

REGULATION # 506/2004

Effective: Jan. 1/2005

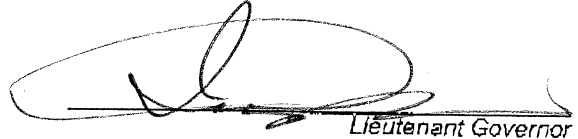
PROVINCE OF BRITISH COLUMBIA**ORDER OF THE LIEUTENANT GOVERNOR IN COUNCIL**

Order in Council No.

1109

, Approved and Ordered

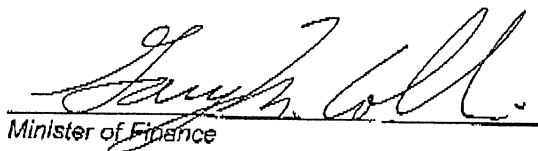
NOV 18 2004



Lieutenant Governor

Executive Council Chambers, Victoria

On the recommendation of the undersigned, the Lieutenant Governor, by and with the advice and consent of the Executive Council, orders that the attached Real Estate Services Regulation is made, effective January 1, 2005.


Minister of Finance
Presiding Member of the Executive Council*(This part is for administrative purposes only and is not part of the Order.)*

Authority under which Order is made:

Act and section:-

Real Estate Services Act, S.B.C. 2004, c. 42, ss. 130 and 137

Other (specify):-

November 5, 2004

1376 /2004/6

REAL ESTATE SERVICES REGULATION

Contents

PART 1 – INTRODUCTORY PROVISIONS

- 1.1 Definitions

PART 2 – LICENSING

Division 1 – Exemptions in Relation to Real Estate Services Generally

- 2.1 Exemption for employees of principal
- 2.2 Exemption for collection agents
- 2.3 Exemption respecting mining
- 2.4 Exemptions for government and government corporations

Division 2 – Exemptions in Relation to Trading Services

- 2.5 Exemption for employees of developers
- 2.6 Exemption for notaries
- 2.7 Exemption for accountants in relation to purchase and sale of business
- 2.8 Exemption for appraisers and property inspectors
- 2.9 Exemption for auctioneers
- 2.10 Exemption for persons providing information only
- 2.11 Exemption for persons providing referral services
- 2.12 Exemption for agents of expropriating authorities

Division 3 – Exemptions in Relation to Rental Property Management Services

- 2.13 Exemption for caretakers providing services to different owners
- 2.14 Exemption for caretakers employed by brokerages
- 2.15 Exemption for BCHMC housing
- 2.16 Exemption in relation to assignment of rents

Division 4 – Exemptions in Relation to Strata Management Services

- 2.17 Exemption for strata lot owners
- 2.18 Exemption for strata caretakers employed by strata corporation or brokerage
- 2.19 Exemption for owner developers

Division 5 – Licence Fees for Superintendent

- 2.20 Licence fees to be collected by real estate council

PART 3 – TRUST ACCOUNTS AND OTHER FINANCIAL MATTERS

- 3.1 Interest on trust account
- 3.2 Unclaimed money held in trust

PART 4 – DISCIPLINE PROCEEDINGS AND OTHER REGULATORY ENFORCEMENT

Division 1 – Discipline Proceedings

- 4.1 Deemed delivery
- 4.2 Enforcement expenses recoverable by the real estate council
- 4.3 Publication of discipline committee orders

Division 2 – Authority of the Superintendent

- 4.4 Enforcement expenses recoverable by the superintendent
- 4.5 Publication of superintendent's orders

- 4.6 Copying fees payable to superintendent

Division 3 – Administrative Penalties

- 4.7 Designated contraventions
- 4.8 Maximum amount of administrative penalties

PART 5 – PAYMENTS FROM SPECIAL COMPENSATION FUND

- 5.1 Maximum payment to any one claimant
- 5.2 Limit on payments out of fund

PART 6 – REAL ESTATE COUNCIL

- 6.1 Procedures relating to bylaws and rules
- 6.2 Disposal of real estate council records

PART 7 – FOUNDATION, INSURANCE AND COMPENSATION CORPORATIONS

Division 1 – Real Estate Foundation

- 7.1 Foundation's annual net revenue

Division 2 – Real Estate Compensation Fund Corporation

- 7.2 Minimum capital requirement for special compensation fund

PART 8 – GENERAL PROVISIONS

- 8.1 Superintendent's access to annual financial reports for brokerages

PART 9 – TRANSITIONAL REGULATIONS

Division 1 – Real Estate Council Composition

- 9.1 District representation
- 9.2 Strata management representation

Division 2 – Manufactured Home Dealers

- 9.3 Transitional exemption for manufactured home dealers

Division 3 – Strata Management Services

- 9.4 Strata management licensing begins on January 1, 2006

SCHEDULE – TRANSITION FOR DISTRICT REPRESENTATION ON THE REAL ESTATE COUNCIL

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 *Petroleum and Natural Gas Act* or 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* or the *Geothermal Resources Act*.

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
 - (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 *Accountants (Certified General) Act*, the *Accountants (Chartered) Act* or the *Accountants (Management) 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.

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
 - (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.
- (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 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 \$50 for every
- (a) new licence,
 - (b) licence renewal,
 - (c) licence amendment, other than a change of name or address, or
 - (d) licence reinstatement, other than an automatic reinstatement under section 23 (2) or (4) of the Act [*reinstatement in relation to related licensee*].
- (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
 - (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.

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:
- (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.

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 \$2000;
- (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 – Administrative Penalties

Designated contraventions

- 4.7** For the purposes of section 56 (1) *[contraventions that may be subject to administrative penalties]* of the Act, the following rules are designated as contraventions to which Division 5 of Part 4 of the Act applies:
- (a) Rule 4-1 *[display and keeping of licences];*
 - (b) Rule 4-2 *[business signs required];*
 - (c) Rule 4-3 *[requirements relating to personal offices];*
 - (d) Rule 4-5 *[licensee name must be indicated];*
 - (e) Rule 4-6 *[restrictions and requirements related to advertising];*
 - (f) Rule 4-8 *[advertising in relation to specific real estate];*
 - (g) Rule 7-7 *[annual reporting requirements];*
 - (h) Rule 8-1 *[financial records];*
 - (i) Rule 8-2 *[general account records];*
 - (j) Rule 8-3 *[trust account records];*
 - (k) Rule 8-4 *[general records];*
 - (l) Rule 8-5 *[trading records];*
 - (m) Rule 8-6 *[rental property management records];*
 - (n) Rule 8-9 *[records must be kept up to date];*
 - (o) Rule 8-10 *[retention of records];*

(p) Rule 8-11 [*brokerage obligations when winding-up business*].

Maximum amount of administrative penalties

- 4.8 The maximum amount of administrative penalty that may be established by any rule made under section 56 (2) of the Act is \$1 000.

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 \$100 000.

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 \$350 000.

PART 6 – REAL ESTATE COUNCIL

Procedures relating to bylaws and rules

- 6.1 (1) This section applies to
- (a) bylaws under section 84 (2) (b) and (c) of the Act, and
 - (b) rules under section 86 of the Act.
- (2) At least 30 days before making the bylaw or rule, the real estate council must
- (a) notify licensees of the proposed bylaw or rule in accordance with subsection (7),
 - (b) provide them with an opportunity to comment on the proposed bylaw or rule, and
 - (c) send to the minister and the superintendent a copy of the information referred to in subsection (7).
- (3) After the minimum period established by subsection (2) has passed, the real estate council may
- (a) make the bylaw or rule as proposed,
 - (b) make the bylaw or rule with editing changes that do not substantively alter the effect of the bylaw or rule, or
 - (c) withdraw the proposed bylaw or rule.
- (4) For the purposes of subsection (3) (b), a change in the proposed effective date of the bylaw or rule does not substantively alter the effect of the bylaw or rule if the new effective date is a later date than that originally proposed.
- (5) In order to make a rule, the real estate council must do this by a vote of not less than 3 per 4 of the number of members set for the real estate council.
- (6) As soon as practicable after making the bylaw or rule, the real estate council must
- (a) notify licensees, in accordance with subsection (7), and

- (b) send to the minister and the superintendent a copy of the information referred to in that subsection.
- (7) A notification to licensees under subsection (2) or (6) must provide
 - (a) the wording of the proposed bylaw or rule, or the adopted bylaw or rule, as applicable, and
 - (b) an explanation of its purpose and intended effect.
- (8) A notification to licensees required under this section may be effected by publication on the real estate council's web site.

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.

PART 7 – FOUNDATION, INSURANCE AND COMPENSATION CORPORATIONS

Division 1 – Real Estate Foundation

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.

PART 9 – TRANSITIONAL REGULATIONS

Division 1 – Real Estate Council Composition

District representation

- 9.1** (1) Despite section 74 of the Act,
- (a) a member of the real estate council who was elected to represent a district as established under the former Act continues in office until the expiry of their elected term of office,
 - (b) beginning with the election of council members held in the year 2005, and for each of the elections of council members held in the years 2006 and 2007, members are to be elected to represent districts in accordance with the Schedule to this regulation, and
 - (c) for each of those years, the total number of council members elected to represent districts is the number shown for each of those years.
- (2) The limitation in section 77 (2) of the Act does not apply to an individual who is a council member at the time of the coming into force of this section until 6 years after the coming into force of this section.

Strata management representation

- 9.2** (1) Further to section 134 (3) of the Act, the first council member to hold office under section 76 (3) (j) of the Act [*rental property or strata management services member*] must be appointed by the real estate council for a term of office beginning at the same time that the council members elected to represent districts begin holding office following the 2005 election of council members.
- (2) The council member appointed under subsection (1) must be a licensee who
- (a) is licensed to provide rental property management services, and
 - (b) has been actively engaged in the business of providing strata management services for at least 2 years immediately preceding the date on which the appointment is made.

Division 2 – Manufactured Home Dealers

Transitional exemption for manufactured home dealers

- 9.3** (1) For the purposes of this section:
- “grandparented manufactured home dealer” means a person who was, on December 31, 2004, exempt under the Motor Dealer Exemption Regulation, B.C. Reg. 189/88, from Part 1 of the *Real Estate Act*, R.S.B.C. 1996, c. 397;

“manufactured home sale services” means trading services related to the disposition of a manufactured home if the disposition does not involve an interest in real estate other than

(a) a month-to-month lease or tenancy agreement, or

(b) the assignment of a month-to-month lease or tenancy agreement

respecting the real estate on which the manufactured home is situated.

- (2) A grandparented manufactured home dealer is exempt from the requirement to be licensed under Part 2 of the Act in respect of manufactured home sale services provided before June 30, 2005.

Division 3 – Strata Management Services

Strata management licensing begins on January 1, 2006

- 9.4** (1) Section 3 of the Act does not apply in relation to the provision of strata management services until January 1, 2006.
- (2) The first rules of the real estate council under section 86 [*council rules*] of the Act respecting the provision of strata management services, and licensees permitted to provide those services, must be approved by the minister before they are made by the real estate council.

SCHEDULE

TRANSITION FOR DISTRICT REPRESENTATION ON THE REAL ESTATE COUNCIL

	Number to be elected in 2005 Election	Number to be elected in 2006 Election	Number to be elected in 2007 Election
Managing broker members	County of Vancouver 2	County of Vancouver 2	County of Vancouver 1
	County of Victoria 1	County of Victoria 0	County of Victoria 1
	County of Nanaimo 0	County of Nanaimo 1	County of Nanaimo 0
	County of Westminster 1	County of Westminster (N. of Fraser River) 1	County of Westminster (N. of Fraser River) 0
		County of Westminister: (S. of Fraser River) 1	County of Westminister: (S. of Fraser River) 0
	County of Yale 1	County of Yale 0	County of Yale 1
	County of Kootenay 1	Counties of Kootenay, Cariboo and Prince Rupert 0	Counties of Kootenay, Cariboo and Prince Rupert 1
	Counties of Cariboo and Prince Rupert 1		
Representative members	County of Vancouver 1	County of Vancouver 0	County of Vancouver 1
	Counties of Victoria and Nanaimo 0	Counties of Victoria, Nanaimo, Yale, Kootenay, Cariboo and Prince Rupert 1	Counties of Victoria, Nanaimo, Yale, Kootenay, Cariboo and Prince Rupert 0
	Counties of Westminister, Yale, Kootenay, Cariboo and Prince Rupert 1	Counties of Westminister (N. of Fraser River) and Westminister (S. of Fraser River) 0	Counties of Westminister (N. of Fraser River) and Westminister (S. of Fraser River) 1
Total new members to represent districts	9	6	6
Total members representing districts	17	15	12