



REAL ESTATE COUNCIL
OF BRITISH COLUMBIA

REAL ESTATE LICENSING GUIDELINES FOR BROKERAGES

**CORPORATE, PARTNERSHIP, BRANCH OFFICE,
OR SOLE PROPRIETOR APPLICANTS**

(June 2010)

The *Real Estate Services Act*, Regulation, Council Rules and Bylaws govern matters of real estate licensing in British Columbia. Prior to making an application for licensing, applicants are advised to read the Licensing Requirements, Council Guidelines and Rules.

Real Estate Council of British Columbia

900 - 750 West Pender Street Vancouver BC V6C 2T8

Tel 604-683-9664 Fax 604-683-9017 Toll free 1-877-683-9664

www.recbc.ca

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PART I – LICENSING REQUIREMENTS – BROKERAGES

A. Initial Licensing - Corporation or Partnership

1. Applicants should seek approval of the intended legal or trade name prior to submitting an application for licensing. In order to assist applicants, the Council requests that you complete and submit the **Request for Brokerage Name Approval** form, a copy of which is enclosed in this package.

Please note, if the brokerage is going to do business under a name other than its legal name, the trade name or franchise name must be registered with the Registrar of Companies in Victoria prior to licensing. If using a franchise name, please include a copy of your “*consent for use of name*” from the franchisor. A copy of your franchise or licensing agreement may also be requested.

2. Submit the enclosed **Application for Brokerage Licence: Corporation or Partnership** form completed by either the officers and/or directors of the corporation, or partner(s) in the case of a partnership, accompanied by the fees referred to below.
3. Submit the enclosed **Director, Officer or Partner Information** form completed by each director, officer or partner. (section 4-4(3)(f) of the Council Bylaws)

Please note section 4-5(2)(c) of the Council’s Bylaws requires every new director or officer of a corporate applicant to submit a **Director, Officer or Partner Information** form immediately following his/her election or appointment. Please note that a change of partners in a partnership requires an application for a new brokerage. (*See Part III, Item F, page 15 - Partnership Brokerage Licence*)

4. Submit the enclosed **Application for Representative, Associate or Managing Broker Licence** form completed by a qualified managing broker.

5. **Fees (section 4-3 of the Council Bylaws):**

Brokerage:

Licensing Fee - \$500 (Cash, VISA, MasterCard, money order, or cheque made payable to “Real Estate Council of BC”)

Errors & Omissions Insurance Assessment - \$600 (Cash, VISA, MasterCard, money order, or cheque made payable to “Real Estate Errors & Omissions Insurance Corp.”)

Real Estate Special Compensation Fund Assessment - \$250 (Cash, VISA, MasterCard, money order, or cheque made payable to “Real Estate Compensation Fund Corp.”)

plus

Managing Broker:

Licensing Fee - \$125 (Cash, VISA, MasterCard, money order, or cheque made payable to “Real Estate Council of BC”) if currently licensed or applying within a licence period;

or if licence period has expired

Licensing Fee - \$500 (Cash, VISA, MasterCard, money order, or cheque made payable to "Real Estate Council of BC")
Errors & Omissions Insurance Assessment - \$600 (Cash, VISA, MasterCard, money order, or cheque made payable to "Real Estate E&O Ins. Corp.")
Real Estate Special Compensation Fund Assessment - \$100 (Cash, VISA, MasterCard, money order, or cheque made payable to "Real Estate Compensation Fund Corp.")

If the managing broker for the brokerage is also the managing broker for an affiliated brokerage, (*See Part III, Item B, page 14 – Managing Broker May be Licensed in Relation to a maximum of 4 Affiliated Brokerages*), the fees are: \$500 (Cash, VISA, MasterCard, money order, or cheque made payable to "Real Estate Council of BC") and \$100 (Cash, VISA, MasterCard, money order, or cheque made payable to "Real Estate Compensation Fund Corp").

6. Financial Statements (section 4-5(2) of the Council Bylaws):

Submit a current (i.e. within the four months preceding the date of application) certified financial statement as evidence of the total unimpaired working capital requirement as noted on the **Application for Brokerage Licence: Corporation or Partnership** form. Completion of **Form A – Brokerage Operating Expenses**, is also required. An unconditional subordination agreement must be completed if any capital has been borrowed. In order to assist applicants, copies of the required financial forms have been enclosed for your use.

Note: The Financial Statement must be:

- (a) verified by the statutory declaration of the proposed managing broker deposing as to the accuracy of the financial statement (copy enclosed);
- OR**
- (b) certified by a chartered accountant or certified general accountant as to the accuracy of the financial statement. (Notice to Reader, Review Engagement Report or Audit Report are acceptable.)

7. Fiscal Year (section 4-4(3)(c) of the Council Bylaws):

The proposed fiscal year of the applicant in relation to brokerage activities must be indicated on the application for licensing.

8. Business Licence (section 4-5(1) of the Council Bylaws):

Submit a copy of the city or municipal **business licence**. Please note that the Council is aware there is often a waiting period to receive an original business licence. As a result, a copy of the paid application for business licence showing the brokerage name and address is acceptable to the Council for the purpose of licensing.

If no business licence is required for the brokerage in your area, please submit a letter from the local government authority advising that a licence is not required.

If the licence is for a residential brokerage office under section 2-5 [*residential brokerage offices*] of the Council Rules, the applicant must provide evidence

satisfactory to the Council:

- (a) that the local government bylaws applicable to the residence permit the brokerage to conduct business from the residence, and
- (b) of any restrictions established by local government bylaw limiting the persons who may conduct business from the brokerage office.

In the case of a residential brokerage office confirmation of the shareholder structure of the brokerage is also required. (See *Part III, Item D, page 15 – Residential Brokerage Office* for additional information.)

B. Initial Licensing - Branch Office

1. Submit the enclosed **Application for Licence: Branch Office** form completed by the managing broker, director, officer or partner of the brokerage to the Council, accompanied by the fees referred to below.
2. Submit the enclosed **Application for Representative, Associate or Managing Broker Licence** form completed by a qualified managing broker.
3. **Fees (section 4-3 of the Council Bylaws):**

Branch Office:

Licensing Fee - \$500 (Cash, VISA, MasterCard, money order, or cheque made payable to "Real Estate Council of BC")

plus

Managing broker:

Licensing Fee - \$125 (Cash, VISA, MasterCard, money order, or cheque made payable to "Real Estate Council of BC") if currently licensed or applying within a licence period;

or if licence period has expired

Licensing Fee - \$500 (Cash, VISA, MasterCard, money order, or cheque made payable to "Real Estate Council of BC")

Errors & Omissions Insurance Assessment - \$600 (Cash, VISA, MasterCard, money order, or cheque made payable to "Real Estate Errors & Omissions Insurance Corp.")

Real Estate Special Compensation Fund Assessment - \$100 (Cash, VISA, MasterCard, money order, or cheque made payable to "Real Estate Compensation Fund Corp.")

If the managing broker for the branch office is also the managing broker for one of the brokerage's existing offices (*See Part III, Item C, page 14 – Managing Broker May be Licensed in Relation to a maximum of 4 Licences of a Brokerage for further information.*), the licensing fee is:

\$500 (Cash, VISA, MasterCard, money order, or cheque made payable to "Real Estate Council of BC"). No errors and omissions insurance assessment or Real Estate Special Compensation Fund assessment is required where a managing broker is licensed in relation to two or more offices of the same brokerage (e.g. head office and branch office, or two branch offices of the same brokerage).

4. **Business Licence (section 4-5(1) of the Council Bylaws):**

Submit a copy of the city or municipal **business licence**. Please note that the Council is aware there is often a waiting period to receive an original business licence. As a result, a copy of the paid application for business licence showing the company name and address is acceptable to the Council for the purpose of licensing.

If no business licence is required for the brokerage in your area, please submit a letter from the local government authority advising that a licence is not required.

If the licence is for a residential brokerage office under section 2-5 [*residential brokerage offices*] of the Council Rules, the applicant must provide evidence satisfactory to the Council:

- (a) that the local government bylaws applicable to the residence permit the brokerage to conduct business from the residence, and
- (b) of any restrictions established by local government bylaw limiting the persons who may conduct business from the brokerage office.

(See *Part III, Item D, page 15 – Residential Brokerage Office* for additional information.)

C. Initial Licensing – Sole Proprietor

1. If you are doing business under a name other than your legal name, please obtain approval of the intended trade name from the Council prior to submitting an application for licensing. In order to assist applicants, the Council requests that you complete and submit the Request for Brokerage Name Approval form, a copy of which is enclosed in this package.
2. **Please note, if you are using a trade or franchise name, it must be registered with the Registrar of Companies in Victoria prior to licensing.** If using a franchise name, please include a copy of your “*consent for use of name*” from the franchisor. A copy of your franchise or licensing agreement may also be requested.
3. Submit the enclosed **Application for Brokerage Licence: Sole Proprietor** form completed by the applicant, accompanied by the fees referred to below.
4. If the sole proprietor applicant is not the managing broker, submit the enclosed **Application for Representative, Associate or Managing Broker Licence** form.
5. For the purpose of conducting a criminal record check, applicants who have been unlicensed for more than 90 days, must include two pieces of identification. Please see www.recbc.ca/licensing/recordcheck.htm for acceptable forms of identification.
6. **Fees:**
Licensing fee - \$125 (Cash, VISA, MasterCard, money order, or cheque made payable to “Real Estate Council of BC”) if currently licensed or applying within a licence period.
Real Estate Compensation Fund Assessment - Contact the Council regarding the assessment requirement.

or if licence period has expired:

Licensing fee - \$500 (Cash, VISA, MasterCard, money order, or cheque made payable to "Real Estate Council of BC")

Errors & Omissions Insurance Assessment - \$600 (Cash, VISA, MasterCard, money order, or cheque made payable to "Real Estate Errors & Omissions Insurance Corp.").

Real Estate Special Compensation Fund - \$250 (Cash, VISA, MasterCard, money order, or cheque made payable to "Real Estate Compensation Fund Corp.").

5. **Financial Statements (section 4-5(2) of the Council Bylaws):**

Submit a current (i.e. within the four months preceding the date of application) certified financial statement as evidence of the total unimpaired working capital requirement as noted on the **Application for Brokerage Licence: Sole Proprietor** form. Completion of **Form A – Brokerage Operating Expenses**, is also required. An unconditional subordination agreement must be completed if any capital has been borrowed. In order to assist applicants, copies of the required financial forms have been enclosed for your use.

Note: The Financial Statement must be:

(a) verified by the statutory declaration of the sole proprietor deposing as to the accuracy of the financial statement (copy enclosed);

OR

(b) certified by a chartered accountant or certified general accountant as to the accuracy of the financial statement. (Notice to Reader, Review Engagement Report or Audit Report are acceptable.)

6. **Fiscal Year (section 4-4(4)(d) of the Council Bylaws):**

The proposed fiscal year of the sole proprietorship in relation to brokerage activities must be indicated on the application for licensing.

7. **Business Licence (section 4-5(1) of the Council Bylaws):**

Submit a copy of the city or municipal **business licence**. Please note that the Council is aware there is often a waiting period to receive an original business licence. As a result, a copy of the paid application for business licence showing the brokerage name and address is acceptable to the Council for the purpose of licensing.

If no business licence is required for the brokerage in your area, please submit a letter from the local government authority advising that a licence is not required.

If the licence is for a residential brokerage office under section 2-5 [*residential brokerage offices*] of the Council Rules, the applicant must provide evidence satisfactory to the Council:

(a) that the local government bylaws applicable to the residence permit the brokerage to conduct business from the residence, and

(b) of any restrictions established by local government bylaw limiting the persons who may conduct business from the brokerage office.

(See *Part III, Item D, page 15 – Residential Brokerage Office* for additional information.)

D. Waiver of Assessment for Certain Categories of Licences

The Real Estate Errors and Omissions Insurance Corporation has adopted a policy of assessing both brokerages and individual licensees one insurance premium, regardless of the number of licences held. As a result of this policy, brokerages do not pay an additional assessment for each licensed branch office. Similarly, managing brokers only pay one insurance assessment, regardless if they hold more than one licence.

Effective January 1, 2005, the Real Estate Special Compensation Fund was introduced to replace the requirement for brokerages to maintain security via real estate bonding. The assessment for the fund is \$250 for each brokerage and \$100 for each individual. Multiple managing brokers who are licensed with a maximum of 4 separate, affiliated companies are assessed a separate \$100 compensation fund assessment for each licence. However, multiple managing brokers who are licensed with a maximum of 4 offices of the same brokerage (i.e. head office and branch office) are only required to pay the \$100 compensation fund assessment once, with their first managing broker licence.

E. Name or Address Changes

If a brokerage changes its **name or business address**, the following procedures must be completed:

1. Obtain approval from the Council regarding the intended name change prior to registering the name change with the Registrar of Companies. Please note, if using a trade or franchise name, it must also be registered with the Registrar of Companies prior to the Council's records being amended. In order to assist applicants, the Council requests that you complete and submit the **Request for Brokerage Name Approval** form, a copy of which is enclosed in this package, accompanied by the fee referred to below.
2. Please provide a letter stating the type and effective date of the change.
3. Return of the existing brokerage licence certificate(s) to be amended. All licensed offices of the brokerage must have their licences amended in the case of a name change. Certificates of related licensees are not required to be amended.
4. Fee of \$25 for each licence to be amended (Cash, VISA, MasterCard, money order, or cheque made payable to "Real Estate Council of BC").
5. Submit a copy of the city or municipal business licence. *See Part I, Item A #8, page 3 – Initial Licensing Corporation or Partnership.*
6. Written confirmation that the business address is in a commercial location. Alternatively, if the brokerage is moving to a residential office, please see *Part III, Item D, page 15 – Residential Brokerage Office* for additional information and requirements.

F. Renewal of Licence

All renewal applications are computer generated and will be sent to each brokerage's business address approximately six weeks prior to the licence expiry date. Brokerages

are required to complete and return the forms to the Council office **30 days prior to licence expiry, pursuant to section 2-13(2) of the Council Rules. It is the responsibility of the managing broker to ensure that the brokerage is properly licensed. Failure to receive a renewal notice does not diminish this responsibility.**

The fee for the licence renewal of corporations, partnerships, branch offices and sole proprietors is \$475 (Cash, VISA, MasterCard, money order, or cheque made payable to "Real Estate Council of BC").

Assessments for corporations, partnerships, and sole proprietors are \$600 for errors and omissions insurance assessment (Cash, VISA, MasterCard, money order, or cheque made payable to "Real Estate Errors & Omissions Insurance Corp."), and \$250 for Real Estate Special Compensation Fund assessment (Cash, VISA, MasterCard, money order, or cheque made payable to "Real Estate Compensation Fund Corp.").

Branch offices do not pay the errors and omissions insurance or compensation fund assessments.

G. Surrender of Brokerage Licence

Brokerage Obligations when Surrendering its Licence and Winding Up Business (section 8-11 of the Council Rules):

A brokerage that ceases to carry on the business of a brokerage must do the following:

- (a) immediately surrender to the Council the brokerage's licences and the licences of all related licensees that are in the possession of the brokerage;
- (b) promptly submit to the Council the **Brokerage Winding Up Report** form, completed in accordance with the Council Bylaws;
- (c) if requested by the Council, submit to the Council one or more of the financial statements and reports required under section 7-7 [*annual financial statements, accountant's report and brokerage activity report*] of the Council Rules;
- (d) as requested by the Council, provide to the Council
 - (i) any other financial records of the brokerage, and
 - (ii) any further information about the business of the brokerage;
- (e) arrange for the records referred to in section 8-10 [*retention of records*] of the Council Rules to be kept, for the period referred to in that section, by
 - (i) another brokerage,
 - (ii) an accountant, lawyer or notary public, or
 - (iii) another person acceptable to the Council.

Please note that any "subject" transactions must have the subject clauses removed prior to the winding up of the brokerage. If this is not possible, the transaction (including the deposit monies related thereto) must be transferred to another licensed brokerage prior to the termination of the brokerage's licence. The brokerage must obtain the written authorization from all parties to the transaction prior to transferring it to another brokerage. The foregoing is necessary because the act of removing a subject clause requires licensing pursuant to the *Real Estate Services Act*. It is not necessary to transfer transactions that are "firm" or where all subject clauses have been removed. The brokerage may do the usual payouts upon completion of the transaction even after the brokerage's licence has been terminated.

Any interest that was earned on the brokerage's general trust account should be paid to the Real Estate Foundation pursuant to section 29(1)(b) [*interest on trust account*] of the *Real Estate Services Act*.

Pursuant to section 32 [*unclaimed money held in trust*] of the *Real Estate Services Act*, a brokerage may transfer money held in trust by a brokerage to the administrator appointed under the *Unclaimed Property Act*, if

1. the brokerage has made reasonable efforts to ascertain the identity of or to locate the person entitled to claim the money and to notify that person about the money, and
2. despite those efforts, the money has been unclaimed for longer than one year after the applicable time prescribed for the purposes of this section.

If the above conditions have been satisfied, the unclaimed money may be paid to the British Columbia Unclaimed Property Society. Information with respect to the procedure for paying funds to the Society can be obtained from the British Columbia Unclaimed Property Society at 604-662-3518 or from their website at www.bccunclaimedproperty.bc.ca.

If there are adverse claimants, the brokerage may apply to the Supreme Court for an order to pay the trust monies into court. The procedure to pay trust monies into court can be found in the Office Practice Manual.

Please ensure that the Real Estate Council is immediately informed when the trust account balance reaches zero (\$0.00), except for any unclaimed monies which have not been disbursed. In this instance, please provide written details of the unclaimed funds and confirm the manner in which you will be dealing with these monies.

It should be noted that **failure to submit the Brokerage Winding Up Report (section 4-11 of the Council Bylaws) could delay the licence reissuance of a licence to any managing broker, director, officer, partner or sole proprietor of the brokerage.**

PART II – COUNCIL GUIDELINES – BROKERAGES

A. Licensee Names for Brokerage Applicants

If an applicant for a new brokerage licence has a legal name or a trade name (*See Part III, Item L, page 17 – Licensee Names for further information*) that is likely to confuse or mislead the public, the Council may refuse to issue the licence. Before refusing to issue the licence, the Council must give notice to the applicant and provide the applicant with an opportunity to be heard respecting the matter. (Section 13(3) of the *Real Estate Services Act*)

If the Council refuses to issue a licence because of the legal name or trade name, it must

- (a) provide the applicant with a written notice of the refusal and the reasons for it; and
- (b) advise the applicant of the right to appeal under Division 4 [*Appeals to Financial Services Tribunal*] of Part 4. (Section 13(3) of the *Real Estate Services Act*)

The Council may, however, approve similar names for companies, which are affiliated within the meaning of the *Business Corporations Act*. Alternatively, a licensing agreement may be entered into by the two entities allowing for the use of similar names. The Council would require a copy of the licensing agreement prior to giving name approval for licensing.

The following is an extract from section 2 of the *Business Corporations Act*:

“Corporate relationships

- 2(1) For the purposes of this *Act*, one corporation is affiliated with another corporation if
- (a) one of them is a subsidiary of the other,
 - (b) both of them are subsidiaries of the same corporation, or
 - (c) each of them is controlled by the same person.
- (2) For the purposes of this *Act*, a corporation is a subsidiary of another corporation if
- (a) it is controlled by
 - (i) that other corporation,
 - (ii) that other corporation and one or more corporations controlled by that other corporation, or
 - (iii) 2 or more corporations controlled by that other corporation, or
 - (b) it is a subsidiary of a subsidiary of that other corporation.
- (3) For the purposes of this section, a corporation is controlled by a person if
- (a) shares of the corporation are held, other than by way of security only, by the person, or are beneficially owned, other than by way of security only, by
 - (i) the person, or
 - (ii) a corporation controlled by the person, and
 - (b) the votes carried by the shares mentioned in paragraph (a) are sufficient, if exercised, to elect or appoint a majority of the directors of the corporation.
- (4) For the purposes of this *Act*, a corporation is the holding corporation of a corporation that is its subsidiary.

- (5) For the purposes of this *Act*, a corporation is a wholly owned subsidiary of another corporation if all of the issued shares of the first corporation are held by one or both of
- (a) that other corporation, and
 - (b) a wholly owned subsidiary, or wholly owned subsidiaries, of that other corporation.”

If you are in doubt as to whether two companies are affiliated within the meaning of the *Business Corporations Act*, you may wish to seek independent legal advice in this regard.

B. Trade Names

Some corporations, partnerships and sole proprietors, when applying for their first licence as a brokerage, indicate that they propose doing business under a name other than their legal name. After receiving approval from the Council for both the legal and trade name and registering both names with the Registrar of Companies, the licence certificate, when issued, will reflect both the legal and trade name.

For example, a licence could be issued showing

“A.B.C. Realty Ltd. dba Bombay Realty”	OR	“John Doe dba Melbourne Realty”
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In order to ensure that the public can identify the brokerage with whom they are dealing, a brokerage can **only** do business under the trade name. It would not be permissible to do business under more than one name. The telephone would be answered as “*Bombay Realty*” or “*Melbourne Realty*” as the case may be and the trade name would be shown on signs, advertisements and business cards.

If a brokerage, after licensing, decided to use a trade name rather than the legal name under which it was licensed, the trade name would again have to be cleared with the Council and registered with the Registrar of Companies. The real estate licences would then have to be amended. (See *Part I, Item E, page 7 – Name or Address Changes for further information.*)

C. Franchise Names

Brokerages associated under a franchise agreement may all share a common part of their names (i.e. that part which identifies them as franchisees). However, franchisee brokerages must be readily identifiable by their full name or trade name.

The franchise name must be approved by the Council and registered with the Registrar of Companies. The Council may require a copy of the licensing agreement or “*consent for use of name*” from the franchisor. If necessary, real estate licences would have to be amended. (See *Part I, Item E, page 7 – Name or Address Changes for further information.*)

In order to ensure that the public can identify the brokerage with whom they are dealing, the brokerage can do business **only** under the franchise name. It would not be permissible to do business under more than one name.

D. Financial Statements

Section 4-5(2) *[materials that must accompany applications for new brokerage licences]* of the Council Bylaws requires that a financial statement accompany each application for a brokerage's licence and section 2-11 *[financial qualifications for brokerages]* stipulates that brokerage applicants must be in sound financial circumstances. To satisfy both requirements, a brokerage applicant's financial statement must show unimpaired working capital, i.e. cash in bank, in an amount not less than is required to meet all operating expenditures for the first three months, plus \$5,000. Eighty percent of accounts receivable may be treated as a current asset.

If shareholders' loans are required to achieve that position, it is necessary that a subordination agreement be executed between the shareholders and the applicant in the form provided by the Council.

PLEASE NOTE: The Financial Statement must be:

- (a) verified by the statutory declaration of the proposed **managing broker or sole proprietor** deposing to the accuracy of the financial statement;
- OR**
- (b) certified by a chartered accountant or certified general accountant as to the accuracy of the financial statement. (Notice to Reader, Review Engagement Report or Audit Report are acceptable.)

The **Form A - Brokerage Operating Expenses**, included in this package, is intended to assist in estimating expenses and a completed copy of the form must be submitted with the financial statement.

E. Branch Offices

If a brokerage wishes to provide real estate services at premises other than the brokerage's head office, the brokerage must obtain licensing for those premises as a "branch office". If the office is used by related licensees to only complete paperwork and make telephone calls, and the office does not have any signage to indicate that it is a real estate office, it will not be required to obtain licensing under the Act. *(See Part III, Item K, page 16 – Restrictions Relating to Home and Other Personal Offices)*

A branch office must have a qualified individual to act as the managing broker. A managing broker may be licensed in relation to a maximum of 4 offices of a brokerage (e.g. a head office and three branch offices or four branch offices). *(Please note that an application form and licensing fee will be required for each additional managing broker licence.)* This managing broker would then be required to be actively engaged and provide an adequate level of supervision for all of the office locations and would be responsible for all related licensees of the offices. *(See Part III, Item C, page 14 – Managing Broker May be Licensed in Relation to a maximum of 4 Licences of a Brokerage.)*

A staffed kiosk in a shopping mall does not require licensing as a branch office provided that the brokerage has a permanent licensed office situated in the same shopping mall and the Council has been notified, in writing, of the kiosk's existence.

A display kiosk does not require licensing as a branch office provided it is only a display and not staffed by real estate licensees or others.

F. Operating Site Offices and Temporary Locations

A brokerage conducting real estate activity on a temporary basis at trade shows, flea markets or sites at a project or subdivision, does not require a branch office licence provided that the activity is restricted to the duration of the event or the life of the project.

G. Good Reputation – Managing Brokers/Sole Proprietors

Section 10 [*qualifications for obtaining licence*] of the *Real Estate Services Act* requires that an applicant for a licence be of “good reputation” which includes, among other things, whether an applicant is in “sound financial circumstances”. In addition, section 7-4 [*other trust account requirements*] of the Council Rules requires at least one related managing broker must be a signing authority on each trust account maintained by a brokerage. As a result, a managing broker/sole proprietor applicant will **not** be licensed if the applicant:

1. is an undischarged bankrupt;
2. has outstanding judgments against him/her; or
3. is in arrears on several trade accounts.

In the above circumstances, a qualification hearing under section 2-6 [*qualification hearings*] of the Council Rules may be required to determine an applicant's suitability for licensing. This policy does **not** apply to those individuals licensed as representatives or associate brokers.

H. Refund of Licensing Fee and Assessments

The licensing fee is not refundable once a licence is issued. If an application is withdrawn for any reason prior to licence issuance, the application fee of \$50 for new applications and \$25 for renewal and reinstatement applications is not refundable.

The assessment for the Real Estate Special Compensation Fund is not refundable once a licence has been issued.

Requests for a refund of the 2nd year errors and omissions insurance assessment should be directed to:

Real Estate Errors and Omissions Insurance Corporation

1604 - 700 West Pender Street

Vancouver, B.C. V6C 1G8

Tel: 604-669-0019 Fax: 604-669-0021

PART III – COUNCIL RULES

A. Managing Brokers

Section 6-1(a) of the *Real Estate Services Act* requires that a brokerage must have one or more managing brokers and section 3-1(1) of the Council Rules requires that a managing broker be actively engaged in the management of the related brokerage. The managing broker must also ensure that the business of the brokerage is carried out competently and in accordance with the Act, Regulation, Rules, and Bylaws. In addition, managing brokers must ensure that there is an adequate level of supervision for related associate brokers and representatives and for employees and others who perform duties on behalf of the brokerage.

B. Managing Broker May be Licensed in Relation to a maximum of 4 Affiliated Brokerages (section 2-3 of the Council Rules)

A managing broker may

- (a) be licensed in relation to a maximum of 4 brokerages that are affiliated within the meaning of the *Business Corporations Act*, and
- (b) provide real estate services in relation to the licence of each of those brokerages.

The total of all brokerage licences in relation to which a managing broker is licensed must not exceed 4.

As evidence of affiliation, the Council requires a letter from the brokerage's corporate lawyer confirming that the brokerages are affiliated. For a definition of affiliation as outlined in section 2 of the *Business Corporations Act* please see *Part II, A - Licensee Names for Brokerage Applicants* on page 10 of this booklet.

When an individual has been issued multiple managing broker licences, these additional licences will then be identified as a "multiple managing broker licence". The multiple managing broker licences are not required to carry separate errors and omissions insurance. Accordingly, if the individual then wishes to transfer his/her licence to another firm, only the "managing broker" licence will be used for transfer and the "multiple managing broker" licences will be terminated. (See *Part I, Item D, page 7 - Waiver of Assessment for further information.*)

C. Managing Broker May be Licensed in Relation to a maximum of 4 Licences of a Brokerage (section 2-4 of the Council Rules)

A managing broker may be licensed in relation to a maximum of 4 licences of a brokerage (i.e. a head office and 3 branch offices or 4 branch offices) and may provide real estate services in relation to each of those brokerage licences. The maximum number of managing broker licences an individual may hold, whether in relation to branch offices or affiliated brokerages, is 4.

See Item B above, Managing Broker May be Licensed in Relation to a maximum of 4 Affiliated Brokerages, for more information regarding the reissuance of multiple managing broker licences.

D. Residential Brokerage Office (section 2-5 of the Council Rules)

1. A brokerage may only have a residential office as its head office or as a branch office if
 - (a) the office is located in the residence of a related managing broker,
 - (b) the office is a separate office within the residence, and
 - (c) the local government bylaws applicable to the residence permit the brokerage business to be conducted from the residence.
2. In addition to the requirements of subsection (1), a brokerage may only have a residential office as its head office if the managing broker referred to in subsection (1)(a) is, as applicable,
 - (a) in the case of a brokerage that is a sole proprietor, the sole proprietor,
 - (b) in the case of a brokerage that is a partnership, a partner, or
 - (c) in the case of a brokerage that is a corporation, either
 - (i) a controlling shareholder of the corporation, or
 - (ii) one of only 2 shareholders of the corporation, the other of whom is the spouse or family partner of the managing broker.
3. Subject to any further restrictions or conditions contained in any local government bylaws that regulate residential business activities, only 2 licensees may be licensed in relation to a residential head office or residential branch office.

E. Term of Licence (section 2-13 of the Council Rules)

The term of a licence is

- (a) 2 years from the effective date of the licence, ending at the end of the day before the second anniversary of that date, or
- (b) in the case of a temporary licence, as specified in the licence.

F. Partnership Brokerage Licence (section 2-14 of the Council Rules)

A brokerage licence issued to a partnership is specific to the partnership as it exists at the time of the application for the licence.

If a partnership continues but with different partners, the brokerage licence is cancelled effective 14 days after the change or at the end of a longer period permitted by the Council.

G. Brokerage Must Give Immediate Notice Respecting Solvency (section 2-20 of the Council Rules)

A brokerage must immediately notify the Council if it is not able to pay its debts as they become due.

H. Notice of Business Changes (section 2-22 of the Council Rules)

1. A brokerage must promptly notify the Council in writing of the following:
 - (a) a change in the telephone number, fax number or email address of a brokerage's head office or branch office;

- (b) if any related managing broker, associate broker or representative ceases to be engaged by the brokerage, and the reasons for this;
- (c) in the case of a brokerage that is a partnership,
 - (i) any change in the partners and whether, as a result of licence cancellation under section 2-14 [*partnership brokerage licence is specific to partnership*] of the Council Rules, an application for a new brokerage licence is intended to be made, or
 - (ii) any change in the nature of the partnership, such as registration as a limited liability partnership;
- (d) in the case of a brokerage that is a corporation,
 - (i) any change in the directors or officers of the corporation, or
 - (ii) any fundamental change to the corporation, such as an amalgamation or continuation;
- (e) a change in the end date of the brokerage's fiscal year;
- (f) a change in the savings institutions, or branch location of a savings institution, at which the brokerage maintains accounts.

2. If notice is required under subsection (1)(d) because a new director or officer is appointed or elected, within 30 days after the appointment or election, the brokerage must submit to the Council the information and statements required under section 4-5(2)(c) [*materials that must accompany applications – directors and officers*] of the Council Bylaws for each new director or officer.

I. Displaying and Keeping of Licences (section 4-1 of the Council Rules)

A brokerage must

- (a) keep the brokerage licence for its head office prominently displayed in the head office;
- (b) if applicable, keep any branch office licence prominently displayed in the branch office, and
- (c) keep the licences of all related licensees available for public inspection at the related brokerage office.

J. Business Signs Required (section 4-2 of the Council Rules)

A brokerage must

- (a) display, on or near the door of its head office and any branch offices, a sign that clearly shows the brokerage's licensee name, and
- (b) have its licensee name listed in the building directory, if any, for the places where the offices are located.

K. Restrictions Relating to Home and Other Personal Offices (section 4-3(1) and (2) of the Council Rules)

Personal office in relation to a licensee means an office from which the licensee provides real estate services, other than a related brokerage office, and includes an office that is in the residence of the licensee or any other person.

The following Rules apply if a licensee maintains a personal office from which the licensee provides real estate services:

- (a) no sign may be placed outside the office or the building in which the office is located, or from where it is visible from outside the office or building, that indicates real estate services are provided from the office;
- (b) the phone for the office must not be answered in the name of the related brokerage of the licensee;
- (c) the licensee must not indicate the office address on any real estate advertising or on any other records relating to the provision of real estate services.

L. Licensee Names (section 4-4 of the Council Rules)

The licensee name of a brokerage is, as applicable,

- (a) the legal name of the brokerage, unless another name is indicated on the brokerage licence under paragraph (b), or
- (b) the trade name of the brokerage if this has been approved by the Council, has been registered with the Registrar of Companies and is indicated on the brokerage licence.

M. Relationships with Principals and Parties (Part 5 of the Council Rules)

A brokerage should review Part 5 and section 10-4 of the Council Rules with respect to written service agreements, disclosures, commissions, and other remuneration.

N. Dealing with Other Licensees and Unlicensed Persons (Part 6 of the Council Rules)

A brokerage should review Part 6 of the Council Rules with respect to the payment of commissions to unlicensed persons and acting for unlicensed persons.

O. Brokerage Accounts and Financial Requirements (Part 7 of the Council Rules)

Section 26 [*obligation to maintain trust account*] of the *Real Estate Services Act* requires that every licensed brokerage must maintain at least one or more interest bearing trust accounts. Every trust account must be in a savings institution located **within** the Province.

A brokerage should review Part 7 of the Council Rules with respect to brokerage trust accounts, commission trust accounts, accountant's reports and solvency issues.

P. Brokerage Records (Part 8 of the Council Rules)

A brokerage should review Part 8 of the Council Rules with respect to financial and other records, and general record keeping.