

Gouvernement du Québec

O.C. 176-2023, 22 February 2023

Real Estate Brokerage Act
(chapter C-73.2)

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

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

WHEREAS, under the first paragraph of section 10 of the Real Estate Brokerage Act (chapter C-73.2), all money received by a broker's licence holder in the course of his or her functions that does not belong to him or her must be deposited in a trust account as specified in the regulations of the Organisme d'autoréglementation du courtage immobilier du Québec;

WHEREAS, under the second paragraph of section 10 of the Act, the interest earned on money held in trust that is not claimed by the person who is entitled to the interest must be paid to the Organisme d'autoréglementation du courtage immobilier du Québec, as specified in the Organization's regulations;

WHEREAS, under paragraph 9 of section 46 of the Act, the Organisme d'autoréglementation du courtage immobilier du Québec may determine, by regulation, the nature, form and tenor of the records, books and registers that must be kept by licence holders, as well as rules for the preservation, use and destruction of records, books and registers;

WHEREAS, under paragraph 10 of section 46 of the Act, the Organisme d'autoréglementation du courtage immobilier du Québec may determine, by regulation, rules for opening and maintaining a trust account, as well as the terms and conditions governing deposits and withdrawals;

WHEREAS, under section 49 of the Act, the Organisme d'autoréglementation du courtage immobilier du Québec may, for the purposes of any regulation, establish special or supplementary rules for licence holders;

WHEREAS, under section 130 of the Act, all regulations of the Organisme d'autoréglementation du courtage immobilier du Québec, except internal by-laws, must be submitted to the Government for approval with or without amendments;

WHEREAS the Organisme d'autoréglementation du courtage immobilier du Québec adopted the Regulation to amend the Regulation respecting records, books and registers, trust accounting and inspection of brokers and agencies on 26 May 2022;

WHEREAS, in accordance with sections 10 and 11 of the Regulations Act (chapter R-18.1), a draft Regulation to amend the Regulation respecting records, books and registers, trust accounting and inspection of brokers and agencies was published in Part 2 of the *Gazette officielle du Québec* of 17 August 2022 with a notice that it could be approved by the Government on the expiry of 45 days following that publication;

WHEREAS it is expedient to approve the Regulation without amendment;

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

THAT the Regulation to amend the Regulation respecting records, books and registers, trust accounting and inspection of brokers and agencies, attached to this Order in Council, be approved.

YVES OUELLET
Clerk of the Conseil exécutif

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

Real Estate Brokerage Act
(chapter C-73.2, ss. 10, 46, pars. 9 and 10, and s. 49)

1. The Regulation respecting records, books and registers, trust accounting and inspection of brokers and agencies (chapter C-73.2, r. 4) is amended by inserting the following chapter before Chapter 1:

“CHAPTER 0.1 INTERPRETATION

0.1. In this Regulation, unless the context indicates otherwise, “broker” and “agency” mean respectively a broker's licence holder and an agency licence holder, and “licence holder” means a broker's licence holder and an agency licence holder.”

2. Section 2 is amended

(1) by inserting “real estate” before “brokerage contract” in paragraph 1;

(2) by replacing paragraph 3 by the following:

“(3) if applicable, an accounting registers on the amounts held in trust by the broker or the agency;”

3. Section 3 is amended

(1) by inserting “real estate” before “brokerage contracts” and “brokerage contract” in the part before paragraph 1;

(2) by striking out paragraph 2;

(3) by replacing “the contract was awarded to the” in paragraph 3 by “the contract was entered into with the”.

4. Section 9 is amended by replacing “section 1” by “section 3.1”.

5. Sections 10, 11 and 12 are amended by replacing “brokerage contract” wherever it appears by “real estate brokerage contract”.

6. Section 24 is amended

(1) by replacing “A broker” in the first paragraph by “A licence holder”;

(2) in the fourth paragraph

(a) by replacing “broker” in the part before subparagraph 1 of the fourth paragraph by “licence holder”;

(b) by replacing “section 1” in subparagraph 2 of the fourth paragraph by “section 3.1”;

(c) by inserting the following after subparagraph 2 of the fourth paragraph:

“(3) receives no deposit, advance on remuneration or costs from clients or any other sum for others.”;

(3) by adding the following paragraph at the end:

“If a licence holder is no longer in the situation described in subparagraph 3 of the fourth paragraph, he or she must notify the Organization in writing without delay and comply with the obligations related to trust accounts provided for in this Chapter.”.

7. Section 28 is amended by replacing “into the Financing fund of the Organization” at the end of the third paragraph by “under section 44”.

8. Section 29 is amended by replacing “into the Financing fund of the Organization” and “to the Financing fund of the Organization” in subparagraphs 7 and 8 of the second paragraph by “to the Organization”.

9. The title of Chapter III is replaced by the following:

“INTEREST EARNED ON MONEY HELD IN TRUST”.

10. Sections 42 and 43 are repealed.

11. Section 44 is amended by replacing “to the financing fund, and any other agreement useful for the purposes of this Chapter” at the end by “to the Organization”.

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

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Real Estate Brokerage Act
(chapter C-73.2)

**Disciplinary proceedings of the Organisme d'autoréglementation du courtage immobilier du Québec
—Amendment**

Regulation to amend the Regulation respecting disciplinary proceedings of the Organisme d'autoréglementation du courtage immobilier du Québec

WHEREAS, under section 82 of the Real Estate Brokerage Act (chapter C-73.2), the Organisme d'autoréglementation du courtage immobilier du Québec appoints a syndic and, if necessary, one or more assistant syndics, and the rules for appointing the syndic and assistant syndics and any replacements are set out in the Organization's regulations;

WHEREAS, under the first paragraph of section 95 of the Act, the discipline committee's operating rules including those applicable to the filing and hearing of complaints and those applicable to its decision-making process, such as the imposition of provisional measures are set out in the regulations of the Organisme d'autoréglementation du courtage immobilier du Québec;

WHEREAS, under section 130 of the Act, all regulations of the Organisme d'autoréglementation du courtage immobilier du Québec, except internal by-laws, must be submitted to the Government for approval with or without amendments;

WHEREAS the Organisme d'autoréglementation du courtage immobilier du Québec adopted the Regulation to amend the Regulation respecting disciplinary proceedings of the Organisme d'autoréglementation du courtage immobilier du Québec on 26 May 2022;

WHEREAS, in accordance with sections 10 and 11 of the Regulations Act (chapter R-18.1), a draft Regulation to amend the Regulation respecting disciplinary proceedings of the Organisme d'autoréglementation du courtage immobilier du Québec was published in Part 2 of