



Real Estate Services Act
REAL ESTATE SERVICES REGULATION
B.C. Reg. 506/2004

Deposited November 19, 2004 and effective January 1, 2005
Last amended April 1, 2021 by B.C. Reg. 103/2021

Consolidated Regulations of British Columbia

This is an unofficial consolidation.

B.C. Reg. 506/2004 (O.C. 1109/2004), deposited November 19, 2004 and effective January 1, 2005, is made under the *Real Estate Services Act*, S.B.C. 2004, c. 42, s. 130.

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This consolidation includes any amendments deposited and in force as of the currency date at the bottom of each page. See the end of this regulation for any amendments deposited but not in force as of the currency date. Any amendments deposited after the currency date are listed in the B.C. Regulations Bulletins. All amendments to this regulation are listed in the *Index of B.C. Regulations*. Regulations Bulletins and the Index are available online at www.bclaws.ca.

See the User Guide for more information about the *Consolidated Regulations of British Columbia*. The User Guide and the *Consolidated Regulations of British Columbia* are available online at www.bclaws.ca.

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Real Estate Services Act

REAL ESTATE SERVICES REGULATION

B.C. Reg. 506/2004

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Point in time from April 1 to July 31, 2021

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PART 1 – INTRODUCTORY PROVISIONS

Definitions

1.1 In this regulation:

“**Act**” means the *Real Estate Services Act*;

“**address for delivery**” means an address for delivery provided by a licensee to the real estate council in accordance with the rules.

PART 2 – LICENSING

Division 1 – Exemptions in Relation to Real Estate Services Generally

Exemption for employees of principal

- 2.1** (1) An individual is exempt from the requirement to be licensed under Part 2 of the Act in respect of real estate services if all the following apply:
- (a) the real estate services are provided to or on behalf of a principal in relation to those services;
 - (b) the individual is the employee of the principal referred to in paragraph (a);
 - (c) the individual is not providing real estate services to or on behalf of any person other than the principal referred to in paragraph (a).
- (2) Subsection (1) does not apply in respect of the provision of trading services if
- (a) the trading services are provided with respect to a development unit, as defined in the *Real Estate Development Marketing Act*, and
 - (b) the principal to or on behalf of whom the services are provided is a developer, as defined in the *Real Estate Development Marketing Act*, of that development unit.

Exemption for collection agents

- 2.2** A person who is a collection agent licensed under the *Business Practices and Consumer Protection Act* is exempt from the requirement to be licensed under Part 2 of the Act in relation to real estate services provided in the course of the person’s business as a collection agent within the meaning of the *Business Practices and Consumer Protection Act*.

Exemption respecting mining

- 2.3** A person providing real estate services in respect of any of the following is exempt from the requirement to be licensed under Part 2 of the Act in relation to the provision of those services:

- (a) a mine, as that term is defined in the *Mines Act*, to which the *Coal Act* or the *Mineral Tenure Act* applies;
- (b) a well to which the *Geothermal Resources Act* applies;
- (c) a claim, grant, lease or licence under the *Mineral Tenure Act*;
- (d) a licence, lease or permit under the *Coal Act*, the *Petroleum and Natural Gas Act*, the *Oil and Gas Activities Act* or the *Geothermal Resources Act*.

[am. B.C. Reg. 269/2010, Sch. s. 23.]

Exemptions for government and government corporations

- 2.4** (1) The government is exempt from the requirement to be licensed under Part 2 of the Act.
- (2) A government corporation, within the meaning of the *Financial Administration Act*, is exempt from the requirement to be licensed under Part 2 of the Act in relation to real estate services provided to or on behalf of the government or another government corporation.

Division 2 – Exemptions in Relation to Trading Services

Exemption for employees of developers

- 2.5** (1) An individual is exempt from the requirement to be licensed under Part 2 of the Act in respect of trading services if all the following apply:
- (a) the trading services are provided with respect to a development unit, as defined in the *Real Estate Development Marketing Act*;
 - (b) the trading services are provided to or on behalf of one or more developers, as defined in the *Real Estate Development Marketing Act*, of that development unit;
 - (c) the individual is the employee of
 - (i) one or more of the developers referred to in paragraph (b), or
 - (ii) a holding corporation of one or more of those developers;
 - (d) the individual is not providing real estate services to or on behalf of any person other than
 - (i) one or more of the developers referred to in paragraph (b),
 - (ii) a holding corporation of one or more of those developers, or
 - (iii) another developer, as defined in the *Real Estate Development Marketing Act*, that is a subsidiary of a holding corporation referred to in subparagraph (ii);
 - (e) the individual discloses to each principal, other than one referred to in paragraph (d),
 - (i) that the individual is not licensed under the *Real Estate Services Act*,
 - (ii) who the individual is employed by, and

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Part 2 – Licensing

- (iii) that the individual is acting on behalf of one or more developers referred to in paragraph (b), or a holding corporation of one or more of those developers, and not on behalf of the principal.
- (2) The disclosure referred to in subsection (1) (e) must
 - (a) be made promptly but in any case before any agreement for the acquisition or disposition of the real estate is entered into, and
 - (b) be in writing and separate from
 - (i) any agreement for the acquisition or disposition of the real estate, and
 - (ii) any disclosure statement required under the *Real Estate Development Marketing Act*.
- (3) The following apply for the purposes of this section:
 - (a) a corporation is a subsidiary of another corporation if it is controlled by that other corporation;
 - (b) a corporation is controlled by another corporation if shares held by that other corporation are sufficient to elect or appoint a majority of the directors of the first corporation;
 - (c) a corporation is the holding corporation of a corporation that is its subsidiary.

Exemption for notaries**2.6** A person who is

- (a) enrolled as a member of the Society of Notaries Public of British Columbia, and
- (b) in good standing as such a member

is exempt from the requirement to be licensed under Part 2 of the Act in respect of trading services referred to in paragraphs (f) and (h) of the definition of “trading services” in section 1 of the Act if the trading services are provided in the course of and as part of the provision of services permitted under section 18 of the *Notaries Act*.

Exemption for accountants in relation to purchase and sale of business**2.7** A person who is authorized to practice public accounting under the *Chartered Professional Accountants Act* is exempt from the requirement to be licensed under Part 2 of the Act in respect of trading services if all the following apply:

- (a) the trading services relate to the purchase or sale of a business;
- (b) the purchase and sale arises in the course of the practice of public accounting;
- (c) the trading services are provided in the course of and as part of the practice of public accounting.

[am. B.C. Reg. 185/2015, s. 5.]

Exemption for appraisers and property inspectors

- 2.8** A person who is providing trading services only by
- (a) providing an appraisal of value of real estate and consulting services relating to the value of real estate, or
 - (b) inspecting and reporting on the condition of real estate
- is exempt from the requirement to be licensed under Part 2 of the Act if those services are provided in the course of the person's business as an appraiser or real estate inspector.

Exemption for auctioneers

- 2.9** An auctioneer is exempt from the requirement to be licensed under Part 2 of the Act in relation to the provision of trading services respecting the auction of real estate if all the following apply:
- (a) the auctioneer does not show the real estate;
 - (b) the auctioneer does not
 - (i) engage in discussion with a party to a trade in real estate, or
 - (ii) provide information to a party to a trade in real estate,respecting the real estate or any aspect concerning its disposition, other than to explain the procedures for the conduct of the auction;
 - (c) all advertising of the auction specifies, as applicable,
 - (i) if no licensee acts on the seller's behalf in the matter,
 - (A) the name of the seller of the real estate, and
 - (B) the means by which the seller may be contacted for information about the real estate, or
 - (ii) if a licensee acts on the seller's behalf in the matter,
 - (A) the name of the licensee, and
 - (B) the means by which the licensee may be contacted for information about the real estate;
 - (d) no deposit or other money payable by the person buying or otherwise acquiring the real estate in respect of that acquisition is paid to the auctioneer.

Exemption for persons providing information only

- 2.10** (1) A person who is providing trading services only by providing information is exempt from the requirement to be licensed under Part 2 of the Act.
- (2) Without limiting subsection (1), that subsection applies to
- (a) the provision of material and other information of a general nature that is produced to assist owners to sell or otherwise dispose of their own real estate by themselves, and

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- (b) the publication of information contained in an advertisement of specific real estate.

Exemption for persons providing referral services

2.11 A person who is providing trading services only by referring a party to a trade in real estate to a licensee, or by referring a licensee to a party, for the purpose of the licensee providing trading services, is exempt from the requirement to be licensed under Part 2 of the Act in relation to the person's provision of those referral services if

- (a) the person does not engage, for the purpose of making a referral, in activities to solicit the names of persons who may be interested in acquiring or disposing of real estate, and
- (b) the practice of making referrals and receiving referral fees is incidental to the main business of the person.

Exemption for agents of expropriating authorities

2.12 (1) In this section, “**expropriating authority**” means

- (a) an expropriating authority as defined in the *Expropriation Act*, or
- (b) the Crown as defined in the *Expropriation Act* (Canada).

(2) A person who is providing trading services to or on behalf of an expropriating authority, in relation to the expropriating authority's acquisition of real estate it is authorized to expropriate, is exempt from the requirement to be licensed under Part 2 of the Act in respect of those services if all the following apply:

- (a) the person receives only remuneration that consists of a fixed fee, per diem rate or hourly rate;
- (b) the person does not receive or hold deposits or other money payable in respect of the acquisition of real estate;
- (c) the person discloses to each party, other than the expropriating authority,
 - (i) that the person is not licensed under the *Real Estate Services Act*,
 - (ii) that the person is acting for or on behalf of the expropriating authority and not for or on behalf of any other party, and
 - (iii) if applicable, the identity of the person's employer.

Division 3 – Exemptions in Relation to Rental Property Management Services**Exemption for caretakers providing services to different owners**

2.13 (1) This section applies to an individual who

- (a) is employed as a caretaker or manager by the owners of different residential real estate properties, and
- (b) is employed by those owners to provide rental property management services in relation to those properties.

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- (2) Subject to subsection (3), the individual is exempt from the requirement to be licensed under Part 2 of the Act in respect of the rental property management services referred to in subsection (1) if all the following apply:
- (a) the individual is an employee of each of the owners;
 - (b) the owners have agreed among themselves that the individual may provide the rental property management services;
 - (c) the individual is not providing rental property management services to or on behalf of any person other than the owners.
- (3) On receipt of money collected in relation to any of the rental real estate properties, including all money collected as rent, security deposits or pet damage deposits, the exempt caretaker or manager must promptly deliver the money to the owner of the rental real estate property in relation to which it was paid.

Exemption for caretakers employed by brokerages

- 2.14** (1) Subject to subsection (2), an individual who is employed as a caretaker or manager of rental real estate by a brokerage that is licensed to provide rental property management services is exempt from the requirement to be licensed under Part 2 of the Act in respect of any of the following activities in relation to those real estate services:
- (a) if the caretaker or manager complies with subsection (2), collecting money in relation to the rental real estate, including money collected as rent, security deposits or pet damage deposits;
 - (b) showing the rental real estate to prospective tenants;
 - (c) receiving and presenting applications in respect of the rental of the rental real estate from prospective tenants;
 - (d) supervising employees or contractors hired or engaged by the brokerage;
 - (e) communicating between landlords and tenants respecting landlord and tenant matters.
- (2) On receipt of money referred to in subsection (1) (a), the exempt caretaker or manager must promptly deliver the money to the brokerage.
- (3) Subsection (1) does not apply to a caretaker or manager who negotiates or enters into contracts on behalf of the brokerage or the owner of the rental real estate.

Exemption for BCHMC housing

- 2.15** (1) In this section:
- “**British Columbia Housing Management Commission**” means the British Columbia Housing Management Commission continued under the *Ministry of Lands, Parks and Housing Act*;
- “**non-profit organization**” means an organization constituted exclusively for charitable or benevolent purposes with no part of its income being payable to or

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otherwise available for the personal benefit of any of its members or shareholders.

- (2) An individual is exempt from the requirement to be licensed under Part 2 of the Act in respect of rental property management services if the individual is providing the services in relation to rental real estate that is
- (a) administered by the British Columbia Housing Management Commission, and
 - (b) rented to tenants based on the tenant's income.
- (3) A non-profit organization is exempt from the requirement to be licensed under Part 2 of the Act in respect of rental property management services if the non-profit organization
- (a) has entered into an agreement with the British Columbia Housing Management Commission, and
 - (b) is providing the rental property management services in relation to rental real estate referred to in subsection (2).

Exemption in relation to assignment of rents

- 2.16** A savings institution, or a mortgage broker registered under the *Mortgage Brokers Act*, is exempt from the requirement to be licensed under Part 2 of the Act in respect of rental property management services if the savings institution or mortgage broker is acting on behalf of a person who has granted an assignment of rents to the savings institution or mortgage broker.

Division 4 – Exemptions in Relation to Strata Management Services**Exemption for strata lot owners**

- 2.17** (1) Subject to subsection (2), an individual is exempt from the requirement to be licensed under Part 2 of the Act in respect of strata management services if the individual
- (a) is the owner, as defined in the *Strata Property Act*, of a strata lot,
 - (b) provides the strata management services to or on behalf of the strata corporation of which the person is a member by reason of being the owner of the strata lot, and
 - (c) provides strata management services under the exemption provided by this section to no more than 2 strata corporations.
- (2) On receipt of any strata fees, contributions, levies or other amounts levied by, or due to, the strata corporation under the *Strata Property Act*, the exempt individual must promptly deliver the money to the strata corporation.

Exemption for strata caretakers employed by strata corporation or brokerage

- 2.18** (1) Subject to subsection (2), an individual who is employed as a caretaker or manager by a strata corporation, or by a brokerage that provides strata management services to or on behalf of a strata corporation, is exempt from the requirement to be licensed under Part 2 of the Act in respect of collecting strata fees, contributions, levies or other amounts levied by, or due to, the strata corporation under the *Strata Property Act*.
- (2) On receipt of money referred to in subsection (1), the exempt caretaker or manager must promptly deliver the money to the strata corporation or brokerage, as applicable.

Exemption for owner developers

- 2.19** In relation to a strata corporation, the owner developer, as defined in the *Strata Property Act*, is exempt from the requirement to be licensed under Part 2 of the Act in respect of strata management services provided to or on behalf of the strata corporation, but only until control of the strata corporation's money is required to be transferred under section 22 of the *Strata Property Act*.

Division 5 – Licence Fees for Superintendent**Licence fees to be collected by real estate council**

- 2.20** (1) In addition to any licence fees established by the real estate council, the applicant for, or holder of, a licence must pay to the superintendent a licence fee in the amount of \$150 for every
- (a) new licence,
 - (b) licence renewal,
 - (c) licence amendment, other than a change of name or address, or
 - (d) licence reinstatement
 - (i) under section 22 (2) [*reinstatement after person ceases to be engaged by brokerage*] of the Act,
 - (ii) under section 116 (5) [*reinstatement after person provides required security*] of the Act,
 - (ii.1) under section 10.7 (3) [*reinstatement after failure to maintain corporate attributes*] of these regulations, or
 - (iii) following voluntary surrender of the licence to the real estate council.
- (2) The real estate council must collect the amounts owing to the superintendent under subsection (1) and remit the amounts collected to the superintendent.
- (3) In respect of fees imposed under this section, the real estate council must
- (a) on the request of the minister, the Auditor General or the superintendent, make all records available for audit or inspection, and

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- (b) submit to the superintendent within 10 business days after the end of each month a fee collection report in a form approved by the superintendent.

[am. B.C. Regs. 544/2004; 17/2008, s. 1; 3/2017.]

PART 3 – TRUST ACCOUNTS AND OTHER FINANCIAL MATTERS**Interest on trust account**

- 3.1** For the purposes of section 29 (1) (b) [*interest on trust account*] of the Act, a brokerage that is credited by a savings institution with interest on money held in a brokerage trust account must

- (a) instruct the savings institution to pay the interest to the foundation, using the authorization form established by the foundation, and
- (b) send a completed copy of the authorization form to the foundation.

Unclaimed money held in trust

- 3.2** For the purposes of section 32 (1) (b) [*action if unclaimed for one year after prescribed time*] of the Act, the prescribed time is as follows:

- (a) if a communication or cheque sent to the person entitled to claim the money is returned undelivered to the brokerage, the date on which the returned communication or cheque is received by the brokerage;
- (b) if an action required to be taken by the person entitled to claim the money by a specified date, as indicated in a communication by the brokerage to the person, is not taken by that date, the specified date indicated in the communication;
- (c) if a cheque has been sent by the brokerage to the person entitled to claim the money, and a period of 3 years has passed since the date the cheque was sent and the cheque has not been cashed, the date of the day after the end of the 3 year period.

**PART 4 – DISCIPLINE PROCEEDINGS AND
OTHER REGULATORY ENFORCEMENT****Division 1 – Discipline Proceedings****Deemed delivery**

- 4.1** A notice of discipline hearing delivered to a licensee at the licensee's mailing address for delivery is deemed to have been received by the licensee 7 days after the date it was mailed.

Enforcement expenses recoverable by the real estate council

- 4.2** The maximum amounts that a discipline committee may order a licensee or former licensee to pay under section 43 (2) (h) of the Act are as follows:

REAL ESTATE SERVICES REGULATIONPart 4 – Discipline Proceedings and Other Regulatory Enforcement

- (a) for investigation expenses, \$100 per hour for each investigator;
- (b) in addition to amounts under paragraph (a), for an audit carried out during an investigation leading to a hearing,
 - (i) \$150 per hour for an auditor regularly employed by the real estate council, and
 - (ii) in any other case, \$400 per hour;
- (c) for reasonably necessary legal services,
 - (i) \$150 per hour for a lawyer regularly employed by the real estate council, and
 - (ii) in any other case, \$400 per hour;
- (d) for disbursements properly incurred in connection with the provision of legal services to the real estate council or the discipline committee, the actual amount of the disbursements;
- (e) for each full or partial day of hearing, administrative expenses of
 - (i) \$1 000 for a hearing before a discipline committee of one member,
 - (ii) \$1 500 for a hearing before a discipline committee of 3 members, and
 - (iii) \$2 000 for a hearing before a discipline committee of 4 or more members;
- (f) for each day or partial day that a witness, other than an expert witness, attends a hearing at the request of the real estate council or a discipline committee, \$50;
- (g) for an expert witness who attends a hearing at the request of the real estate council or a discipline committee, \$400 per hour;
- (h) the reasonable travel and living expenses for a witness or expert witness who attends a hearing at the request of the real estate council or a discipline committee;
- (i) for other expenses, reasonably incurred, arising out of a hearing or an investigation leading up to a hearing, the actual amount incurred.

Publication of discipline committee orders**4.3** Orders required to be published under section 47 of the Act

- (a) must be published by placing a copy of the order on the real estate council's web site, and
- (b) in addition, may be published by any other method the real estate council considers appropriate.

REAL ESTATE SERVICES REGULATIONPart 4 – Discipline Proceedings and Other Regulatory Enforcement

Division 2 – Authority of the Superintendent**Enforcement expenses recoverable by the superintendent**

4.4 The maximum amounts that the superintendent may order a licensee, former licensee or unlicensed person to pay under section 49 (2) (c) or section 50 (2) (e) of the Act are as follows:

- (a) for investigation expenses, \$100 per hour for each investigator;
- (b) in addition to amounts under paragraph (a), for an audit carried out during an investigation leading to a hearing,
 - (i) \$150 per hour for an auditor regularly employed by the government, and
 - (ii) in any other case, \$400 per hour;
- (c) for reasonably necessary legal services,
 - (i) \$150 per hour for a lawyer regularly employed by the government, and
 - (ii) in any other case, \$400 per hour;
- (d) for disbursements properly incurred in connection with the provision of legal services to the superintendent, the actual amount of the disbursements;
- (e) for each full or partial day of hearing, administrative expenses of \$2 000;
- (f) for each day or partial day that a witness, other than an expert witness, attends a hearing at the request of the superintendent, \$50;
- (g) for an expert witness who attends a hearing at the request of the superintendent, \$400 per hour;
- (h) the reasonable travel and living expenses for a witness or expert witness who attends a hearing at the request of the superintendent;
- (i) for other expenses, reasonably incurred, arising out of a hearing or an investigation leading up to a hearing, the actual amount incurred.

Publication of superintendent's orders

4.5 Orders of the superintendent required to be published under section 53 of the Act

- (a) must be published by placing a copy of the order on the superintendent's web site, and
- (b) in addition, may be published by any other method the superintendent considers appropriate.

Copying fees payable to superintendent

4.6 A person who requests a copy of an order of the superintendent under section 53 of the Act must pay to the superintendent, at the time of making the request, a fee of \$0.50 per copied page.

Division 3

4.7 and 4.8 Repealed. [B.C. Reg. 217/2016, App. s. 1.]

PART 5 – PAYMENTS FROM SPECIAL COMPENSATION FUND

Maximum payment to any one claimant

5.1 For the purposes of section 69 of the Act, the maximum amount that may be paid to a single claimant is \$200 000.

[am. B.C. Reg. 103/2021, s. 1.]

Limit on payments out of fund

5.2 For the purposes of section 70 (1) of the Act, the maximum total amount that may be paid in respect of claims related to a single brokerage is \$1 000 000.

[am. B.C. Regs. 87/2009, s. 2; 103/2021, s. 2.]

Maximum payment to complete trade or prevent loss

5.3 For the purposes of section 72.2 (2) of the Act, the maximum amount that may be paid in respect of a single trade in real estate is \$100 000.

[en. B.C. Reg. 130/2007, s. 2; am. B.C. Reg. 103/2021, s. 3.]

PART 6 – REAL ESTATE COUNCIL

6.1 Repealed. [B.C. Reg. 217/2016, App. s. 2.]

Disposal of real estate council records

6.2 The real estate council must not dispose of records required to be kept under section 88 (1) of the Act before the end of 7 years after the record is, as applicable,

- (a) received by the real estate council, or
- (b) created by or for the real estate council.

6.3 Repealed. [B.C. Reg. 217/2016, App. s. 2.]

Quorum for council meetings

6.4 The quorum for a meeting of the council is a majority of the number of members on the council.

[en. B.C. Reg. 249/2016, s. 1.]

Bylaw amendment procedures

6.5 In order to make a bylaw, the council must do this by a vote of not less than 3/4 of the number of members on the council.

[en. B.C. Reg. 249/2016, s. 1.]

REAL ESTATE SERVICES REGULATIONPart 6.1 – Rule-making by Superintendent

PART 6.1 – RULE-MAKING BY SUPERINTENDENT**Procedures relating to rules**

- 6.1.1** (1) This section applies to rules of the superintendent under section 89.2 [*superintendent rules*] of the Act.
- (2) At least 30 days before making a rule, the superintendent must
- (a) notify licensees of the proposed rule in accordance with subsection (6),
 - (b) provide licensees with an opportunity to comment on the proposed rule, and
 - (c) send to the minister and the real estate council a copy of the information referred to in subsection (6).
- (3) After the minimum period established by subsection (2) has passed, the superintendent may
- (a) make the rule as proposed,
 - (b) make the rule with editing changes that do not substantively alter the effect of the rule, or
 - (c) withdraw the proposed rule.
- (4) For the purposes of subsection (3) (b), a change in the proposed effective date of the rule does not substantively alter the effect of the rule if the new effective date is a later date than that originally proposed.
- (5) As soon as practicable after making the rule, the superintendent must
- (a) notify licensees, in accordance with subsection (6), and
 - (b) send to the minister and the real estate council a copy of the information referred to in that subsection.
- (6) A notification to licensees under subsection (2) or (5) must provide
- (a) the wording of the proposed rule, or the adopted rule, as applicable, and
 - (b) an explanation of its purpose and intended effect.
- (7) A notification to licensees required under this section may be given by publication on the superintendent's web site.

[en. B.C. Reg. 217/2016, App. s. 3.]

PART 7 – FOUNDATION, INSURANCE AND COMPENSATION CORPORATIONS**Division 1 – Real Estate Foundation****Appointments to board of governors of foundation**

- 7.01** (1) The Union of British Columbia Municipalities may appoint one individual as a member of the board of governors of the foundation under section 91 (1) (d.1) of the Act.

- (2) The minister may appoint one individual as a member of the board of governors of the foundation under section 91 (1) (d.1) of the Act.
- (3) For certainty, the minister's authority to make an appointment under subsection (2) of this section is in addition to the minister's authority to make an appointment under section 91 (1) (d) of the Act.

[en. B.C. Reg. 105/2015, s. (b); am. B.C. Reg. 64/2021, s. 3.]

Foundation's annual net revenue

7.1 For the purposes of section 93 (2) of the Act, the foundation's annual net revenue means, in any fiscal year of the foundation,

- (a) the money, interest and income, referred to in section 94 (2) of the Act, that has been received by the foundation in that fiscal year

less

- (b) the total of
 - (i) the amounts that have been expended, or have been expressly allocated by the foundation, for specific projects or purposes, and
 - (ii) the amounts that have been expended, or have been expressly allocated by the foundation, for that fiscal year for purposes referred to in section 93 (1) (b) of the Act.

Division 2 – Real Estate Compensation Fund Corporation

Minimum capital requirement for special compensation fund

7.2 For the purposes of section 116 (1) of the Act, the minimum amount of capital is \$1.5 million.

PART 8 – GENERAL PROVISIONS

Superintendent's access to annual financial reports for brokerages

- 8.1** The council must
- (a) keep a copy of the annual financial reports filed under the rules for at least 7 years from the date of filing, and
 - (b) permit the superintendent to access any of those reports during normal business hours.

Assignment of contracts for the purchase and sale of real estate

- 8.2**
- (1) In this section, “**contract**” means a proposed contract for the purchase and sale of real estate.
 - (2) This section does not apply in relation to a contract for the sale of a development unit by a developer, as those terms are defined in section 1 of the *Real Estate Development Marketing Act*.

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- (3) Unless otherwise instructed in writing by the party to whom or on whose behalf the licensee is providing trading services, a licensee must include the following terms in a contract the licensee prepares for consideration by that party before the contract is presented to another party:
- (a) this contract must not be assigned without the written consent of the seller;
 - (b) the seller is entitled to any profit resulting from an assignment of the contract by the buyer or any subsequent assignee.
- (4) A licensee who is providing trading services to or on behalf of a buyer must provide a notice in accordance with subsection (6) if the licensee is aware that a contract to be presented to the seller for consideration does not contain a term referred to in subsection (3) (a) or (b).
- (5) A licensee who intends to acquire, directly or indirectly, real estate must provide a notice in accordance with subsection (6) if a contract to be presented to the seller for consideration does not contain a term referred to in subsection (3) (a) or (b).
- (6) A notice under subsection (4) or (5) must
- (a) be provided at the same time the contract is presented to
 - (i) the licensee who is providing trading services to or on behalf of the seller, or
 - (ii) if no licensee is providing trading services to or on behalf of the seller, the seller,
 - (b) advise the seller to obtain independent professional advice before signing a contract that does not contain a term referred to in subsection (3) (a) or (b),
 - (c) be in a form approved by the real estate council, and
 - (d) be separate from the contract.
- (7) If a contract presented to a seller for consideration does not contain a term referred to in subsection (3) (a) or (b), a licensee who is providing trading services to or on behalf of the seller must
- (a) provide to the seller the notice referred to in subsection (6) and inform the seller that the contract does not contain the term, and
 - (b) inform the seller
 - (i) whether the contract may be assigned, and
 - (ii) if the contract may be assigned,
 - (A) about any conditions in the contract on the right of assignment of the contract, and
 - (B) about the seller's entitlement under the contract to any profit resulting from an assignment of the contract, if applicable.

[en. B.C. Reg. 110/2016, s. 2.]

PART 9**Division 1**

9.1 and 9.2 Repealed. [B.C. Reg. 217/2016, App. s. 4.]

Division 2

9.3 Repealed. [B.C. Reg. 217/2016, App. s. 4.]

Division 3

9.4 Repealed. [B.C. Reg. 217/2016, App. s. 4.]

PART 10 – PERSONAL REAL ESTATE CORPORATIONS**Definitions**

10.1 In this Part:

“affiliated person”, in relation to a controlling individual, means

- (a) the spouse of the controlling individual,
- (b) a child of the controlling individual,
- (c) a corporation, all of the shares of which are beneficially owned by one or more of the controlling individual and the other individuals referred to in paragraphs (a) and (b), or
- (d) a trust, all of the beneficiaries of which are one or more of the controlling individual and the other individuals referred to in paragraphs (a) and (b);

“client” means, in relation to a licensee, the principal who has engaged the licensee to provide real estate services to or on behalf of the principal;

“controlling individual”, in relation to a personal real estate corporation, means the individual who is the sole voting shareholder of the personal real estate corporation;

“engaged”, in relation to a personal real estate corporation, means

- (a) employed by the personal real estate corporation, or
- (b) acting in an independent contractor relationship with the personal real estate corporation;

“licensee name” means the licensee name of a licensee as established under the rules;

“personal real estate corporation” means a corporation that is licensed in accordance with this Part;

“personal real estate corporation licence” means a licence issued to a corporation in accordance with this Part;

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“spouse”, in relation to a controlling individual, means a person who

- (a) is married to the controlling individual, or
- (b) is living with the controlling individual in a marriage-like relationship.

[en. B.C. Reg. 17/2008, s. 2; am. B.C. Regs. 87/2009, s. 3; 381/2012.]

Personal real estate corporations

10.2 A corporation that meets the requirements of

- (a) Part 2 of the Act, and
- (b) this Part of the regulations

may be licensed, under Part 2 of the Act and in accordance with this Part, as a managing broker, associate broker or representative.

[en. B.C. Reg. 17/2008, s. 2.]

Corporate qualifications

10.3 A corporation may be licensed as a personal real estate corporation in accordance with this Part if it has all the following attributes:

- (a) it is either
 - (i) a company, within the meaning of the *Business Corporations Act*, or
 - (ii) an extraprovincial company, within the meaning of the *Business Corporations Act*, that has the capacity in its jurisdiction of incorporation to carry on the business of providing real estate services;
- (b) all the voting shares of the corporation are legally and beneficially owned by a single individual (the controlling individual);
- (c) the sole director of the corporation is the controlling individual;
- (d) the president, being the sole officer of the corporation, is the controlling individual;
- (e) each non-voting share, if applicable, is legally and beneficially owned by the controlling individual or an affiliated person of the controlling individual;
- (f) the legal name of the corporation includes both, but nothing other than,
 - (i) the legal name, a recognizable short form of the legal name or the licensee name of the controlling individual, and
 - (ii) the term “personal real estate corporation”.

[en. B.C. Reg. 17/2008, s. 2.]

Licensing of personal real estate corporation and its related controlling individual

10.4 (1) A personal real estate corporation licence may be issued to a corporation that has the attributes described in section 10.3 only if

- (a) the controlling individual meets the experience requirements established by the rules, and

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- (b) at the same time as the corporation's licence is issued,
 - (i) the controlling individual is issued a licence that complies with subsection (4), or
 - (ii) the controlling individual's licence is amended to comply with that subsection.
- (2) A personal real estate corporation licence
 - (a) must be at the same licence level as the licence of the controlling individual,
 - (b) must be for the same category of real estate services as the licence of the controlling individual,
 - (c) must indicate the name of the controlling individual, and
 - (d) in addition to the application of section 7 (4) [*related licensees subject to brokerage conditions and restrictions*] of the Act, is subject to any conditions and restrictions that apply to the licence of the controlling individual.
- (3) A personal real estate corporation
 - (a) may be licensed only in relation to the same brokerage as the controlling individual, and
 - (b) must be engaged by that same brokerage to provide real estate services.
- (4) The licence of the controlling individual must indicate
 - (a) the licensee name of the personal real estate corporation by which the controlling individual is engaged to provide real estate services, and
 - (b) the licensee name of the related brokerage of that corporation.

[en. B.C. Reg. 17/2008, s. 2.]

Application for personal real estate corporation licence

- 10.5** (1) Without limiting section 9 of the Act, an application for a personal real estate corporation licence must be accompanied by
- (a) evidence satisfactory to the real estate council that the applicant corporation meets all the requirements of section 10.3 [*corporate qualifications*],
 - (b) an application
 - (i) for a licence for the controlling individual, or
 - (ii) in the case of a controlling individual who is already licensed, to amend the licence of the controlling individual to comply with section 10.4 (4), and
 - (c) the written consent of the proposed related brokerage to the application.
- (2) Without limiting section 13 of the Act, the real estate council may refuse to issue a personal real estate corporation licence if the real estate council considers that

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it would not, in the circumstances, be in the public interest for real estate services to be provided by the corporation.

[en. B.C. Reg. 17/2008, s. 2.]

Relationship between personal real estate corporation and controlling individual

- 10.6** (1) Despite section 7 (1) (b), (3) and (5) of the Act, a controlling individual may be engaged by a personal real estate corporation to provide real estate services on behalf of a brokerage, and may receive remuneration in relation to those real estate services from the personal real estate corporation, if all the following requirements are met:
- (a) the controlling individual and the personal real estate corporation have each obtained a licence in accordance with Part 2 of the Act and this Part;
 - (b) the controlling individual is engaged by the personal real estate corporation;
 - (c) the real estate services provided by the personal real estate corporation are provided only by the controlling individual;
 - (d) any other persons engaged by the personal real estate corporation are not licensees;
 - (e) the personal real estate corporation does not conduct any business other than the provision of real estate services and ancillary services directly associated with the provision of real estate services;
 - (f) the controlling individual and the personal real estate corporation otherwise comply with the requirements of this Part.
- (2) A controlling individual engaged by a personal real estate corporation in accordance with subsection (1) (b) is deemed, for the purposes of the Act, regulations, rules and bylaws, to be engaged by the related brokerage of the corporation, but must not in fact be engaged by that brokerage, or by any other brokerage, to provide real estate services.
- (3) The fact that a controlling individual is engaged by a personal real estate corporation to provide real estate services on behalf of a brokerage does not affect
- (a) the controlling individual's liability with respect to the provision of real estate services,
 - (b) the controlling individual's obligations and responsibilities to a client, or
 - (c) the application of the provisions of the Act, this regulation, and the rules and bylaws to the controlling individual.

[en. B.C. Reg. 17/2008, s. 2.]

Corporation must maintain attributes

- 10.7** (1) A personal real estate corporation must continue to maintain the attributes described in section 10.3.

- (2) If a personal real estate corporation ceases to have any of the attributes described in section 10.3, the licence of the corporation becomes inoperative.
- (3) On application of a personal real estate corporation whose licence has become inoperative under subsection (2), the real estate council may reinstate the licence if it is satisfied that the corporation meets all of the requirements of section 10.3.
[en. B.C. Reg. 17/2008, s. 2.]

**Licences of corporation and controlling individual
to reflect each other**

10.8 (1) The real estate council

- (a) may amend the licence of a personal real estate corporation to reflect the conditions and restrictions applicable to the licence of the controlling individual, and
- (b) may amend the licence of a controlling individual to reflect the conditions and restrictions applicable to the licence of the personal real estate corporation.

- (2) If the licence of a controlling individual is suspended or cancelled, the licence of the controlling individual's personal real estate corporation is suspended or cancelled as of the time at which the controlling individual's licence is suspended or cancelled.

- (3) If the licence of a personal real estate corporation

- (a) is suspended or cancelled, or
- (b) becomes inoperative under section 22 (1) of the Act or section 10.7 (2) of this regulation,

the licence of the controlling individual is suspended or cancelled, or becomes inoperative, as the case may be, as of the time at which the personal real estate corporation's licence is suspended or cancelled, or becomes inoperative.

- (4) If the real estate council reinstates a personal real estate corporation licence under section 22 (2) of the Act or section 10.7 (3) of this regulation, it must reinstate, with any necessary amendment, the controlling individual's licence that became inoperative under subsection (3) of this section.

[en. B.C. Reg. 17/2008, s. 2.]

Application of discipline and enforcement provisions

10.9 (1) If a personal real estate corporation commits

- (a) professional misconduct, or
- (b) conduct unbecoming a licensee,

the controlling individual is subject to discipline proceedings and other regulatory enforcement under Part 4 of the Act in relation to that conduct as if the controlling individual had committed the conduct.

- (2) If a controlling individual commits

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- (a) professional misconduct, or
- (b) conduct unbecoming a licensee,

the personal real estate corporation is subject to discipline proceedings and other regulatory enforcement under Part 4 of the Act in relation to that conduct as if the personal real estate corporation had committed the conduct.

[en. B.C. Reg. 17/2008, s. 2.]

PART 11 – TRANSITIONAL**Rules repealed**

- 11.1** Section 2-23 [*administrative penalties*] and Part 10 [*transition*] of the rules of the former council, as “former council” is defined in section 137.1 of the Act, are repealed.

[en. B.C. Reg. 217/2016, App. s. 5.]

Bylaws repealed

- 11.2** Part 2 [*election of council members*] and section 3-1 [*election of chair*] of the general bylaws are repealed.

[en. B.C. Reg. 217/2016, App. s. 5.]

Bylaws repealed

- 11.3** Sections 3-3 [*quorum for council meetings*] and 3-5 (2) [*council procedures*] of the general bylaws are repealed.

[en. B.C. Reg. 249/2016, s. 2.]

SCHEDULE

Repealed. [B.C. Reg. 217/2016, App. s. 6.]