceding the application, on a white background showing the person from the shoulders up and with the face uncovered, submitted using any medium enabling the date on which it was taken to be ascertained;

(7) the name and licence number of the agency for which the prospective broker undertakes to carry on brokerage activities or, if applicable, a mention that the prospective broker will be carrying on activities for his or her own account;

(8) where applicable, a document from the executive officer of the agency for which the prospective broker will be carrying on brokerage activities to the effect that the agency undertakes to employ or authorize the person to act for the agency once he or she has been licensed;

(9) if the prospective broker has held a licence that has been revoked, suspended or made subject to restrictions or conditions by the discipline committee or by a body in Québec responsible for overseeing and monitoring real estate brokerage, or by such a body in another province or State, the relevant documents;

(10) if the prospective broker has made an assignment of property or has been placed under a receiving order pursuant to the Bankruptcy and Insolvency Act (R.S.C. 1985, c. B-3), the relevant documents;

(11) if the prospective broker has previously been convicted by a court of, or has pleaded guilty to, an offence or act, the relevant documents; and

(12) if the prospective broker has been assigned a tutor, curator or adviser, the relevant documents.

§2. Real estate and mortgage broker agency licences

6. A real estate agency licence or a mortgage broker agency licence is issued by the Organization to a person or partnership making an application to that effect if, in addition to meeting the requirements set out in the Real Estate Brokerage Act,

(1) in the case of a natural person, the person holds a real estate broker's licence or a mortgage broker's licence, and acts as the executive officer of the agency;

(2) the directors or executive officers of the agency have passed all courses or completed all other training programs required by the inspection or discipline committee or taken as a consequence of a voluntary commitment on their part;

(3) the executive officer has the qualifications required to act in that capacity;

(4) if applicable, all fees required under this Regulation and all amounts owing to the insurance fund and the fee to be paid into the Real Estate Indemnity Fund have been paid;

(5) the person or partnership, and each of its partners in the case of a partnership or directors in the case of a legal person,

(a) has reimbursed the Organization for any indemnity amount paid pursuant to a decision of the indemnity committee concerning them;

(b) has not failed to respect an order of the discipline committee or court made in connection with a disciplinary action or a remedy referred to in sections 35 and 128 of the Real Estate Brokerage Act, or has not failed to pay any fine and any interest, costs and charges owing to the Organization pursuant to a decision of the discipline committee or a judgment;

(c) where applicable, has remitted the sum of money to the person or partnership entitled to it, in compliance with a final judgment imposing such a penalty under subparagraph 4 of the first paragraph of section 98 of the Real Estate Brokerage Act; and

(d) has paid every sum of money to the party to whom it is owing as a consequence of a commitment entered into during mediation or conciliation or an arbitration award, pursuant to section 34 of the Real Estate Brokerage Act.

7. An agency licence application must be filed with the following information and documents pertaining to the applicant if they are not already in the Organization's possession:

(1) the name of the person or partnership and, in the case of a natural person, the person's broker's licence number;

(2) the name under which the agency will be carrying on brokerage activities, which name must not suggest that the agency has not been licensed by the Organization;

(3) the address of the applicant's principal establishment and other establishments, if any, including postal code, telephone and fax numbers and those of other communication devices, and e-mail and website addresses;

(4) a statement of the current information on the person or partnership as published in the register of sole proprietorships, partnerships and legal persons;

(5) in the case of a legal person or a partnership, the name of the agency's executive officer and his or her broker's licence number;

(6) the names of the brokers through whom the applicant will be carrying on brokerage activities;

(7) if the applicant has already held a licence that has been revoked, suspended or made subject to restrictions or conditions by the discipline committee or by a body in Québec responsible for overseeing and monitoring real estate brokerage, or by such a body in another province or State, the relevant documents;

(8) if the applicant has made an assignment of property or has been placed under a receiving order pursuant to the Bankruptcy and Insolvency Act, the relevant documents;

(9) if the applicant has previously been convicted by a court of or has pleaded guilty to an offence or act, the relevant documents; and

(10) if the applicant has been assigned a tutor, curator or adviser, the relevant documents.

§3. Special provisions applying to applications

8. A licence application is considered to be received only once all the information and documents required by this Division have been furnished along with all fees payable.

9. An application for the issue of a licence made within three years after a decision under section 37 or 38 of the Real Estate Brokerage Act must set out new facts that may warrant a different decision.

DIVISION II

UPDATING OF INFORMATION AND LICENCE PARTICULARS

10. A licence holder must send any change in information or in a document required by the Real Estate Brokerage Act or this Regulation to the Organization without delay.

In addition, within 10 days of becoming aware of it, a licence holder must inform the Organization of any professional liability claim filed with the holder's insurer, and inform the Organization without delay of any notice of loss the holder files with the insurer in relation to professional liability.

11. A licence holder must reply to any request regarding the updating of information concerning the holder within the time and according to the terms and conditions set by the Organization.

12. Five years after an application has been made and every five years thereafter, a holder of a broker's licence must send the Organization a new photograph dated not more than six months previous using a medium enabling the date on which it was taken to be ascertained. A broker's licence bears the most recent photograph furnished by its holder.

13. A licence contains the following particulars:

- (1) the name of the licence holder;
- (2) the licence number and date of issue;
- (3) a mention that the holder is a real estate or mortgage broker agency or a real estate or mortgage broker;
- (4) the licence restrictions under section 2 of this Regulation, if any;
- (5) the name of the agency for which the broker carries on activities, if applicable;
- (6) the address and telephone number of the licence holder's establishment;
- (7) a mention that the broker is certified to be an agency executive officer, if applicable.

At the request of the holder, the licence may specify the name by which the applicant is commonly known but in that case, the holder must have supplied the Organization with a sworn declaration to the effect that the name is generally known in the holder's professional and social life, or any other document establishing that fact.

DIVISION III

LICENCE SUSPENSION AND REVOCATION

14. The licence of a broker who may not carry on activities for his or her own account is suspended if,

(1) the licence of the agency for which the broker carries on activities is suspended or revoked; or

(2) the broker ceases to carry on activities for an agency.

A broker who may carry on activities for his or her account is deemed to do so as of the date on which the licence of the agency for which the broker carries on activities is revoked or suspended.

15. A broker's licence is suspended by the Organization if

(1) the holder fails to pay any sum owing to the insurance fund other than the premium;

(2) the holder fails to take within the prescribed time any course or complete any training program as required by the inspection or discipline committee or taken as a consequence of a voluntary commitment on the holder's part;

(3) the holder fails to take additional training as required by the Organization and, where applicable, to pass the training;

(4) the holder fails to set up and maintain a trust account in accordance with the Regulation respecting records, books and registers, trust accounting and inspection of brokers and agencies approved by Order in Council 296-2010 dated 31 March 2010;

(5) the Organization becomes aware of the broker's failure to update information or a document required under the Real Estate Brokerage Act or this Regulation; or

(6) the holder no longer meets a requirement for the issue or maintenance of the licence, other than the requirement in subparagraph 6 of the first paragraph of section 1, and no specific provision in the Real Estate Brokerage Act or this Regulation deals with such a failure.

16. An agency licence is suspended by the Organization if

(1) the agency fails to pay any sum owing to the insurance fund;

(2) the holder or the executive officer of the agency fails to take and pass within the prescribed time any course or complete any training required by the inspection or discipline committee or taken as a consequence of a voluntary commitment on their part;

(3) the holder or the executive officer of the agency fails to take any additional training required by the Organization and, where applicable, to pass the training;

(4) the holder fails to set up and maintain a trust account in accordance with the Regulation respecting records, books and registers, trust accounting and inspection of brokers and agencies;

(5) the Organization becomes aware of the agency's failure to update information or a document required under the Real Estate Brokerage Act or this Regulation;

(6) the holder ceases to have the qualifications required of an agency executive officer or, in the case of a partnership or a legal person, it has not been headed by a person having those qualifications for a period of more than 60 days; or

(7) the holder no longer meets a requirement for the issue or maintenance of the licence, other than the requirement in subparagraph *a* of paragraph 5 of section 6 of this Regulation, and no specific provision in the Real Estate Brokerage Act or this Regulation deals with such a failure.

17. Once a licence has been suspended, the holder cannot engage in brokerage transactions. The holder may not, in particular, engage in advertising, client solicitation or representation in relation to real estate or mortgage brokerage services, or use the title of broker or agency.

18. Other than in the case in section 104 of the Real Estate Brokerage Act, a person may apply to have a licence suspension lifted if the person establishes that the cause giving rise to the suspension no longer exists.

19. A broker's licence is revoked by the Organization if

(1) the holder requests the revocation;

(2) the holder has, on the due date, failed to make the payments required by section 45 of this Regulation or by section 15 of the Regulation respecting the Real

Estate Indemnity Fund and determination of the professional liability insurance premium, approved by Order in Council 298-2010 dated 31 March 2010, for the issue or maintenance of the licence or the fees referred to in the third paragraph of section 109 of the Real Estate Brokerage Act;

(3) the holder, through misrepresentation, obtained the issue or maintenance of the licence or the modification or lifting of the licence or the restrictions or conditions imposed on the licence;

(4) the holder no longer has an establishment in Québec;

(5) the holder no longer is a Canadian citizen or has the status of permanent resident or a work permit issued by Canadian immigration authorities; or

(6) the holder fails

(a) to repay the principal, interest and costs of any amount imposed by a final judgment arising from liability for a cause referred to in section 108 of the Real Estate Brokerage Act or from the exercise of a subrogatory action under section 112 of that Act;

(b) to comply with an order of the disciplinary committee or court made in connection with a disciplinary action or remedy referred to in sections 35 and 128 of the Real Estate Brokerage Act, or fails to pay any fine and any interest, costs and charges owing to the Organization pursuant to a judgment or a decision of the disciplinary committee; or

(c) to pay any amount of money to the party entitled to it arising out of an undertaking made during mediation or conciliation or an arbitration award, pursuant to section 34 of the Real Estate Brokerage Act.

20. A agency licence is revoked by the Organization if

(1) the holder requests the revocation;

(2) the holder has, on the due date, failed to make the payments required by section 45 of this Regulation and section 15 of the Regulation respecting the Real Estate Indemnity Fund and determination of the professional liability insurance premium for the issue or maintenance of the licence or the fees referred to in the third paragraph of section 109 of the Real Estate Brokerage Act;

(3) the holder, through misrepresentation, obtained the issue or maintenance of the licence or the lifting of the suspension or the restrictions or conditions imposed on the licence;

(4) the holder no longer has an establishment in Québec;

(5) the holder, partners in the case of a partnership or directors in the case of a legal person,

(a) has or have failed to repay the principal, interest and costs of any amount imposed by a final judgment arising from liability for a cause referred to in section 108 of the Real Estate Brokerage Act or from the exercise of a subrogatory action under section 112 of that Act;

(b) has or have failed to comply with an order of the disciplinary committee or court made in connection with a disciplinary action or remedy referred to in sections 35 and 128 of the Real Estate Brokerage Act, or failed to pay any fine and any interest, costs and charges owing to the Organization pursuant to a judgment or a decision of the disciplinary committee; or

(c) has or have failed to pay any amount of money to the party entitled to it arising out of an undertaking made during mediation or conciliation or an arbitration award, pursuant to section 34 of the Real Estate Brokerage Act; or

(6) in the case of a natural person, the person no longer holds a broker's licence.

21. The licence is suspended or revoked on the date and at the time determined by the Organization.

22. Suspension or revocation of a licence does not give entitlement to a reimbursement of or reduction in the amount of fees payable under the Real Estate Brokerage Act, this Regulation or the Regulation respecting the Real Estate Indemnity Fund and determination of the professional liability insurance premium.

DIVISION IV LICENCE ISSUE AND MAINTENANCE COMMITTEE

23. The licence issue and maintenance committee, as the delegatee of the functions and powers under sections 37 to 39 and 41 of the Real Estate Brokerage Act, is composed of at least three and not more than nine members, including a chair, appointed by the board of directors of the Organization for a term of three years.

The board of directors may appoint one or more vice-chairs.

At the end of their term, the members remain in office until they are replaced, dismissed or reappointed, or until they resign. A matter referred to a committee member who is later replaced or resigns may continue to be dealt with by the member.

24. If the number of committee members so allows, the committee may sit in two or more divisions composed of three or more members, one of whom is a chair or vice-chair. A division having more than three members must be composed of an odd number of members.

25. The committee members must take the oath of discretion in Schedule A to this Regulation.

26. The notice referred to in section 41 of the Real Estate Brokerage Act must also inform the licence holder or the applicant person or partnership of the possibility of producing documents to complete the file and of the remedy in section 43 of that Act.

27. A decision of the committee is made in writing by a majority of the members and must be signed by the members making it. Reasons must be given for a decision to refuse to issue or a decision to revoke, suspend or impose restrictions or conditions on a licence.

28. The committee may make a decision even if the licence holder, the applicant or the applying partnership fails to reply to the notice sent in accordance with section 41 of the Real Estate Brokerage Act, does not appear at the arranged meeting, has not submitted observations in writing or has not produced the documents necessary to complete the file.

29. The committee is to send a report on its activities to the Organization each year and whenever a request for such a report is made by the Organization.

30. The committee's meetings are held using any device that enables the participants to communicate with one another; the participants are deemed to have attended the meeting.

DIVISION V NOTICE OF DECISION

31. Where the Organization makes a decision that is unfavourable to a person or partnership, it must notify the person or partnership in writing.

It must also notify the agency for which the person carries on or proposed to carry on activities.

32. A decision imposing a licence suspension or revocation or imposing conditions or restrictions on a licence is made public by an entry to that effect in the register of licence holders kept by the Organization.

33. A notice of a final decision made by the licence issue and maintenance committee, the discipline committee or an appeal tribunal that suspends or revokes a broker's or agency licence or imposes conditions or

restrictions on the licence and, where applicable, a notice of a decision that rectifies or revises such a decision is to be published or inserted in an official or regular publication of the Organization or on its website. The notice must specify the name of the broker or agency holding the licence to which the decision applies, the type of licence held, the place of the establishment, the name under which the broker or agency carries on the activities, the broker's or agency's specialty, if any, and the date and a summary of the decision. If the decision is made by the discipline committee, the notice must indicate the date and nature of the offence.

DIVISION VI **QUALIFICATION OF AGENCY EXECUTIVE OFFICERS**

34. A person is qualified as an executive officer of a real estate or mortgage broker agency if the person

(1) holds a real estate or mortgage broker's licence that is neither suspended nor subject to restrictions or conditions;

(2) is able to act for his or her own account;

(3) meets either of the following conditions, showing that the person is qualified to manage the professional activities of brokers and agencies:

(a) has passed, in accordance with Division VII, the examination for executive officers of real estate or mortgage broker agencies; or

(b) has qualified as an executive officer of a real estate or mortgage broker agency for three of the last five years; and

(4) after passing the examination referred to in subparagraph *a* of subparagraph 3, has taken and, where applicable, passed all additional training required for brokers to qualify as agency executive officers.

To maintain qualification, an executive officer of a real estate or mortgage broker agency must continue to meet the requirements of subparagraphs 1, 2 and 4.

DIVISION VII **EXAMINATIONS**

35. The Organization's examinations deal with the skills a broker must have, according to the licence applied for or licence restrictions, those required of an agency executive officer or of the holder of a specialist's title, in the latter case according to the title applied for.

36. The Organization must make accessible the list of skills tested in the examinations it prepares and send the list to any person who requests it.

37. An examination application must be sent to the Organization before the date set for the examination along with the documents and information required by paragraphs 1, 2, 4 and 6 of section 5, and specify the licence or title for which it is made.

38. A person who fails an examination may apply up to three times for a supplemental examination within 12 months after the date of the initial examination. A person who fails all the supplemental examinations cannot re-apply for an examination for a period of 12 months after the date of the last supplemental examination.

39. The Organization may cancel the examination of a person who makes a false representation in the examination application, or who seriously disrupts the examination in a repeated or continued manner, including by fraud, copying or cheating or by collaborating in such strategies. That person may not sit for any examination for a period of 12 months after the date of the cancellation by the Organization.

CHAPTER II **SPECIAL AUTHORIZATIONS**

40. A special 12-month authorization for brokerage transactions described in section 1 of the Real Estate Brokerage Act may be issued to any person, partnership or group of persons or partnerships, other than brokers or agencies, requesting an authorization and that

(1) has made an application for special authorization that contains

(a) the applicant's name and contact information;

(b) if the applicant is a natural person acting for a person, a partnership or a group of persons or partnerships authorized to engage in brokerage transactions described in section 1 of the Real Estate Brokerage Act outside Québec, the name and contact information of that person, partnership or group of persons or partnerships;

(c) a description of the brokerage activities to be engaged in occasionally or from time to time by the applicant in Québec;

(d) an enumeration of the specific purposes for which the application is made;

(e) a statement whereby the applicant undertakes to act within the limits of the special authorization; and

(f) any observation the applicant considers appropriate to make to justify the application for special authorization;

(2) has furnished a certificate from the competent authority attesting that the applicant is authorized to engage in brokerage transactions described in section 1 of the Real Estate Brokerage Act outside Québec;

(3) has paid the fees required by Chapter III;

(4) has paid the fee that must be paid into the Real Estate Indemnity Fund; and

(5) has paid into the insurance fund the civil liability insurance premium set by resolution of the Organization.

41. The special authorization issued by the Organization is valid only to the extent of the limits and conditions specified in the authorization.

42. Special authorization may not be issued to a natural person who acts for a person, a partnership or a group of persons or partnerships unless that person, partnership or group holds special authorization.

43. The holder of special authorization must, throughout the period for which the authorization is valid,

(1) be authorized by the competent authority to engage in brokerage transactions described in section 1 of the Real Estate Brokerage Act outside Québec;

(2) comply with the provisions of the Real Estate Brokerage Act and the regulations made under it as if the holder were licensed by the Organization;

(3) deposit all sums to be held by the holder into a trust account maintained by a holder licensed by the Organization; and

(4) be assisted by a holder licensed or designated by the Organization or chosen by the holder of the special authorization.

The holder of the special authorization must inform the Organization in writing as soon as the authorization to engage in brokerage transactions described in section 1 of the Real Estate Brokerage Act outside Québec ceases or is made subject to restrictions or conditions.

44. In any advertising, client solicitation and representation in relation to brokerage transactions carried on in Québec and described in section 1 of the Real Estate Brokerage Act, the holder of special authorization must ensure that the following particulars appear after the holder's name:

(1) mention of the Canadian province or territory or the State where the holder is legally authorized to engage in brokerage transactions described in section 1 of the Real Estate Brokerage Act; and

(2) mention to the effect that the holder is specially authorized to engage in brokerage transactions described in section 1 of the Real Estate Brokerage Act in Québec.

The holder must also specify the limits on the special authorization.

In addition, the holder of special authorization must without delay inform in writing every person with whom the holder has dealings in connection with brokerage activities in Québec of the special authorization and of its limits.

CHAPTER III FEES

45. The annual licence fees are,

(1) for a real estate broker's licence: \$850;

(2) for a mortgage broker's licence: \$850;

(3) for a real estate agency licence: \$500; and

(4) for a mortgage broker agency licence: \$500.

The fees are payable on application for the licence and thereafter on 1 May of each year. If the licence is issued for a period of less than 12 months, the fee amount is adjusted pro rata to the number of months left until the annual licence fee due date, including the month of the application.

If a licence holder applies for both the issue of a new licence and the abandoning of a licence already held, the fees for the new licence are reduced by an amount equal to the fees paid for the abandoned licence, pro rata to the number of months left until the next annual licence fee due date, excluding the month of the application.

46. The fees for special authorization are,

(1) for a natural person: \$850; and

(2) for the person, partnership or group of persons or partnerships represented by a natural person: \$500.

47. The fee amounts are adjusted annually on 1 May of each year based on the rate of increase in the general Consumer Price Index for Canada, as determined by Statistics Canada for the 12-month period ending on 31 December of the preceding year.

The adjusted amounts are reduced to the nearest dollar if they contain a fraction of a dollar less than \$0.50; they are increased to the nearest dollar if they contain a fraction of a dollar equal to or greater than \$0.50.

The results of the adjustment are to be published in the *Gazette officielle du Québec*.

CHAPTER IV ADDITIONAL TRAINING OF BROKERS AND AGENCY EXECUTIVE OFFICERS

48. The purpose of the additional training activities is to enable brokers and agency executive officers to develop, maintain, update, improve and broaden professional skills associated with their activities.

49. The additional training activities to be taken by all or some of the brokers or agency executive officers must deal with the following subject-matters in particular:

(1) general or special legal rules that apply to brokerage transactions described in section 1 of the Real Estate Brokerage Act;

(2) any legislative or regulatory reform that may affect the activities of brokers and agencies;

(3) the content, use and drafting of contracts and forms relating to brokerage transactions described in section 1 of the Real Estate Brokerage Act;

(4) any material, physical or environmental consideration that may affect the object of a brokerage transaction described in section 1 of the Real Estate Brokerage Act;

(5) ethics and professional conduct of brokers and agency executive officers;

(6) management of the professional activities of brokers and agency executive officers;

(7) assessment of the value of an immovable or enterprise;

(8) assessment of the quality and construction features of an immovable;

(9) financial implications of transactions described in section 1 of the Real Estate Brokerage Act; and

(10) financing of transactions described in section 1 of the Real Estate Brokerage Act.

50. For every training activity to which this Chapter applies, the Organization must

(1) approve the content;

(2) set the duration of the activity and time within which it must be taken; and

(3) specify the training personnel, bodies or educational institutions qualified to offer it.

51. This Regulation comes into force on 1 May 2010.

SCHEDULE A (s. 25)

“OATH OF DISCRETION

I, A.B., swear under oath that I will not, without being so authorized by law, disclose or make known anything whatsoever of which I may take cognizance in the performance of my duties.”

9757

Gouvernement du Québec

O.C. 296-2010, 31 March 2010

Real Estate Brokerage Act
(2008, c. 9)

Records, books and registers, trust accounting and inspection of brokers and agencies

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

WHEREAS section 10 of the Real Estate Brokerage Act (2008, c. 9) provides that the Organisme d'autoréglementation du courtage immobilier du Québec (the Organization) must, by regulation, prescribe terms and conditions for depositing in a trust account all money received by a broker in the course of the broker's functions that does not belong to the broker, and terms and conditions for paying into the financing fund established by the Organization the non refundable interest earned on unclaimed money held in trust;

WHEREAS paragraph 9 of section 46 of the Act, amended by paragraph 2 of section 145 of chapter 58 of the Statutes of 2009, provides that, in addition to its regulatory powers under the Act, the Organization may determine, by regulation, the nature, form and tenor of the records, books and registers that must be kept by brokers and agencies, as well as rules for the preservation, use and destruction of records, books and registers;