



## REAL ESTATE ACT & REAL ESTATE ASSOCIATION OR BOARD RULES

**Summary: The standards of practice and real estate industry member obligations set out in the *Real Estate Act* and the *Real Estate Act Rules*, when in conflict, prevail over association or real estate board rules, including multiple listing service rules, when establishing the standards of conduct industry members are required to follow. [See: *Real Estate Act* s.5, s.12, s.17; *Real Estate Act Rules* sections 41 to 63]**

*Note: For the purposes of this Information Bulletin, and where the context permits, the term “real estate broker” includes all industry members authorized to trade in real estate by the Real Estate Council of Alberta including a brokerage, broker, associate broker and associate.*

This Information Bulletin reviews the relationship between the *Real Estate Act*, *Real Estate Act Rules* and real estate association rules including multiple listing service (MLS) Rules

### ***Real Estate Act and Real Estate Act Rules***

The *Real Estate Act* is the Alberta statute regulating the real estate industry in Alberta. The *Real Estate Act* contains the regulatory framework for the real estate industry in Alberta and provides that all persons trading in real estate as real estate brokerages, brokers, associate brokers or associates must be licensed and registered with the Real Estate Council of Alberta (“RECA”) in accordance with the provisions of the *Real Estate Act* (Section 17).

Pursuant to the *Real Estate Act* (s.5), RECA is the governing body responsible for the regulation of the real estate industry in Alberta. RECA derives its authority from the *Real Estate Act*. By the *Real Estate Act* (s.12), Council is empowered to make rules prescribing and adopting standards of conduct and industry practices for all industry members, and the legislature has determined that these are the law of Alberta.

The *Real Estate Act Rules* are made by Council in consultation with industry members. They detail real estate industry regulatory requirements, including licence application processes and classification, licence approvals/refusals/suspensions, standards of practice, broker/associate obligations and mandatory form content. Like the *Real Estate Act*, the *Real Estate Act Rules* are law in the Province of Alberta and real estate industry members as well as all affected Alberta citizens must comply with the *Real Estate Act* and Rules.

The *Real Estate Act Rules* Part 2, entitled “Industry Standards of Practice,” set the regulatory standards of conduct for industry members. Division 1 (*Real Estate Act Rules* 41 to 46) sets standards of conduct that apply to all industry members. Division 2 (*Real Estate Act Rules* 47 to 63) sets specific standards that apply to all classes of real estate brokers (real estate brokerage, broker, associate broker and associate).

The provisions of the *Real Estate Act* and Rules are enforced through a variety of enforcement mechanisms including the public complaints, investigation and disciplinary processes under the *Real Estate Act*. Outcomes of complaints may result in fines and costs and an industry member's licence to trade in real estate in the Province of Alberta may be suspended or cancelled.

### **Real Estate Board Rules (including Multiple Listing Service Rules)**

After becoming licensed and registered with a brokerage pursuant to the *Real Estate Act* (a prerequisite), a real estate broker may decide to become a member of a local real estate board. Real estate boards are private, voluntary associations which are usually legally formed in accordance with the provisions of the *Cooperatives Act* or the *Societies Act*. Real estate brokers who become members of a local board (by operation of board membership) automatically become members of the Alberta Real Estate Association and the Canadian Real Estate Association.

Boards have private membership rules including rules applying to the operation of the specific board, multiple listing service rules, standards of business practice and others. The multiple listing service and rules originate with the Canadian Real Estate Association. It owns the MLS trademark and under a licensing agreement with boards, permits them to operate their local MLS database. All local board rules regardless of origin must comply with the laws in the Province of Alberta including the *Real Estate Act*.

In order to gain board membership, a person must voluntarily agree to comply with a board's rules. Though these are important rules for the operation of the board and multiple listing services, such rules are not legislated and are not laws passed by the Alberta legislature in the Province of Alberta. As with each of its individual members, boards comprised of licensed and registered industry members under the *Real Estate Act* must operate within the law of the Province of Alberta and comply with the *Real Estate Act*. Statutory responsibilities override any rights or duties that an industry member may have as a real estate board member. Further, overlapping membership has no bearing on the legal rights and duties of industry members under the *Real Estate Act*.

Of ultimate importance is the understanding that the standards of practice and real estate broker obligations set out in the *Real Estate Act* and the *Real Estate Act* Rules prevail over association or board rules, including multiple listing service (MLS) rules.