

chapter C-73.2, r. 7

Regulation to enact transitional measures for the application of the Real Estate Brokerage Act

Real Estate Brokerage Act
(chapter C-73.2, s. 157).

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1. A person who, on 30 April 2010, holds a chartered real estate broker's certificate, chartered real estate agent's certificate or affiliated real estate broker's certificate issued by the Association des courtiers et agents immobiliers du Québec under the Real Estate Brokerage Act (chapter C-73.1), and who, on that date, represents a partnership or a legal person that holds a chartered real estate broker's certificate, in accordance with section 7 of that Act, or manages an establishment or acts as an assistant to that person who manages an establishment, in accordance with section 13 of that Act, is deemed to have the competence in management of professional activities of brokers and agencies required to be an executive officer of the agency under the Real Estate Brokerage Act (chapter C-73.2).

O.C. 301-2010, s. 1.

2. A real estate broker's licence is issued to a natural person who, on 30 April 2010, represents a partnership or a legal person that holds a chartered real estate broker's certificate, in accordance with section 7 of the Real Estate Brokerage Act (chapter C-73.1), on that date, manages an establishment or acts as an assistant to that person, in accordance with section 13 of the Real Estate Brokerage Act (chapter C-73.1), without holding a certificate issued by the Association des courtiers et agents immobiliers du Québec.

O.C. 301-2010, s. 2.

3. A person who, on 30 April 2010, represents a partnership or a legal person that is deemed to hold a licence under section 147 of the Real Estate Brokerage Act (chapter C-73.2), is deemed to be the executive officer of the partnership or the legal person.

O.C. 301-2010, s. 3.

4. A natural person who, not more than 2 years after the expiry or relinquishment of the person's real estate agent or broker's certificate issued in accordance with the Real Estate Brokerage Act (chapter C-73.1), files for a real estate broker's licence is exempt from the obligation to meet the conditions set out in paragraphs 2 and 4 of section 1 of the Regulation respecting the issue of broker's and agency licences (chapter C-73.2, r. 3) if the person has taken all additional training imposed to holders of real estate broker's licences by the Organization since 1 May 2010.

Despite the first paragraph, the person who held an affiliated real estate agent's certificate may act on his or her account only when the person meets the qualification requirements imposed by the Organization.

O.C. 301-2010, s. 4.

5. A person who, as of 1 May 2010, has taken all additional training imposed to holders of real estate broker's licences by the Organization since that date and applies for a real estate broker's licence within 2 years of the following events, is exempt from the obligation to meet the conditions set out in paragraphs 2 and 4 of section 1 of the Regulation respecting the issue of broker's and agency licences (chapter C-73.2, r. 3):

(1) the expiry or relinquishment of the person's chartered real estate agent's certificate or chartered or affiliated real estate broker's certificate issued under the Real Estate Brokerage Act (chapter C-73.1); or

(2) the time when the person ceased to act as the representative of a partnership or legal person that holds a chartered real estate broker's certificate, in accordance with section 7 of the Real Estate Brokerage Act (chapter C-73.1) or as the manager or assistant manager of an establishment in accordance with section 13 of the Real Estate Brokerage Act (chapter C-73.1).

Such a person is deemed to have the competence in management of professional activities of brokers and agencies required to be an agency executive officer if the person has taken all additional training imposed by the Organization to brokers qualified as agency executive officers since 1 May 2010.

O.C. 301-2010, s. 5.

6. A broker or an agency that, on 1 May 2010, is deemed to hold a licence under sections 146 and 147 of the Real Estate Brokerage Act (chapter C-73.2) must, within the time limit set by the Organization, pay the fees payable in accordance with section 45 of the Regulation respecting the issue of broker's and agency licences (chapter C-73.2, r. 3) and the fee to the Real Estate Indemnity Fund in accordance with section 15 of the Regulation respecting the Real Estate Indemnity Fund and determination of the professional liability insurance premium (chapter C-73.2, r. 5). The fees are reduced by an amount corresponding to the fees paid for the year 2010 under the By-law respecting chargeable fees and specialist titles of the Association des courtiers et agents immobiliers du Québec (O.C. 1866-93, 93-12-15) and the Regulation respecting the application of the Real Estate Brokerage Act (chapter C-73.1, r. 1), in proportion to the number of months remaining in the period from 1 May 2010 to 31 December 2010.

The first paragraph also applies to firms, independent partnerships and their insurance representatives and independent representatives as well as representatives of mutual fund dealers and representatives of scholarship plan dealers referred to in section 10 of this Regulation.

O.C. 301-2010, s. 6.

7. The following persons are deemed to meet the conditions set out in paragraphs 2 and 4 of section 1 of the Regulation respecting the issue of broker's and agency licences (chapter C-73.2, r. 3):

(1) a person who

(a) prior to 1 May 2010, has obtained an attestation of college studies provided for in section 9 of the Regulation respecting the application of the Real Estate Brokerage Act (chapter C-73.1, r. 1);

(b) has applied for the issue of a real estate broker's licence within 3 months following 1 May 2010 and not later than 2 years after obtaining the attestation of college studies mentioned in subparagraph *a*; and

(c) has passed the examination provided for in section 20 of the Regulation respecting the application of the Real Estate Brokerage Act for the category of affiliated real estate agent's certificate;

(2) a person who

(a) prior to 1 May 2010, has started the program leading to the attestation of college studies provided for in section 9 of the Regulation respecting the application of the Real Estate Brokerage Act;

(b) has obtained the attestation of college studies mentioned in subparagraph *a* within 12 months following 1 May 2010;

(c) applies for the issue of a real estate broker's licence within 3 months after obtaining the attestation of college studies mentioned in subparagraph *a*; and

(d) has passed the examination provided for in section 20 of the Regulation respecting the application of the Real Estate Brokerage Act for the category of affiliated real estate agent's certificate.

After the issue of the broker's licence, the person has the same rights and is subject to the same restrictions as the affiliated real estate agent referred to in section 146 of the Real Estate Brokerage Act (chapter C-73.2).

O.C. 301-2010, s. 7.

8. The following persons are deemed to meet the conditions set out in paragraphs 2 and 4 of section 1 of the Regulation respecting the issue of broker's and agency licences (chapter C-73.2, r. 3):

(1) a person who

(a) prior to 1 May 2010, has obtained the attestation of college studies provided for in section 13 of the Regulation respecting the application of the Real Estate Brokerage Act (chapter c-73.1, r. 1);

(b) has applied for a real estate broker's licence within 3 months following 1 May 2010 and not later than 2 years after obtaining the attestation mentioned in subparagraph *a*; and

(c) has passed the examination provided for in section 20 of the Regulation respecting the application of the Real Estate Brokerage Act for the category of chartered real estate broker's certificate;

(2) a person who

(a) prior to 1 May 2010, has started the program leading to the attestation of college studies provided for in section 13 of the Regulation respecting the application of the Real Estate Brokerage Act;

(b) has obtained the attestation of college studies mentioned in subparagraph *a* within 18 months following 1 May 2010;

(c) has applied for the issue of a real estate broker's licence within 3 months after obtaining the attestation of college studies mentioned in subparagraph *a*; and

(d) has passed the examination provided for in section 20 of the Regulation respecting the application of the Real Estate Brokerage Act for the category of chartered real estate broker's certificate.

That person may act on the person's own account and is deemed to have the competence in management of professional activities of brokers and agencies required to be an agency executive officer where, during at least 3 of the 5 preceding years, the person held an affiliated real estate agent's certificate issued by the Association des courtiers et agents immobiliers du Québec under the Real Estate Brokerage Act (chapter C-73.1), has acted as broker for an agency's account or has engaged in brokerage-related activities provided for in section 1 of the Real Estate Brokerage Act (chapter C-73.1) or section 1 of the Real Estate Brokerage Act (chapter C-73.2).

O.C. 301-2010, s. 8.

9. An insurance or securities representative governed by the Act respecting the distribution of financial products and services (chapter D-9.2) who, prior to 1 May 2010, has started the courses required by the Regulation respecting brokerage activities in connection with loans secured by immovable hypothec (O.C. 834-99, 99-07-07), successfully completes them within 12 months following 1 May 2010 and applies for a mortgage broker's licence within 3 months following the completion of the courses is exempt from the obligation to meet the conditions set out in paragraphs 2 and 4 of section 1 of the Regulation respecting the issue of broker's and agency licences (chapter C-73.2, r. 3).

O.C. 301-2010, s. 9.

10. For the purposes of section 148 of the Real Estate Brokerage Act (chapter C-73.2), firms, independent partnerships and their insurance representatives and independent representatives that are authorized to engage in brokerage transactions relating to loans secured by immovable hypothec under the Act respecting the distribution of financial products and services (chapter D-9.2) before 1 May 2010 are deemed to hold a mortgage broker's licence or a real estate agency's licence, as the case may be, until the Organization rules on their application pursuant to that section.

The same applies to representatives of mutual fund dealers and representatives of scholarship plan dealers registered under Title V of the Securities Act (chapter V-1.1) authorized to engage in such transactions in accordance with the Regulation enacting transitional measures for the carrying out of the Act to amend the Securities Act and other legislative provisions (O.C. 12-2010, 10-01-13).

O.C. 301-2010, s. 10.

11. Every trust account existing on 30 April 2010 is deemed to be a trust account governed by the Regulation respecting records, books and registers, trust accounting and inspection of brokers and agencies (chapter C-73.2, r. 4).

O.C. 301-2010, s. 11.

12. A broker, other than a broker carrying on activities for an agency, or an agency that, on 1 May 2010, holds a licence under sections 146 to 148 of the Real Estate Brokerage Act (chapter C-73.2) and does not hold a trust account on 1 May 2010 must, within 3 months following that date, open a general trust account and send the declaration related to the opening of accounts required under section 29 of the Regulation respecting records, books and registers, trust accounting and inspection of brokers and agencies (chapter C-73.2, r. 4).

O.C. 301-2010, s. 12.

13. The declarations related to the opening of trust accounts provided for in sections 111 and 113 of the By-law of the Association des courtiers et agents immobiliers du Québec (chapter C-73.1, r. 2) are deemed to be the declarations related to the opening of accounts required by sections 29 and 30 of the Regulation respecting records, books and registers, trust accounting and the inspection of brokers and agencies (chapter C-73.2, r. 4).

O.C. 301-2010, s. 13.

14. Despite sections 57 to 59 of the Real Estate Brokerage Act (chapter C-73.2), the members of the board of directors of the Association des courtiers et agents immobiliers du Québec, appointed by the Government under section 81 of the Real Estate Brokerage Act (chapter C-73.1) and in office on 30 April 2010, remain in office until they are replaced or reappointed in accordance with the terms and conditions provided for in the Real Estate Brokerage Act (chapter C-73.2).

Despite sections 57 to 59 of the Real Estate Brokerage Act (chapter C-73.2), the members of the board of directors of the Association des courtiers et agents immobiliers du Québec, elected from among the members of the Association under section 81 of the Real Estate Brokerage Act (chapter C-73.1) and in office on 30 April 2010, remain in office until they are replaced or re-elected in accordance with the terms and conditions provided for in the Real Estate Brokerage Act (chapter C-73.2) and the Internal By-law of the Organisme d'autoréglementation du courtage immobilier du Québec.

For the purposes of section 58 of the Real Estate Brokerage Act (chapter C-73.2), the Minister appoints a third director when the number of directors elected to the board of directors of the Organization goes from 9 to 8 following an election to the board of directors in accordance with the terms and conditions provided for in the Real Estate Brokerage Act (chapter C-73.2) and the Internal By-law of the Organisme d'autoréglementation du courtage immobilier du Québec.

O.C. 301-2010, s. 14.

15. The insurance fund established by the Association des courtiers et agents immobiliers du Québec under section 79.1 of the Real Estate Brokerage Act (chapter C-73.1) is deemed to be established under section 52 of the Real Estate Brokerage Act (chapter C-73.2).

O.C. 301-2010, s. 15.

16. Despite section 52 of the Real Estate Brokerage Act (chapter C-73.2), sections 5 and 6 and subparagraphs 7 and 7.1 of the first paragraph of section 74 of the Real Estate Brokerage Act (chapter C-73.1), and section 61.1 of the Regulation respecting the Association des courtiers et agents immobiliers du Québec (chapter C-73.1, r. 2) continue to apply, with the necessary modifications, to every broker or agency that holds a licence issued by the Organisme d'autoréglementation du courtage immobilier du Québec, until the due date of the premium payable to the insurance fund following 1 May 2010.

O.C. 301-2010, s. 16.

17. The members of the board of directors of the Real Estate Indemnity Fund, appointed under section 46 of the Real Estate Brokerage Act (chapter C-73.1), constituted under section 9.14 of the Real Estate Brokerage Act (chapter C-73) and continued under section 44 of the Real Estate Brokerage Act (chapter C-73.1), in office on 30 April 2010, become members of the indemnity committee appointed under section 105 of the Real Estate Brokerage Act (chapter C-73.2), without further formalities, until they are replaced or reappointed in accordance with the Real Estate Brokerage Act (chapter C-73.2) and the Regulation respecting the Real Estate Indemnity Fund and determination of the professional liability insurance premium (chapter C-73.2, r. 4).

O.C. 301-2010, s. 17.

18. The discipline committee established under section 128 of the Real Estate Brokerage Act (chapter C-73.1) is deemed to be, as of 1 May 2010, established under section 93 of the Real Estate Brokerage Act (chapter C-73.2).

The members, appointed under section 131 of the Real Estate Brokerage Act (chapter C-73.1), of the discipline committee established under section 128 of that Act, in office on 30 April 2010, become the members of the discipline committee established under section 93 of the Real Estate Brokerage Act (chapter C-73.2), without further formalities, until they are replaced or reappointed in accordance with the Real Estate Brokerage Act (chapter C-73.2). Despite the foregoing, the substitute chair appointed under section 131 of the Real Estate Brokerage Act (chapter C-73.1) becomes one of the vice-chairs of the discipline committee established under the Real Estate Brokerage Act (chapter C-73.2).

O.C. 301-2010, s. 18.

19. The professional inspection committee established under section 107 of the Real Estate Brokerage Act (chapter C-73.1) becomes, on 1 May 2010, the inspection committee established under section 73 of the Real Estate Brokerage Act (chapter C-73.2).

The members, appointed under section 110 of the Real Estate Brokerage Act (chapter C-73.1), of the professional inspection committee established under section 107 of the Real Estate Brokerage Act (chapter C-73.1), in office on 30 April 2010, become the members of the inspection committee established under section 73 of the Real Estate Brokerage Act (chapter C-73.2), without further formalities, until they are replaced or reappointed in accordance with the Real Estate Brokerage Act (chapter C-73.2) and the Regulation respecting records, books and registers, trust accounting and inspection of brokers and agencies (chapter C-73.2, r. 4).

O.C. 301-2010, s. 19.

20. The committee established under section 25.2 of the Regulation respecting the Association des courtiers et agents immobiliers du Québec (chapter C-73.1, r. 2) becomes, on 1 May 2010, the committee referred to in section 42 of the Real Estate Brokerage Act (chapter C-73.2).

The members, appointed under section 25.2 of the Regulation respecting the Association des courtiers et agents immobiliers du Québec, of the committee established under that section, in office on 30 April 2010, become the members of the committee referred to in section 42 of the Real Estate Brokerage Act, without further formalities, until they are replaced or reappointed in accordance with the Regulation respecting the issue of broker's and agency licences (chapter C-73.2, r. 3).

O.C. 301-2010, s. 20.

21. The Financing fund of the Association des courtiers et agents immobiliers du Québec for public information, established under section 148 of the Regulation respecting the Association des courtiers et agents immobiliers du Québec (chapter C-73.1, r. 2), becomes, on 1 May 2010, the Financing fund of the Organisme

d'autoréglementation du courtage immobilier du Québec established under section 47 of the Real Estate Brokerage Act (chapter C-73.2).

O.C. 301-2010, s. 21.

22. Business cards, signs or any other advertisement already used in accordance with the Real Estate Brokerage Act (chapter C-73.1) by a real estate broker or agent, before 1 May 2010, may be used for the 18 months following 1 May 2010.

O.C. 301-2010, s. 22.

23. The rules provided for in sections 26 and 27 of the Regulation respecting the application of the Real Estate Brokerage Act (chapter C-73.1, r. 1) and those provided for in sections 85, 86, 87, 89, 90, 94, 99, 100 and Schedules 1 to 5 to the Regulation respecting the Association des courtiers et agents immobiliers du Québec (chapter C-73.1, r. 2) continue to apply until 30 June 2012, with the necessary modifications.

O.C. 301-2010, s. 23; O.C. 414-2011, s. 1.

24. The licence applied for or held by a person who has held a certificate issued in accordance with the Real Estate Brokerage Act (chapter C-73.1) is subject, with the necessary modifications, to any suspension, cancellation, revocation or restriction of the right to practise affecting that certificate on 1 May 2010.

O.C. 301-2010, s. 24.

25. A person who, before 1 May 2010, has been the subject of a decision of the board of directors confirming a recommendation of the discipline committee of the Association des courtiers et agents immobiliers requiring that the person take a course or training, may not be issued a licence or maintain his or her licence unless the person shows that he or she has successfully completed, if applicable, the course or training that was recommended, or any other training considered equivalent by the Organization and, where applicable, obtains from the board of directors of the Organization an extension of the period for completing the course or training.

O.C. 301-2010, s. 25.

26. The effects on a certificate issued by the Association des courtiers et agents immobiliers du Québec of any decision or order of the discipline committee of the Association des courtiers et agents immobiliers du Québec or a court, resulting from a disciplinary complaint, becoming final before or after 1 May 2010, are deemed to continue for the licence held by the person or partnership concerned by the decision, with the necessary modifications.

O.C. 301-2010, s. 26.

27. Every decision of the discipline committee of the Association des courtiers et agents immobiliers du Québec or a court, resulting from a disciplinary complaint, becoming final before or after 1 May 2010, that orders a person or a partnership to perform an act, not to do or to cease doing something or that restricts the right to practise or the professional activities of a person or partnership, continues to produce its effects with respect to the person or partnership, under the same terms and conditions, with the necessary modifications.

O.C. 301-2010, s. 27.

28. A person or partnership that has been the subject of a decision of the discipline committee or a court, resulting from a disciplinary complaint, becoming final before or after 1 May 2010, may not apply for the issue of a licence under the Real Estate Brokerage Act (chapter C-73.2) until the end of the suspension or prohibition of issue imposed on the person by the discipline committee under the Real Estate Brokerage Act (chapter C-73.1).

O.C. 301-2010, s. 28.

29. A natural person who, on 30 April 2010, holds a chartered real estate broker's certificate issued by the Association des courtiers et agents immobiliers du Québec under the Real Estate Brokerage Act (chapter C-73.1), and carries on activities under a name other than the person's name, may continue to act on his or her account under that name or under another name.

O.C. 301-2010, s. 29.

30. Except for a document concerning additional training, the issue of a certificate or licence, obtaining and use of a specialist title, discipline, overseeing of the carrying on of the activities of brokers and agencies, professional inspection and indemnification, a document in the possession of the Association des courtiers et agents immobiliers du Québec on 30 April 2010 is deemed not to be a document of the Organization for the purposes of section 61 of the Real Estate Brokerage Act (chapter C-73.2).

O.C. 301-2010, s. 30.

31. *(Omitted).*

O.C. 301-2010, s. 31.

UPDATES

O.C. 301-2010, 2010 G.O. 2, 852

O.C. 414-2011, 2011 G.O. 2, 943A