

2005

CHAPTER 28

*An Act to amend *The Real Estate Act**

(Assented to May 27, 2005)

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of Saskatchewan, enacts as follows:

Short title

1 This Act may be cited as *The Real Estate Amendment Act, 2005*.

S.S. 1995, c.R-1.3 amended

2 *The Real Estate Act* is amended in the manner set forth in this Act.

Long title amended

3 **The long title is amended by adding “, Associate Brokers” after “Brokers”.**

Section 2 amended

4 **Section 2 is amended:**

(a) by adding the following clause after clause (a):

“(a.1) ‘**associate broker**’ means an individual employed, appointed or authorized by a brokerage to trade in real estate and named as an associate broker in a certificate of registration”;

(b) in the portion of clause (d) preceding subclause (i) by adding “, associate broker” after “branch manager”; and

(c) in clause (y) by adding “, an associate broker” after “branch manager”.

New section 6

5 **Section 6 is repealed and the following substituted:**

“Commission

6(1) The Commission consists of:

- (a) four members appointed by the Lieutenant Governor in Council;
- (b) six members elected by the registrants in accordance with the bylaws; and
- (c) one member:
 - (i) who is appointed, in accordance with the bylaws, by the members mentioned in clauses (a) and (b); and
 - (ii) who must be a registrant trading in industrial, commercial or investment real estate or property management.

- (2) A member of the Commission appointed pursuant to clause (1)(a):
 - (a) holds office for a period not exceeding three years and until a successor is appointed; and
 - (b) is eligible for reappointment, but is not eligible to hold office for more than two consecutive terms.
- (3) If a vacancy occurs in the membership of the Commission:
 - (a) in the case of a person appointed pursuant to clause (1)(a), the Lieutenant Governor in Council may appoint a person to serve the remaining portion of the term;
 - (b) in the case of a person elected pursuant to clause (1)(b), the Saskatchewan Real Estate Association may appoint, in accordance with the bylaws, a person to serve the remaining portion of the term; or
 - (c) in the case of a person appointed pursuant to clause (1)(c), the remaining members of the Commission may appoint, in accordance with the bylaws, a person to serve the remaining portion of the term.
- (4) The members of the Commission may elect one of their number as chairperson and one as vice-chairperson.
- (5) If the chairperson is absent or the office of chairperson is vacant, the vice-chairperson shall act as chairperson and has all of the powers and shall perform all of the duties of the chairperson.
- (6) The Commission shall pay to the members of the Commission any remuneration and allowances for expenses that may be prescribed in the bylaws.
- (7) A vacancy in the membership of the Commission does not impair the power of the remaining members of the Commission to act.
- (8) The persons acting as members of the Commission on the day before the coming into force of this section constitute the Commission until new members are elected or appointed, as the case may be, pursuant to this section”.

Section 14 amended

6 The following clauses are added after clause 14(1)(g):

- “(g.1) governing procedures for the appointment of the member of the Commission mentioned in clause 6(1)(c) and prescribing his or her term of office;
- “(g.2) governing procedures for the appointment of members to the Commission pursuant to clauses 6(3)(b) and (c)”.

Section 18 amended

7(1) Subsection 18(1) is amended:

- (a) by striking out “or” after clause (c); and
- (b) by adding the following after clause (c):
 - “(c.1) as an associate broker, unless the person is registered as an associate broker; or”.

(2) Subsection 18(2) is amended by adding “an associate broker,” after “salesperson,”.

Section 23 amended

8(1) Subclause 23(1)(b)(i) is amended by adding “associate broker,” after “salesperson,”.

(2) Subsection 23(3) is amended by striking out “broker or branch manager” and substituting “broker, branch manager or associate broker”.

(3) Subsection 23(4) is amended by striking out “broker or branch manager” and substituting “broker, branch manager or associate broker”.

New section 23.1

9 The following section is added after section 23:

“Associate brokers

23.1(1) An individual may apply to the Commission for registration as an associate broker if he or she has successfully completed the educational requirements prescribed in the bylaws.

(2) An application for registration as an associate broker must include a notice signed by a broker stating that the applicant, if granted registration, is authorized to act as an associate broker representing the brokerage with which that broker is registered.

(3) A certificate of registration granted to an applicant must include the name of the brokerage mentioned in subsection (2).”

Section 26 amended

10 Subsection 26(5) is amended by adding “associate broker, if any,” after “branch manager, if any,”.

New sections 34 to 34.2

11 Section 34 is repealed and the following substituted:

“Interpretation

34 In this Part, **‘registrant’** includes a former registrant.

“Proceedings against former registrants

34.1(1) No proceedings pursuant to this Part shall be commenced against a registrant more than two years after the day he or she became a former registrant.

(2) For the purposes of this section, a proceeding is commenced when the Commission receives a complaint or becomes aware of conduct that is or may be professional misconduct or professional incompetence.

“Investigation committee

34.2(1) The investigation committee is established consisting of one or more persons appointed by the Commission.

(2) No member of the investigation committee who is a member of the Commission shall hear or determine a complaint that he or she investigated”.

New section 36.1

12 The following section is added after section 36:**“Temporary suspension**

36.1 The Commission may apply to the court for an order temporarily suspending a registrant whose conduct is the subject of an investigation pursuant to this Part if the Commission is of the opinion that, on the basis of the allegations or the nature of the case:

- (a) the time to complete the investigation and hearing will exceed the expiry date of the suspension mentioned in clause 36(2)(a); and
- (b) the registrant should be suspended pending the outcome of the investigation or hearing”.

Section 38 amended

13 Subsection 38(4) is amended by adding “, associate broker” after “branch manager”.

Section 53 amended

14(1) Subsection 53(1) is amended by adding “, associate broker” after “branch manager”.

(2) Subsection 53(2) is amended by adding “, associate broker” after “branch manager”.

Section 54 amended

15(1) Subsection 54(1) is amended by adding “, associate broker” after “branch manager”.

(2) Subsection 54(2) is repealed and the following substituted:

“(2) If a broker, branch manager, associate broker or salesperson ceases to represent a brokerage:

- (a) the registration of that broker, branch manager, associate broker or salesperson is suspended; and
- (b) the brokerage shall, not later than five days after the broker, branch manager, associate broker or salesperson has ceased to represent the brokerage, give notice in writing to the Commission that the broker, branch manager, associate broker or salesperson has ceased to represent the brokerage together with the reasons”.

(3) Subsection 54(3) is amended by adding “, associate broker” after “branch manager”.

Section 55 amended

16 Subsection 55(2) is repealed and the following substituted:

“(2) No broker, branch manager, associate broker or salesperson shall advertise a trade in real estate unless the advertisement indicates the name of the brokerage for which the broker, branch manager, associate broker or salesperson is authorized to act”.

Section 61 amended

17(1) Clause 61(1)(a) is amended by adding “, associate broker” after “branch manager”.

(2) Subsection 61(2) is amended by adding “, associate broker” after “branch manager”.

New section 63

18 Section 63 is repealed and the following substituted:

“Restrictions on registrants

63 No salesperson, associate broker, branch manager or broker shall:

(a) trade in real estate on behalf of a brokerage other than the brokerage with which the salesperson, associate broker, branch manager or broker is registered; or

(b) accept any commission or other remuneration for trading in real estate from any person other than the brokerage with which the salesperson, associate broker, branch manager or broker is registered”.

Section 65 amended

19 Subclause 65(1)(a)(iii) is amended by adding “, associate broker” after “branch manager”.

Section 67 amended

20 Clause 67(b) is amended by adding “, associate broker” after “branch manager” wherever it appears.

Section 70 amended

21 Section 70 is amended by adding “, associate broker” after “branch manager”.

Section 71 amended

22 Clause 71(1)(b) is repealed and the following substituted:

“(b) deposit into a trust account all money received by the brokerage in trust for other persons in connection with a trade in real estate, within two business days after the later of:

(i) the day on which an offer to purchase is accepted; and

(ii) the day on which the money is received by the brokerage”.

Section 72 amended

23 Clause 72(a) is amended by adding “, associate brokers” after “branch managers”.

Coming into force

24 This Act comes into force on assent.

