



## Suspensions of Registration & Freeze Orders FAQ

For information on a specific freeze order, please visit the [Public Advisories](#) section of the Real Estate Council of Ontario's website.



### What is a Freeze Order?

Under the *Real Estate and Business Brokers Act, 2002* (REBBA), the Real Estate Council of Ontario (RECO) may issue an order "freezing" the assets or trust funds of any registrant or former registrant if RECO believes that such an order is advisable for the protection of the public. RECO may also issue a notice of proposal to suspend or revoke a brokerage's registration in the public interest.

A freeze order is issued when RECO has concerns that funds in a brokerage's Real Estate Trust Account (RETA) or other bank accounts may be at risk. The freeze order prevents any more money from being withdrawn from the brokerage's RETA and other bank accounts. RECO may issue a freeze order if:

1. a search warrant has been issued under REBBA;
2. criminal proceedings are about to be, or have been instituted against the registrant or former registrant; or
3. proceedings in relation to a contravention under REBBA or any other Act are about to be, or have been instituted against the registrant or former registrant.

RECO cannot act as a receiver or trustee in bankruptcy, nor can RECO take ownership, control or possession of the frozen bank accounts of the brokerage. The bank accounts remain in the name of the brokerage. RECO cannot direct payments from any frozen trust money or disburse assets.

### Information for Employees of a Suspended Brokerage

#### What happens to the brokers and salespersons employed at a brokerage with its license suspended?

Under REBBA, independent contractors such as salespeople or brokers are classified as employees. Brokers and salespersons cannot trade in real estate while their brokerage's registration is suspended or revoked. They will need to transfer their personal registrations to another brokerage in order to continue trading in real estate. To do this, they will need to submit a transfer request to RECO and pay the appropriate transfer fee. This request can be made online via the [MyWeb self-service portal](#).



When a brokerage's registration is suspended or revoked RECO assists registrants through the transfer process as quickly as possible.

### **What happens to the listings and Buyer Representation Agreements?**

Listings and Buyer Representation Agreements are contracts between the clients and the brokerage. Even when the brokerage can no longer trade in real estate, these representation agreements are still binding contracts with the brokerage. Affected clients should seek legal advice to assist them with terminating their contractual relationship with the brokerage before entering into an agreement with another brokerage.

### **How do I get paid commissions owing from a brokerage under a freeze order?**

Brokers and salespeople who are owed commissions from a brokerage that is under a freeze order can submit insurance claims under the Insurance Program. Payment of any claim is subject to the terms of the insurance policy.

### **How long will it take for the insurer to evaluate a commission claim?**

The insurer conducts its own investigation and tries to expedite claims as quickly as possible. However, the insurer also needs to be aware of all or most of the claims against the brokerage before it can process claim payments. The maximum claim amount a broker or salesperson may make is \$100,000. The maximum amount of coverage for all commission protection claims relating to one occurrence is \$3,000,000. Payment of any claim is subject to the terms of the insurance policy.

### **I collected a deposit cheque from a consumer just prior to the freeze order. Do I deposit that cheque in the frozen trust account of my brokerage?**

RECO will arrange to have the money deposited in the brokerage's frozen account. Co-operating brokerages with trust deposits owed to the brokerage should contact RECO for instructions. Please be prepared to provide the cheque, payable to the brokerage, and the paperwork in relation to the transaction to RECO.

*You may wish to advise the consumer to submit a consumer deposit claim under the Insurance Program that registered real estate brokers and salespersons are required to participate in. Consumer deposit coverage is free of charge to consumers, but payment of any claim is subject to the terms of the insurance policy.*

### **I am owed a commission from a cooperating brokerage. Can I have the cheque made payable to me?**

No. The commission is contractually owed to your brokerage, not to you personally. Moreover REBBA prohibits the cooperating brokerage from paying commission to you. Additionally, REBBA prohibits you from accepting commission or other





remuneration for trading in real estate from any brokerage other than the one that employs you.

RECO requests that cooperating brokerages owing commissions to a brokerage under a freeze order immediately contact RECO for instructions and be prepared to provide the cheque, payable to the brokerage, and the paperwork in relation to the transaction to RECO.

### **I picked up a commission cheque made out to the brokerage, from [a cooperating brokerage], just prior to the freeze order. What do I do with it?**

RECO will arrange to have the money deposited in the brokerage's frozen account. Please immediately contact RECO for instructions and be prepared to provide the cheque, payable to the brokerage, and the paperwork in relation to the transaction to RECO.

### **I am an unregistered employee of the brokerage and I am owed salary/pay. Can RECO help me?**

No. The commission protection insurance only covers commissions owed to registered brokers and salespersons, and RECO has no authority to disburse any funds from frozen brokerage accounts to pay you. You may wish to seek legal advice regarding options that might be available to you to recover your lost wages. Former employees of the brokerage may also wish to contact the Ministry of Labour regarding any rights they may have under the *Employment Standards Act*, and CRA for any questions relating to their tax status, T4 or T4A forms.

## **Information for Home Buyers and Sellers**

### **Are listing agreements or buyer representation agreements with the brokerage still valid?**

When a brokerage's registration is suspended, it can no longer trade in real estate. Consumers should obtain legal advice on how to proceed. REBBA does not give RECO the legal authority to unilaterally declare that a brokerage's listing agreements and buyer representation agreements are invalid.

### **I sold a house through a brokerage with a suspended registration, and the closing date is approaching. Is the deal still valid?**

The suspension of a brokerage's registration does not affect the validity of the Agreement of Purchase and Sale between a buyer and a seller. Sellers or buyers, who may be concerned about whether a pending sale or purchase will be completed on time due to a registration suspension, should seek advice from their own lawyers.





## **I sold a house listed by a brokerage under a freeze order, and my client is expecting a portion of the deposit on the closing date. Will RECO release the deposit money?**

Consumers who are owed deposit money from the brokerage can submit insurance claims under the Insurance Program that registered real estate brokers and salespersons are required to participate in. Consumer deposit coverage is cost-free to consumers, but payment of any claim is subject to the terms of the insurance policy.

### **How long will it take for the insurer to evaluate a consumer deposit claim?**

The insurer conducts its own investigation and tries to expedite claims as quickly as possible. However, the insurer also needs to be aware of all or most of the claims against the brokerage before it can process claims payments. The maximum claim amount a consumer may make is \$100,000. The maximum amount of coverage for all consumer deposit claims relating to one occurrence is \$3,000,000. Payment of any claim is subject to the terms of the insurance policy.

*The amount of the claim payment may depend in part on the number of claims made against the brokerage and the total dollar value of the claims. Until the Insurer has completed its own investigation and received all claims, the insurer may not be able to confirm the total amount of the claim payment.*

## **Information for Cooperating Brokerages**

### **We owe commission amounts to a brokerage under a freeze order (brokerage A). However, brokerage A owes commission to our brokerage as well (brokerage B). Are we allowed to deduct what brokerage A owes us when we calculate our outstanding obligation to brokerage A?**

No. Your brokerage must pay the full amount of outstanding commission as it normally would. RECO will arrange to have the money deposited in brokerage A's frozen account.

Brokerages owed commissions from a frozen trust account may be eligible to make a claim under the commission protection coverage.

### **How long will it take for the insurer to evaluate a commission claim?**

The insurer conducts its own investigation and tries to expedite claims as quickly as possible. However, the insurer also needs to be aware of all or most of the claims against the brokerage before it can process claim payments. The maximum claim amount a broker or salesperson may make is \$100,000. The maximum amount of coverage for all commission protection claims relating to one occurrence is \$3,000,000. Payment of any claim is subject to the terms of the insurance policy.





## Information for Other Businesses, Trade Creditors and Organizations

Please be advised that RECO does not act as a receiver or a trustee in bankruptcy. RECO cannot disburse any funds from frozen accounts or release any frozen assets. RECO recommends you seek legal advice regarding potential options related to recovering amounts owed to you.

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RECO protects the public interest by administering and enforcing the *Real Estate and Business Brokers Act, 2002* (REBBA) on behalf of provincial government. RECO's jurisdiction and authority is limited to regulating the activities of registrants trading in Ontario in real estate.

There are currently more than 80,000 registered brokerages, brokers and salespersons in Ontario.

