



Real Estate Council of Ontario

August 21, 2018

Updating the Rules for Ontario's Real Estate Representatives

Anyone working as a real estate salesperson or broker (commonly called "agents") in Ontario must be registered with the Real Estate Council of Ontario (RECO) and follow a set of rules, including a Code of Ethics. The rules are laid out in a piece of legislation called the *Real Estate and Business Brokers Act, 2002* (REBBA).

The provincial Government sets the rules, and RECO enforces them in the marketplace. The current version of the legislation came into effect in 2006, and a lot has changed since then. Because of this, there has been a recent push to review and update the legislation.

Below is a chronology of the REBBA review to date.

January 2017

With a view of strengthening consumer confidence in the real estate sector, RECO submitted a letter to the Minister of Government and Consumer Services that outlined preliminary recommendations on how to enhance the rules in REBBA to bring them in line with the realities of today's market. The focus of the recommendations was around conflict of interest that can arise in multiple representation situations.

April 2017

The Ontario Government announced "Ontario's Fair Housing Plan," which included a commitment to review and modernize the rules that govern Ontario's real estate brokers, salespersons and brokerages.

June 2017

The Ontario Government launched the first of two public consultations on proposed changes to REBBA. Phase 1 invited the public to submit feedback on the Government's proposal to prohibit real estate representatives from "double ending" real estate deals. Double ending is a form of multiple representation where the same salesperson represents both the buyer and the seller.

July 2017

RECO submitted a white paper to the Ministry of Government and Consumer Services in response to Phase 1 of the REBBA review. The full submission can be [found here](#). RECO reiterated its support for the following:

- Changes to multiple representation: A new Mandatory Designated Representation requirement at the individual registrant level should be established—with limited and specific exceptions. Designated representation would allow a brokerage to have multiple clients in a single transaction, but each would have to be represented by a different salesperson or broker. There would be hard restrictions on the types of information that could be shared between representatives and the brokerage would be obligated to have processes in place to ensure client information is not disclosed to the other side.
- Mandatory standardized disclosure clauses: RECO should have the authority to establish mandatory standardized disclosure obligation clauses, written in plain language. If implemented, this change would increase a consumer’s understanding of different forms of representation and services provided.
- Higher fines: Maximum fines for Code of Ethics violations should be increased. For individual salespersons, maximum fines would increase from \$25,000 to \$50,000, and for brokerages, maximum fines would increase to \$100,000. RECO would also support a proposal that includes fines linked to commission amounts.

As part of this submission, RECO included several preliminary recommendations on other key matters, including:

- Streamlining regulatory processes: RECO recommends several enhancements, including Discipline and Appeals Panels be given expanded powers, such as allowing them to revoke or suspend registrations. Presently, the ability to revoke or suspend registrations rests with an external body, the Licence Appeal Tribunal.
- Consumer protection: RECO recommends a review of the definitions of trade and services. There is a lack of clarity regarding the relationship a registrant has with a client as compared to a customer. The lack of clarity can be addressed in part with clearer language on what constitutes a trade in real estate and specifics on what services are not included as part of a trade. This would help to show the distinction between client and customer and registrants’ obligations to clients compared to customers.
- Realignment of rule-making authority: RECO recommends moving towards a more flexible and responsive regulatory framework. This can be accomplished by giving RECO authority to make specific rules beyond what is in the legislation. An example of this might include the specific language to be used in standard forms.

October 2017

The Ontario Government passed legislation that did two things:

- Raised the maximum fines for breaches of the Code of Ethics as outlined above.
- Opened the door for changes to multiple representation, with more details still needing to be worked out through consultation and regulation changes.

Looking ahead

Buying or selling a home is one of the biggest transactions most Ontarians will go through in their lives. It's important that appropriate safeguards that reflect today's market realities are in place as consumers engage in the real estate market.

In early 2017, RECO asked the Ontario Government to make changes to the rules related to multiple representation to better protect consumers. In late 2017, the Government passed enabling amendments to REBBA that would allow them to create rules that place restrictions on multiple representation. New rules have not yet been developed. The Government will continue to consult with stakeholders as new rules are developed and provide opportunities for input on draft regulations. RECO will ensure salespersons, brokers and other stakeholders are updated as this process continues.