



Why We Need a New *Real Estate Act*

A new *Real Estate Act* is long overdue. The real estate profession has been asking for new legislation for almost a decade because the current statute is outdated.

A lot has changed since the Act was introduced in 1957. There have been extensive amendments over the years, often made in a patchwork fashion; for example, the creation of the Real Estate Errors and Omissions Insurance Corporation and The Real Estate Foundation. As a result of this ad hoc approach, the Act has become increasingly out of date and difficult to use.

In the past decade, the profession has submitted several proposals to the government that would update the Act. These include independent contractor status and the ability of the Real Estate Council to make rules under the Act, such as establishing mandatory continuing education, without having to go through the legislative process.

Instead of making more piecemeal amendments, BCREA took the proactive approach of consulting with members, stakeholders and the public to create a draft Act that is easier to understand, provides fairness and protection for consumers and a flexible regulatory framework that can adapt to the future needs of the real estate marketplace.

What You've Told Us



Since September, BCREA has undertaken 63 meetings with more than 1,600 REALTORS and tallied over 500 fax-in feedback sheets to find out what you want to have changed in the *Real Estate Act*.

BCREA's recommendations to the government are based on what REALTORS want. However, it is unlikely that all of these recommendations will be accepted by the government. Of those that are accepted, some might be included as regulations to the Act or in rules prepared by the Council. Lobbying is the art of compromise.

Here are some highlights of what is included in the draft Act. Although it was not a scientific survey, the results from the fax-in feedback sheets are shown below each item.

> **The Real Estate Council should be self regulating, allowing it the freedom to introduce changes such as mandatory continuing education without needing an amendment to the Act.**

You told us:

Agree	Neutral	Disagree
75%	6%	19%
Respondents		378

> **BCREA will advocate that if you walk, talk, and act like a REALTOR, you should be licensed as**

such under the Real Estate Act. BCREA wants professionals who solicit listings and market properties required to be licensed under the Act.

You told us:

Agree	Neutral	Disagree
88%	1%	11%
Respondents		501

> **BCREA will urge the government to have strata managers licensed under the Act, with exemptions from licensing for self-managed stratas and for those who only carry out caretaker duties.**

You told us:

Agree	Neutral	Disagree
80%	7%	13%
Respondents		521

> **The terminology of salesperson, agent, nominee, etc. must be made consistent with the language used across the country: agent, broker, brokerage, etc.**

You told us:

Agree	Neutral	Disagree
79%	15%	6%
Respondents		499

What's Not Included

> **We received strong support for the concept of mandatory continuing education.**

You told us:

Support	Neutral	Don't
78%	9%	13%
Respondents		401

However, BCREA will not make recommendations to the government on this. Rather, when Council is self regulating, BCREA will consult with you again to find out exactly what you want.

> Many REALTORS think the salaried staff of developers should have to be licensed to sell developers' properties. You told us:

Yes	Neutral	No
72%	12%	16%
Respondents		515

BCREA will not specifically ask that they be licensed. BCREA has decided to leave this matter in the hands of consumer groups that have said they will take the issue to the government.

Other Highlights

The draft Act also contains:

> clear definitions describing licensees as independent contractors, not employees, which should help with ongoing issues that arise from

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One Profession, one voice



THE PLAYERS
Learn who's involved in the process and why



PREPARING FOR PRIVACY
Upcoming legislation that will impact your business

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LONG-RANGE PLAN PRINCIPLES

- Building membership relations
- Responding to communication needs
- Provincial leadership status as an advocate for the profession
- Excellence in education services
- Enhanced service options for member boards
- Non-dues revenue development
- Equitable fee structure

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President's Report



President Dennis Wilson

One Profession, One Voice

Months of planning and consultation are about to wrap up in April with BCREA's submission of a draft *Real Estate Act* to the provincial government.

Last summer, when the government announced its intention to review the *Real Estate Act*, BCREA's government relations team immediately went into high gear. We recognized that the opportunity to influence the legislation that governs our profession does not come along often, and we were determined to make the most of it.

To ensure the project was as inclusive as possible, communications and government relations staff members from the Real Estate Board of Greater Vancouver (Eileen Day, Teresa Murphy), Fraser Valley Real Estate Board (Steve Olmstead), Victoria Real Estate Board (Mike Sampson) and BCREA collaborated on a comprehensive Member Communications Plan that was sent out to the member boards for input and revisions.

The plan clearly defined the goals of the project, the key messages and the audiences we needed to consult. Above all, it provided a blueprint for seeking the informed input of BC REALTORS and translating that feedback into balanced, credible recommendations for consideration by the government.

In addition to REALTOR consultation efforts, the Association has made great efforts to obtain feedback from a wide variety of stakeholders in the *Real Estate Act*, holding meet-

ings with residential and commercial REALTORS, broker-owners and agent-nominees, property managers, strata property groups, related organizations such as the Real Estate Council of BC, the Superintendent's Office and bureaucrats at the Sector Policy Branch.

It's been a busy few months, and the effort has paid off. We now stand ready to present the government with recommendations that truly reflect your concerns. The theme of the *Real Estate Act* reform project is One Profession, One Voice. I believe our recommendations live up to that claim, and this project will serve as a model for future consultations on major issues that impact the entire profession.

President

The Member Communications Plan is available on BCREA's REALTOR Link™ homepage, under Real Estate Act Reform and Planning.

Meet Your Directors

Past President:

Liz Tutt 2001

Vital statistics

Company:

Re/Max Nyda Realty

Home board:

Chilliwack & District

Real Estate Board

Licensed since:

1984

Volunteer since:

1986

BCREA Director since:

1992

BCREA committee experience:
Standard Forms, Arbitration, Communications, Education and current Chair of the Legislative Task Force



"My long history of involvement with BCREA's government relations activities has given me a unique perspective. Before I became a BCREA Director in 1992, I was a member of the Legislative and Government Liaison Committee, which became

the Legislative Task Force in 2000, and I attended the first Government Liaison Days 15 years ago and nearly every one since.

Over the years, I have seen BCREA's government relations grow and evolve into an effective, energetic mechanism to promote the interests of REALTORS with the provincial government. The commitment of the member boards, BCREA Board of Directors and a dedicated group of volunteers who laid the foundation for a solid government relations effort, made it possible for the Association to respond decisively to the government's review of the *Real Estate Act*."

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The Players

Aside from REALTORS, BCREA has consulted with several other groups on this project.

Government Legal Stakeholders Public

Government

The Ministry of Finance's Financial and Corporate Sector Policy Branch provides policy analysis and advice to the government regarding the financial and corporate sectors in British Columbia. It advises the government on the regulatory frameworks applicable to the sale of real estate and the *Real Estate Act*. BCREA representatives meet regularly with Sector Policy Branch staff members.

To learn more, visit www.fin.gov.bc.ca/PT/fcsp/index.shtml

Law Firm

Lawson Lundell, Barristers and Solicitors, responded to the request for proposals that BCREA sent out in August 2002, taking on the challenge of drafting a new *Real Estate Act*. The firm's team of real estate lawyers has extensive experience with real estate law. The lawyers working on the draft Act are:

> Maureen Baird, whose practice focuses on regulatory and civil litigation, used her expertise in advising self-regulated bodies while working on the regulatory framework and discipline sections of the draft Act.

> Lisa Peters used her experience acting as counsel on matters involving real estate and preparing updates for clients on legislative developments to create a draft Act that is easy to understand and adaptable.

> Edward Wilson practices in the real estate field and assisted the provincial government with its final draft of the *Strata Property Act*. His expertise will ensure the draft Act is in tune with other recently-amended legislation.

For more information, visit www.lawsonlundell.com

Stakeholders

A diverse group of stakeholders has an interest in the *Real Estate Act* reform, and BCREA consulted with a variety of professional associations, industry stakeholders and consumer groups to ensure an inclusive draft Act.

Representatives from BCREA also met regularly with the Real Estate Council of BC and Real Estate Errors and Omissions Insurance Corporation, among others, to create a draft Act that meets their needs and goals.

Consultations with REALTORS and the players described above were made possible by a generous grant from The Real Estate Foundation of BC.

Public Perceptions

In January 2003, BCREA contracted CGT Research International for a province-wide public survey to understand awareness of and perspectives on key issues. In total, 1,003 randomly-selected British Columbians participated in this study. Anyone working in the real estate industry was screened out.

> Ninety-five per cent of respondents indicated it is true that REALTORS must be licensed, one per cent felt it was not true and four per cent indicated they were not certain.

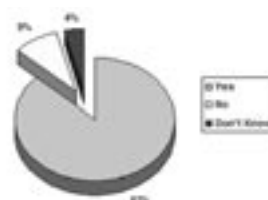
> Eighty-six per cent of respondents indicated REALTORS must take education specific to the real estate profession, six per cent felt this was not true and eight per cent were uncertain.

> Most residents think those who show property in a real estate development *should* be licensed to sell property (78 per cent), but nearly one in five do not feel licensing is necessary in this context (19 per cent). Three per cent were uncertain.

> Nearly four out of five respondents indicated REALTORS should have to complete mandatory education on a continuing basis to remain licensed (79 per cent).

> The vast majority of British Columbians support the idea that any professional wishing to sell real estate in the same manner as REALTORS should be licensed in the same way as REALTORS. Eighty-seven per cent support this approach. Only nine per cent do not.

If lawyers or other professionals wish to sell real estate in the same manner as REALTORS, should they be licensed in the same way as REALTORS?



Project Timeline

The development of legislation is a lengthy, time-consuming process. To be credible with the government, BCREA has had to develop its submission with two main parameters in mind: while the *Real Estate Act* is the main piece of legislation that affects REALTORS, its official purpose is to protect the public; and deregulation is a high priority for the government.

▲ May 2002

Government announces intention to review the *Real Estate Act*

▼ July — Sept. 2002

BCREA conducts research and creates Member Communications Plan

▶ Oct — Dec 2002

BCREA seeks informed input from BC REALTORS and other stakeholders

▶ January 2003

BCREA reports the findings of its consultations with REALTORS

▶ February 2003

The Legislative Task Force and member boards review drafts of legislation to replace the *Real Estate Act*

▼ March 2003

Government releases a consultation paper on the *Real Estate Act*; BCREA sends its submission to MLAs and member boards; prepares for Government Liaison Days

▶ April 2003

Presentation of a new, draft *Real Estate Act* to the government during BCREA's Government Liaison Days

▶ May — Dec 2003

BCREA expects the government to conduct public consultations

▶ May 2004

Legislation introduced in the legislature

Preparing for Privacy

Privacy is an increasingly popular concept. More and more people are concerned about how their personal information is used, and governments across Canada have responded to those concerns.

The federal government introduced privacy legislation on January 1, 2001. Currently, the *Personal Information Protection and Electronic Documents Act* (PIPEDA) only applies to federally-regulated businesses and others who send data across provincial and international borders. However, on January 1, 2004 it will apply to all commercial enterprises, unless provincial governments enact similar laws. The BC government is expected to introduce legislation this spring.

The Canadian Real Estate

Association (CREA) has already adopted a Privacy Code, which is currently in effect. The Privacy Code consists of ten principles, which define the key business obligations and consumer rights in terms of protection of personal information.

Essentially, the principles require the company collecting the information to inform the consumer about how the information will be used, and to obtain the informed consent of the individual for the collection, use and distribution of that information. The general rule is that no one else can make use of someone's personal information without that person's consent. An individual has the right to access their personal information that is held by the company and to have it corrected, if necessary.

In addition to the Privacy Code, CREA has created policies and checklists for boards, associations and offices, privacy dos and don'ts and other useful resources to help you prepare to do business under privacy legislation.

For more information, visit [CREA's REALTOR Link™ homepage under Legal Services](#) and [BCREA's REALTOR Link™ homepage under Library](#).

Long-Range Plan calling for increased communication and government relations activities, Steve Olmstead joined BCREA this month as Manager of Government Relations.

Steve spent the last seven years at the Fraser Valley Real Estate Board (FVREB) as Assistant Manager, Communications and is well known among member boards' government relations committees and the Legislative Task Force. His experience coordinating FVREB's government affairs makes him a perfect match for this challenging position.

Steve can be reached by e-mail at solmstead@bcrea.bc.ca or by phone at 604-742-2793.

Enhancing Government Relations



In accordance with the

Other Highlights

— Continued from page 1 —

time to time with the Workers' Compensation

Board and Canada Customs and Revenue Agency; and

> a provision for REALTORS to be licensed

as personal corporations for tax planning purposes.

By the end of March, the industry's submission to the government and a draft will

be available on BCREA's REALTOR Link™ homepage, under News and Announcements.

cpe Seminar Schedule

Help position yourself for success
– enroll in a cpe seminar today!

Date	Title	Instructor	Location
March 21	Buyer Agency	Jim McCaughan	KADREA - Kamloops
April 9	Legal Update 2002/2003	Mike Mangan	OMREB - Vernon
April 10	Legal Update 2002/2003	Mike Mangan	OMREB - Kelowna
April 22	Professionalism It Pays! Be Safe or Be Sued	Mike Mangan	REBGV - Vancouver