

ONTARIO REGULATION 579/05

made under the

REAL ESTATE AND BUSINESS BROKERS ACT, 2002

Made: November 9, 2005

Filed: November 10, 2005

Printed in *The Ontario Gazette*: November 26, 2005

EDUCATIONAL REQUIREMENTS, INSURANCE, RECORDS AND OTHER MATTERS

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EDUCATIONAL REQUIREMENTS FOR REGISTRATION

Initial educational requirements for salespersons

1. (1) If an applicant for registration as a salesperson has not previously been registered as a salesperson, the applicant shall, before making the application, successfully complete all the educational courses that are designated by the registrar for applicants of that type.

(2) Despite subsection (1), if an applicant for registration referred to in that subsection has complied with that subsection but does not make the application within 12 months after the last educational course was successfully completed, the applicant shall, before making the application, repeat and again successfully complete all the educational courses referred to in that subsection.

(3) Subsection (2) applies, with necessary modifications, to an applicant for registration referred to in subsection (1) who, in accordance with subsection (2), repeats and again successfully completes all the educational courses referred to in subsection (1).

Articling requirements for salespersons

2. (1) An applicant for renewal of registration as a salesperson shall, before making the application, successfully complete all the educational courses that are designated by the registrar for applicants of that type.

(2) Subsection (1) also applies to an applicant for registration as a salesperson who has previously been registered as a salesperson.

(3) Subsections (1) and (2) do not apply to the following applicants:

1. An applicant who successfully completed all the educational courses referred to in subsection (1) before making a previous application for registration or renewal of registration as a salesperson, if the previous application was approved.
2. An applicant for registration as a salesperson who has previously been registered as a salesperson but ceased to be registered before the registration expired and who makes the application before the date the applicant's previous registration as a salesperson would have expired.
3. An applicant to whom subsection 6 (1) applies.

(4) Despite subsection 10 (1), if, pursuant to paragraph 2 of subsection (3), subsection (2) does not apply to an applicant for registration as a salesperson and the application is approved, the registration expires on the date that the applicant's previous registration would have expired if he or she had not ceased to be registered.

Initial educational requirements for brokers

3. If an applicant for registration as a broker has not previously been registered as a broker, the applicant shall, before making the application, successfully complete all the educational courses that are designated by the registrar for applicants of that type.

Continuing education for salespersons

4. (1) If section 1 and subsections 2 (1) and (2) do not apply to an applicant for registration or renewal of registration as a salesperson, the applicant shall, before making the application, successfully complete the number of courses that the registrar specifies from among the educational courses that the registrar designates for salespersons.

(2) Subsection (1) does not apply to an applicant described in paragraph 2 of subsection 2 (3).

Continuing education for brokers

5. If an applicant for registration or renewal of registration as a broker has previously been registered as a broker, the applicant shall, before making the application, successfully complete the number of courses that the registrar specifies from among the educational courses that the registrar designates for brokers.

24-month break in registration

6. (1) If an applicant for registration as a salesperson has previously been registered as a salesperson but has not been registered as a salesperson at any time in the 24 months immediately preceding the date of the application,

- (a) section 4 does not apply; and
- (b) the applicant shall, before making the application, successfully complete the educational courses that the registrar designates for the applicant.

(2) If an applicant for registration as a broker has previously been registered as a broker but has not been registered as a broker at any time in the 24 months immediately preceding the date of the application,

- (a) section 5 does not apply; and
- (b) the applicant shall, before making the application, successfully complete the educational courses that the registrar designates for the applicant.

Applicants from other jurisdictions

7. (1) If an applicant for registration as a salesperson was registered in another jurisdiction as a person with equivalent status to a real estate or business broker or salesperson in Ontario or had equivalent status in that jurisdiction to a real estate or business broker or salesperson in Ontario, the registrar may exempt the applicant from section 1 or subsection 2 (1) or (2) and require the applicant, before making the application, to successfully complete the educational courses that the registrar designates for the applicant.

(2) If an applicant for registration as a broker was registered in another jurisdiction as a person with equivalent status to a real estate or business broker in Ontario or had equivalent status in that jurisdiction to a real estate or business broker Ontario, the registrar may exempt the applicant from section 3 and require the applicant, before making the application, to successfully complete the educational courses that the registrar designates for the applicant.

Designation of organization

8. (1) The registrar shall designate one or more organizations that are authorized to provide the educational courses referred to in sections 1 to 7.

(2) The registrar may cancel or amend a designation of an organization.

Requirements to be made available

9. The registrar shall make available to the public a description of the requirements established by sections 1 to 5, including the educational courses referred to in those sections and the organizations that are authorized to provide those courses.

EXPIRATION OF REGISTRATION

Expiration of registration

10. (1) Subject to subsection (2), a registration expires at the end of the day on the day before the second anniversary of the date it takes effect.

(2) When a registration is renewed, the renewed registration expires at the end of the day on the second anniversary of the date the previous registration expired under subsection (1), even if the previous registration was deemed to be continued under subsection 14 (8) of the Act.

INSURANCE

Insurance coverage

11. (1) In this section,

“commission protection insurance” means insurance to pay claims made by a registrant for commission or remuneration in relation to a trade in real estate, if the claims arise out of money or other property entrusted to or received by another registrant in the course of trading in real estate and,

- (a) the money or other property has been stolen, misappropriated, otherwise wrongfully converted or obtained by fraud, or
- (b) the other registrant is a brokerage and has become insolvent; (“assurance-commissions”)

“deposit insurance” means insurance to pay claims for the loss of a deposit or part of a deposit in relation to a trade in real estate, if the claims arise out of money or other property entrusted to or received by a registrant as a deposit in the course of trading in real estate and,

- (a) the money or other property has been stolen, misappropriated, otherwise wrongfully converted or obtained by fraud, or
- (b) the registrant is a brokerage and has become insolvent; (“assurance-dépôts”)

“errors and omissions insurance” means insurance to pay for damages and legal costs arising out of claims for damages made against a registrant for an error, omission or negligent act in the course of trading in real estate. (“assurance-responsabilité civile professionnelle”)

(2) All brokers and salespersons shall be insured under a group insurance policy arranged and administered by the board of the administrative authority that provides for the following:

1. Errors and omissions insurance that covers each broker and salesperson for up to \$1 million in respect of any particular claim, to a maximum of \$3 million for all claims made in any policy year.
2. Deposit insurance that covers each broker and salesperson for up to \$100,000 in respect of any particular claim, to a maximum of \$500,000 for all claims in respect of a particular occurrence.
3. Commission protection insurance that covers each broker and salesperson for up to \$100,000 in respect of any particular claim, to a maximum of \$500,000 for all claims in respect of a particular occurrence.

(3) Every registrant shall pay the registrant’s share, as determined by the board of the administrative authority, of,

- (a) the premiums for the group insurance policy referred to in subsection (2) and any applicable taxes; and
- (b) the expenses of the board of the administrative authority that are associated with the group insurance policy referred to in subsection (2), including contributions to any reserve funds related to the policy.

(4) Every registrant shall make the payments required by subsection (3) on or before the due dates fixed by the board of the administrative authority.

(5) An applicant for registration shall, at the time of making the application, pay the amount that the applicant would be required to pay under subsection (3) if the applicant were a registrant.

(6) A registrant shall not collect commissions or other remuneration unless the registrant has made the payments required by subsection (3).

(7) This section does not prevent a registrant from carrying insurance in addition to the insurance required by subsection (2).

(8) The board of the administrative authority may arrange for and administer the group insurance referred to in subsection (2) on behalf of brokerages, brokers or salespersons and may act as the named insured.

TRUST MONEY

Records of trust money transactions

12. A brokerage shall make a written record of the receipt of any money that comes into the brokerage's hands in trust for other persons in connection with the brokerage's business, and of every transaction relating to that money, including the following information:

1. The amount of money that came into the brokerage's hands in trust for another person in connection with the brokerage's business.
2. The date the money came into the brokerage's hands.
3. The name of the person from whom the money was received and, if the money was received on another person's behalf, the name of the person on whose behalf the money was received.
4. The purpose of receiving the money.
5. The name of the broker or salesperson who received the money.
6. With respect to every deposit into the trust account maintained under section 27 of the Act,
 - i. a way of identifying the money that came into the brokerage's hands in trust to which the deposit relates, including,
 - A. the name of the person from whom the money was received, and
 - B. the real estate, if any, to which the money relates,
 - ii. the amount of the deposit, and
 - iii. the date the deposit was made.
7. With respect to every disbursement from the trust account maintained under section 27 of the Act,
 - i. the amount of the disbursement,
 - ii. the date the disbursement was made,
 - iii. the name of the person to whom the money was disbursed,
 - iv. the real estate, if any, to which the disbursement relates,
 - v. the purpose of the disbursement, and
 - vi. the name of the person who authorized the disbursement under section 19 of Ontario Regulation 567/05 (General) made under the Act.
8. With respect to every payment of interest on money held in the trust account maintained under section 27 of the Act,
 - i. a way of identifying the money that came into the brokerage's hands in trust to which the payment relates,
 - ii. the amount of the payment,
 - iii. the date the payment was made, and
 - iv. the name of the person who authorized the payment of interest under section 19 of Ontario Regulation 567/05 (General) made under the Act.

Monthly reconciliation

13. (1) A brokerage shall prepare a trust account reconciliation statement in accordance with this section for each trust account maintained under section 27 of the Act not later than,

- (a) in the case of a brokerage that receives a monthly account statement from the financial institution where the account is maintained, 30 days after the date the monthly account statement is received; and
 - (b) in any other case, 30 days after the last day of each month.
- (2) The reconciliation statement shall,
- (a) identify the differences, if any, between the brokerage's records and the records of the financial institution where the account is maintained, as of,

- (i) the date of the account statement from the financial institution, if clause (1) (a) applies, and
- (ii) the last day of the month to which the reconciliation statement relates, if clause (1) (b) applies; and
- (b) identify the balances in the trust account that are owing to each person as of,
 - (i) the date of the account statement from the financial institution, if clause (1) (a) applies, and
 - (ii) the last day of the month to which the reconciliation statement relates, if clause (1) (b) applies.
- (3) The brokerage's broker of record shall, within the time referred to in subsection (1),
 - (a) review the reconciliation statement; and
 - (b) sign and date the reconciliation statement to indicate that he or she has reviewed it.
- (4) When the broker of record is absent or unable to act, the broker designated under subsection 30 (2) of Ontario Regulation 567/05 (General) made under the Act shall exercise and perform the powers and duties of the broker of record under subsection (3).

Shortfall

14. If a brokerage determines that there is a shortfall in the trust account maintained under section 27 of the Act, the brokerage shall immediately deposit sufficient funds in the account to eliminate the shortfall.

OTHER PROPERTY IN TRUST

Records of trust property

15. A brokerage shall make a written record of the receipt of property that is not money and that comes into the brokerage's hands in trust for other persons in connection with the brokerage's business, and of every transaction relating to that property, including the following information:

1. A description of the property sufficient to identify it.
2. The date the property came into the brokerage's hands.
3. The name of the person from whom the property was received and, if the property was received on another person's behalf, the name of the person on whose behalf the property was received.
4. The purpose of receiving the property.
5. The name of the broker or salesperson who received the property.
6. With respect to every withdrawal of the property from trust,
 - i. a description of the property withdrawn sufficient to identify it,
 - ii. the date of the withdrawal,
 - iii. the name of the person who received the withdrawal,
 - iv. the real estate, if any, to which the withdrawal of property relates,
 - v. the purpose of the withdrawal, and
 - vi. the name of the person who authorized the withdrawal under subsection 20 (2) of Ontario Regulation 567/05 (General) made under the Act.

Missing property

16. If a brokerage determines that some or all of property that is not money and that came into the brokerage's hands in trust for other persons in connection with the brokerage's business is missing, the brokerage shall immediately replace the missing property.

TRADE RECORD SHEETS

Trade record sheets

17. (1) A brokerage that represents a client who enters into an agreement that deals with the conveyance of an interest in real estate shall complete a trade record sheet that includes the following information:

1. The nature of the trade.
2. A description of the real estate sufficient to identify it.
3. The true consideration for the trade.
4. The names of all parties to the trade.

5. The names and contact information of the lawyers, if any, who are representing parties to the trade.
6. The names and contact information of all registrants who are representing or providing other services to parties to the trade.
7. The following information if a deposit is received:
 - i. the amount of the deposit, if the deposit is money,
 - ii. a description of the deposit sufficient to identify it, if the deposit is not money, and
 - iii. a record of the disbursement or withdrawal of the deposit, as the case may be.
8. The amount of the brokerage's commission or other remuneration and the name of the party paying it.
9. The amount of any commission or other remuneration payable to another brokerage and the name of that brokerage.
10. The scheduled completion date for the conveyance of the interest in real estate and the amended completion date, if any.

(2) The broker or salesperson that represents the client referred to in subsection (1) shall enter the information referred to in that subsection into the trade record sheet.

(3) When there are no conditions in the agreement that remain to be satisfied, the broker or salesperson shall review the trade record sheet, make all necessary corrections to it, initial the corrections and sign the trade record sheet.

(4) In making corrections under subsection (3), a broker or salesperson shall not obliterate a previous entry but shall leave it legible.

(5) After the broker or salesperson signs the trade record sheet, the brokerage's broker of record shall,

- (a) return the sheet to the broker or salesperson if the broker of record is not satisfied that the information in the sheet is accurate; and
- (b) sign the trade record sheet when the broker of record is satisfied that the information in the sheet is accurate.

(6) When the broker of record is absent or unable to act, the broker designated under subsection 30 (2) of Ontario Regulation 567/05 (General) made under the Act shall exercise and perform the powers and duties of the broker of record under subsection (5).

(7) Subsections (1) to (6) apply, with necessary modifications, if a brokerage and a customer have an agreement that provides for the brokerage to provide services to the customer in respect of any agreement that deals with the conveyance of an interest in real estate.

RECORDS — GENERAL

Retention time for records

18. A brokerage shall retain for at least six years all documents and records that it is required to make under the Act or the regulations.

Records of brokerage

19. (1) A brokerage that does not conduct business from a branch office shall keep all original records made in the course of trading in real estate,

- (a) at the location that the registrar specifies; or
- (b) if the registrar has not specified a location under clause (a), at the brokerage's main office.

(2) A brokerage that conducts business from a branch office shall, at the earliest practicable opportunity, transfer all original records made in the course of trading in real estate from the branch office to the location that the registrar specifies or, if the registrar has not specified a location, the brokerage's main office.

COMPLAINTS

Notice to broker of record

20. If the registrar makes a written request for information from a registrant under subsection 19 (1) of the Act, the registrar shall give a copy of the request to,

- (a) the broker of record of the brokerage, if the information was requested from a brokerage; and
- (b) the broker of record of the brokerage that employs the broker or salesperson, if the information was requested from a broker or salesperson.

Notice of action taken

21. If the registrar takes any action referred to in paragraphs 1 to 6 of subsection 19 (4) of the Act in respect of a complaint against a registrant, the registrar shall give written notice of the action to,

- (a) the registrant's broker of record, if the registrant is a brokerage; or
- (b) the registrant and the broker of record of the brokerage that employs the registrant, if the registrant is a broker or salesperson.

COMMENCEMENT

Commencement

22. This Regulation comes into force on March 31, 2006.

Made by:
Pris par :

Le ministre des services gouvernementaux,

GERRY PHILLIPS
Minister of Government Services

Date made: November 9, 2005.
Pris le : 9 novembre 2005.