

LEGISLATIVE ASSEMBLY OF THE NORTHWEST TERRITORIES

REAL ESTATE AGENTS' LICENSING ACT

Statement of Purpose

The purpose of this Bill is to provide for the regulation of the real estate industry; to provide for the licensing of agents and salespersons; to provide for the cancellation or suspension of licences and for appeals from the cancellation or suspension of licences; to provide for the payment of an agent's bond; to identify the circumstances under which that bond will be forfeited; to provide for the payment of the proceeds of a forfeited bond to certain persons; to provide the superintendent of real estate with the power to investigate certain matters and to take action to protect funds; to provide for the trust accounts of agents; to impose conditions under which agents and salespersons can assume an interest in a trade in real estate; to provide conditions for the payment of commission; to impose restrictions on the trading in the Territories of real estate located outside the Territories; to provide for the appointment of a superintendent of real estate; to establish offences and punishments and to provide for a regulation-making power.

IMPORTANT

This Bill is tabled for public review. This proposed Act does not represent the final policy of the Government of the Northwest Territories and is subject to change after public review and comment. Furthermore, changes of a technical nature can be expected to prepare the Bill for introduction in the Legislative Assembly.



REAL ESTATE AGENTS' LICENSING ACT

The Commissioner of the Northwest Territories, by and with the advice and consent of the Legislative 5 Assembly, enacts as follows:

INTERPRETATION

Definitions	1. In this Act,	10
"agent"	"agent" means a person who, either alone or through a salesperson or official, trades on behalf of another person for or on the hope or promise of compensation, gain or reward, and includes a person who holds himself or herself out to be a real estate agent;	15
"person"	"person" includes a partnership;	20
"real estate"	"real estate" means <ul style="list-style-type: none"> (a) real property, (b) leasehold property, (c) a business, with or without premises, and the fixtures, stock-in-trade, goods and chattels associated with the operation of the business, or (d) a time-sharing agreement with respect to real or leasehold property which <ul style="list-style-type: none"> (i) allows a person to use, occupy or possess the property for two or more periods of continuous use; and (ii) provides that at least one period of continuous use following the first period of continuous use commences in a year subsequent to the year in which the first period commences. 	25 30 35
"salesperson"	"salesperson" means an individual who is employed by an agent to trade;	40
"superintendent"	"superintendent" means the superintendent of real estate;	
"trade"	"trade" means <ul style="list-style-type: none"> (a) a transaction in real estate by sale, purchase, agreement for sale, exchange, option, lease, rental or otherwise; 	45

- (b) an offer or attempt to list real estate for a transaction referred to in paragraph (a); or
 - (c) an advertisement, negotiation or other act which directly or indirectly furthers a transaction, offer or attempt referred to in paragraph (a) or (b),
- and the verb "trade" has a corresponding meaning.

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APPLICATION

Application of the Act

2.(1) This Act, applies to an agent or a salesperson or to a trade by an agent or a salesperson.

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Exemption

(2) This Act, except sections 61 to 76, does not apply to a trade by

(a) an assignee, custodian, liquidator, receiver, trustee or other person acting as directed by

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(i) an Act or an Act of the Parliament of Canada, or

(ii) an order of a court,

(b) an administrator of an estate or an executor or trustee acting under the terms of a will, marriage settlement or deed of trust,

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(c) a bank, credit union or an insurer where the real estate is owned by the bank, credit union or insurer,

(d) a person, and an official or employee of that person, where that person

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(i) acquires a substantial interest in real estate, or

(ii) disposes of real estate in which that person has a substantial interest,

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and no commission or other remuneration is paid with respect to the trade,

(e) a person, where the real estate consists only of mineral rights, or

(f) a member in good standing of the Law Society of the Northwest Territories, where the trade is made in the course of and as part of the legal practice of the member.

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Exception

(3) The exemption in subsection (2) does not apply where an agent or salesperson is directly or indirectly involved in the trade.

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LICENCES

Trading in real estate	3.(1) No person shall trade unless the person is licensed as an agent or licensed as a salesperson of an agent.	5
Employment of salesperson	(2) No agent shall employ a person as a salesperson unless that person is licensed as a salesperson.	10
Prohibition	4. No person who is not licensed as an agent or salesperson shall act as an agent or a salesperson or allow others to believe that he or she is acting as an agent or a salesperson.	15
Eligibility for licence as agent	5. A person is eligible to be licensed as an agent if that person maintains a business office in the Northwest Territories and (a) in the case of an individual, (i) has attained the age of 19 years, and (ii) is a resident of the Territories, and (iii) has the prescribed education, training and examination qualifications required of agents; (b) in the case of a corporation or a partnership (i) is registered under the laws of the Northwest Territories, and (ii) has designated a representative under section 8.	20 25
Application for licence as agent	6. A person may apply for a licence as an agent by submitting to the superintendent (a) a completed application in the prescribed form; (b) the prescribed fee; and (c) a bond in the prescribed amount.	30 35
Application in name of agent	7. A corporation or partnership may apply for a licence as an agent in the name of the corporation or partnership.	40
Representative	8.(1) A corporation or partnership shall designate one individual who shall act as its representative.	
Qualifications	(2) A representative shall (a) be licensed as a salesperson; (b) have the prescribed education, training and examination qualifications required of agents;	45

	(c) be, in the case of a corporation, a member of the board of directors of the corporation, or an officer or manager of the corporation; or	
	(d) be, in the case of a partnership, a partner, or an officer or manager of the partnership.	5
Prohibition	(3) No person shall act as the representative of more than one corporation or partnership at the same time.	10
Replacement of representative	(4) Where a representative dies, becomes incapacitated or ceases to comply with subsection (2), the corporation or partnership shall designate another individual as its representative under this section.	15
Eligibility for licence as salesperson	9. A person is eligible to be licensed as a salesperson if that individual (a) has attained the age of 19 years; (b) is a resident of the Northwest Territories; (c) has the prescribed education, training and examination qualifications required of salespersons; and (d) is an agent or is a salesperson of an agent.	20
Application for licence as salesperson	10.(1) A person may apply for a licence as a salesperson by submitting to the superintendent (a) a completed application in the prescribed form; (b) a written declaration made by an agent or the representative of an agent that the applicant, if granted a licence, is to act as a salesperson of the agent; and (c) the prescribed fee.	25 30
Exception	(2) A representative or agent applying for a licence as a salesperson is not required to submit the declaration in paragraph 1(b).	35
Issuance of licence	11.(1) The superintendent may issue a licence to an applicant if the superintendent is satisfied that the applicant has fulfilled the requirements of this Act and the regulations.	40

Exemption	(2) Notwithstanding subsection (1), the superintendent may issue a licence to an applicant who does not fulfil the requirements of the Act and the regulations where the applicant is exempted by regulation.	5
Expiry of licence	12. A licence expires at midnight on March 31 of each year, unless the licence has been previously renewed, terminated or cancelled or is a temporary licence.	10
Renewal of licence	13.(1) The superintendent shall renew a licence if an applicant submits a completed renewal application in the prescribed form and the prescribed fee before the expiry of the existing licence.	15
Continuation of licence	(2) Where an application is made to renew a licence and the prescribed fee is paid the licence is deemed to continue until the renewal is granted.	20
Expiry of renewed licence	(3) A renewed licence expires at midnight on March 31 of the year following the year in which the renewed licence is issued.	25
Duties of agent	14.(1) An agent shall immediately submit to the superintendent written notice of <ul style="list-style-type: none"> (a) a change in the address of the business office of the agent; (b) the amendment or cancellation of a bond provided under this Act; (c) a change in the bank or credit union in which the agent maintains a trust account; (d) the termination of employment of a salesperson; (e) a change in the partners where the agent is a partnership; (f) a change in the officers or directors of a corporation where the agent is a corporation; and (g) a change of the representative where the agent is a corporation or partnership. 	30
Duty of salesperson	(2) A salesperson shall immediately submit to the superintendent written notice of the termination of his or her employment with an agent.	35
Information	15. The superintendent may from time to time require that an agent or salesperson or an applicant for a licence verify or supplement any information submitted under the Act or regulations.	40

Change in partnership	16.(1) A change in the membership of a partnership terminates a licence of the partnership.	
Termination of employment	(2) The termination of employment of a salesperson with the agent who makes the declaration in paragraph 10(1)(b) terminates the licence of that salesperson.	5
Forfeiture of bond	(3) A licence issued to an agent under this Act terminates upon the bond provided by the agent to the superintendent under this Act being forfeited under section 27 or terminated by the agent or surety, unless prior to that bond being terminated the agent provides the superintendent with a bond to replace the bond being terminated.	10
Temporary licence	17. The superintendent may issue a temporary licence for a period of time specified by the superintendent to	15
	(a) a partnership, where there has been a change in membership;	20
	(b) the spouse, executor, administrator or trustee of an agent who has died or become incapacitated; or	
	(c) a corporation or partnership, where a representative dies, becomes incapacitated or ceases to comply with subsection 8(2), and there is no person immediately qualified to replace that representative.	25

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CANCELLATION OR SUSPENSION OF LICENCE

Cancellation or suspension of licence	18. The superintendent may suspend or cancel the licence of an agent or salesperson where that agent or salesperson	35
	(a) contravenes this Act or the regulations;	
	(b) makes, publishes, advertises or distributes any misrepresentation respecting a trade;	
	(c) makes, publishes, advertises or distributes any representation, or otherwise does anything or omits to do anything that dishonestly or deceptively influences, discourages or induces a trade;	40
	(d) offers real estate for sale or lease without the consent of the owner or on terms other than those authorized by the owner;	45
	(e) places a sign offering real estate for sale or lease without the consent of the owner;	

	(f) fails to remove a sign offering real estate for sale or lease within 10 days of the expiration of the listing;	
	(g) files or continues a caveat in the Land Titles Office without reasonable cause;	5
	(h) falsifies a contract or other document involved in a trade;	
	(i) induces or attempts to induce a party to a contract concerning a trade to breach that contract; or	10
	(j) is convicted of an offence against the <u>Criminal Code</u> (Canada) that is related to the qualifications, functions or duties of an agent or salesperson.	15
Cancellation or suspension of licence of agent	19. The superintendent may suspend or cancel the licence of an agent where	
	(a) the funds in the trust account of the agent are less than the amount for which the agent is accountable;	20
	(b) the agent has misappropriated funds held in trust;	
	(c) the agent fails to maintain proper records at his or her business office;	25
	(d) the agent fails to make records available for inspection; or	
	(e) a salesperson of the agent does anything referred to in paragraphs 18(a) to (i), or is convicted of an offence referred to in paragraph 18(j).	30
Salesperson not to trade	20. No salesperson shall trade where the licence of the agent who employs that salesperson is suspended or cancelled.	35
Notice of intention	21.(1) Where the superintendent intends to suspend or cancel a licence, the superintendent shall give written notice to the agent or salesperson.	40
Content of notice	(2) A notice shall state the reasons for the suspension or cancellation of the licence, and inform the agent or salesperson that he or she is entitled to a hearing before the superintendent if he or she applies within 30 days of service of the notice.	45
No application for hearing	(3) The superintendent may suspend or cancel a licence where the agent or salesperson does not apply for a hearing within 30 days of service of the notice.	50

Notice of hearing	22. Where an agent or salesperson applies for a hearing the superintendent shall appoint a time and place for the hearing and give written notice to the agent or salesperson.	5
Examination of evidence	23.(1) The superintendent shall, on request, afford the agent or salesperson an opportunity to examine in advance of the hearing any report or documentary evidence which the superintendent anticipates will be produced at the hearing.	10
Conduct of hearing	(2) The agent or salesperson may be represented by counsel at the hearing and may present evidence and cross-examine witnesses.	15
Written reasons	24. The superintendent shall give the agent or salesperson written reasons for the decision reached in the hearing.	20
Appeal	25. The agent or salesperson may, within 30 days of receiving written notice of the decision of the superintendent, appeal to the Supreme Court in accordance with section 38.	25
Interim suspension	26.(1) The superintendent may, where he or she considers it necessary, impose an interim suspension which shall have effect until a licence is cancelled or suspended.	30
Notice of interim suspension	(2) An interim suspension takes effect upon the agent or salesperson being given written notice of the interim suspension.	35
FORFEITURE OF BOND		
Forfeiture of bond	27.(1) Where a judgment arising out of a trade is obtained against an agent or a salesperson of that agent and is not satisfied within 30 days of the date that it becomes final, the bond submitted by that agent is forfeited upon the superintendent providing written notice to the surety stating that the bond is forfeited.	40
Surety to pay	(2) Where a bond is forfeited the surety shall, within 60 days of the superintendent providing written notice to the surety stating that payment is required, pay to the superintendent	45
	(a) the amount of the judgment referred to in subsection (1); and	50
	(b) the amount of any other judgment arising out	

	of a trade obtained against the agent who provided the bond, or against a salesperson of that agent, where the judgment	
	(i) becomes final within two years of the date the bond was forfeited, and	5
	(ii) remains unsatisfied 30 days after the judgment becomes final.	
Money retained in trust	(3) Where the superintendent receives money under subsection (2), the superintendent shall hold that money in trust for those persons who obtained judgments referred to in subsection (2).	10
Money paid out	28. The superintendent may, after two years and 60 days have expired from the date that the bond was forfeited, pay out the money held in trust	15
	(a) to fully satisfy the judgments referred to in subsection 27(2); or	
	(b) on a pro rata basis where the money held in trust is insufficient to satisfy all the judgments.	20
Further judgments	29. Where the total amount paid to the superintendent under subsection 27(2) is less than the face value of the bond forfeited the surety shall, within 60 days of the superintendent providing written notice to the surety stating that the payment is required, pay to the superintendent the amount of a judgment arising out of a trade	25
	(a) where the action which resulted in the judgment was taken against the agent who provided the bond or against a salesperson of that agent before two years had expired from the date that the bond was forfeited, and	30
	(b) the judgment became final more than two years after the date that the bond was forfeited, and remained unsatisfied 30 days after the judgment became final.	35
Payment to superintendent	30.(1) Where the superintendent receives money under section 29, the superintendent shall hold that money in trust for those persons who obtained judgments referred to in section 29.	40
Money paid out	(2) Where the superintendent is satisfied that the actions referred to in section 29 have been concluded and that all the money payable to the superintendent has been paid, the superintendent may pay out the money held in trust	45
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- (a) to fully satisfy the judgments referred to in section 29, or
- (b) on a pro rata basis where the money held in trust is insufficient to satisfy all the judgments.

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Liability of surety

31. The total liability of a surety under a bond shall not exceed the face value of the bond.

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INVESTIGATION

Investigation

32. The superintendent may conduct an investigation, or designate another person to conduct an investigation, where the superintendent believes on reasonable grounds that an agent or salesperson has

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- (a) done anything referred to in paragraphs 18(a) to (i);
- (b) committed an offence against the Criminal Code (Canada) that is related to the qualifications, functions or duties of an agent or salesperson; or
- (c) acted as an agent or salesperson while unlicensed.

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Definition

33.(1) In this section, and in sections 34 and 35 "document" means books, account records, papers, records, computer records, correspondence and other documents.

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Demand to produce documents

(2) The superintendent or a person designated by the superintendent may demand in writing that a person produce any document for the purposes of an investigation.

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Entry upon business premises

34.(1) The superintendent or a person designated by the superintendent may at any reasonable time enter and examine the business premises of an agent or salesperson for the purposes of an investigation.

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Prohibition

(2) No person shall obstruct a person making an investigation under this section or attempt to conceal or destroy any document relating to an investigation.

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Documents

35.(1) Upon an entry and examination under section 34, the person investigating may demand access to any document and may seize and remove any document.

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Seizure	(2) Where a document is seized the superintendent shall, upon request, provide a copy of the document to the person who had custody of the document immediately before the seizure.	5
Production of documents upon demand	36. A person who has custody of any document shall produce it upon receiving a demand in subsection 33(2) or section 35.	
Powers of superintendent	37.(1) The superintendent may apply to the Supreme Court for the appointment of a receiver, receiver manager or trustee to hold or manage all or part of the property of that agent or salesperson where the superintendent	10
	(a) has suspended or cancelled the licence of an agent or salesperson;	15
	(b) has reason to believe that trust funds in a trust account of an agent are less than the amount for which the agent is accountable; or	20
	(c) has reason to believe that criminal proceedings which are about to or have been instituted against an agent or a salesperson are connected with or arise out of a trade;	25
Security of funds	(2) Where the conditions in subsection (1) exist, the superintendent may in writing direct	
	(a) a person having on deposit or under his or her control any funds or securities of an agent or salesperson to hold those funds or securities;	30
	(b) an agent or salesperson to refrain from withdrawing funds or securities referred to in paragraph (a) from any person who has them on deposit or under his or her control; or	35
	(c) an agent or salesperson to hold any funds or securities of clients or other persons that he or she has in his or her possession or under his or her control in trust for	
	(i) a receiver, receiver manager or trustee appointed under subsection (1), or	40
	(ii) an interim receiver, receiver, trustee, liquidator, receiver manager or custodian appointed under an Act, an Act of the Parliament of Canada or an order of a court.	45

Appeal to
Supreme Court

(3) A person aggrieved by an order of the superintendent made under subsection (2) may, within 30 days of the order, appeal to the Supreme Court in accordance with section 38.

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APPEAL

Procedure

38.(1) An appeal to the Supreme Court under this Act shall be made in the same manner, with the modifications the Supreme Court considers necessary, as an appeal from a decision or order of the Territorial Court in a civil matter.

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Powers of
Supreme Court

(2) The Supreme Court may confirm, vary or set aside the decision or order of the superintendent.

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Order
continued

(3) A decision or order of the superintendent continues to apply pending disposition of an appeal.

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Decision final

(4) A decision or order of the Supreme Court on an appeal is final and binding on the parties.

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ACCOUNTS

Books of
agent

39.(1) An agent shall keep proper books and accounts of a trade, and shall enter in the books and accounts in respect of each trade

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- (a) a description of the nature of the trade;
- (b) a description of the real estate involved that sufficiently identifies the real estate;
- (c) the true consideration for the trade;
- (d) the names of the parties to the trade;
- (e) the amount of deposit received and a record of the disbursement of the deposit; and
- (f) the amount of commission or other remuneration for the agent and the name of the party paying the commission or remuneration.

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Trust ledger

40. An agent shall
- (a) keep a trust ledger with a separate record for each person on whose behalf the agent is acting in respect of a trade; and
 - (b) enter in that record an account of
 - (i) money received in trust,
 - (ii) money held in trust,

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- (iii) interest on money held in trust, and
- (iv) disbursements made from money held in trust.

Trust money	41. An agent shall	5
	(a) immediately deposit all money received in trust into an account maintained in a bank or credit union;	
	(b) ensure that the account is kept in the name of the agent and designated as a trust account;	10
	(c) keep money received or held in trust separate from money which belongs to the agent;	
	(d) only disburse money received or held in trust in accordance with the terms of the trust governing the use of that money; and	15
	(e) clearly mark all cheques drawn on a trust account.	
Auditor's report	42. An agent shall submit to the superintendent before March 31 in each year the report of an auditor in such form and containing such information as may be prescribed.	20
Retention of records	43. An agent shall retain accounting records, books and accounts of a trade for a period of 5 years after the books, accounts or records came into existence or for such longer period as the superintendent may direct.	25
Deposit of trust money	44.(1) All money deposited under paragraph 41(a) shall be kept on deposit in the Territories.	30
Interest on trust account	(2) An agent shall instruct the bank or credit union in which the agent maintains a trust account to remit the interest earned on the account to the Minister for deposit to the Consolidated Revenue Fund.	35
Arrangement regarding interest	(3) Notwithstanding subsection (2), the agent may arrange with a purchaser or vendor to deposit money to which that purchaser or vendor is entitled in a separate trust account at interest, which interest shall be the property of that purchaser or vendor.	40

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REGULATION OF TRADING

Guaranteed sale agreement	45.(1) In this section and in sections 46 to 48 "guaranteed sale agreement" means an agreement in writing under which an agent or a person acting on behalf of the agent undertakes to pay to the vendor of real estate a fixed or determinable amount of money in respect of the real estate within a fixed or determinable period of time.	5 10
Trust account	(2) An agent who enters into a guaranteed sale agreement or has another person enter into a guaranteed sale agreement on his or her behalf shall maintain a separate trust account in a bank or credit union in the Territories.	15
Deposit	(3) Where a guaranteed sale agreement is entered into by an agent or another person on behalf of that agent, that agent shall deposit into the trust account maintained under subsection (2) not less than 5% of the total amount that may be payable under the guaranteed sale agreement.	20
Disposition of deposit	46.(1) Where money is deposited under subsection 45(3), it shall be held in trust for the vendor and shall be (a) paid to the vendor as part of the total amount payable under the guaranteed sale agreement; (b) forfeited to the vendor if the vendor is not paid in accordance with the guaranteed sale agreement; or (c) returned to the agent where, under the terms of the guaranteed sale agreement, there is no longer any money payable to the vendor under that guaranteed sale agreement.	25 30 35
Forfeiture of deposit	(2) Where a deposit is forfeited under paragraph (1)(b) (a) the forfeiture does not prejudice any action that the vendor may have against the agent or other parties to the guaranteed sale agreement, and (b) the money forfeited may be applied toward any sum which that vendor may be entitled to receive as damages arising out of the non-performance of the guaranteed sale agreement.	40 45

Commission not payable on purchase	47. Where an agent or other person who entered into a guaranteed sale agreement with a vendor purchases the real estate of the vendor under the guaranteed sale agreement, no commission is payable to that agent or other person by that vendor in respect of the trade.	5
Salesperson	48. A salesperson shall only enter into a guaranteed sale agreement on behalf of the agent who employs that salesperson.	10
Undertaking by agent	49. Where an undertaking is set out in writing and a copy of that undertaking is delivered to the person to whom the undertaking is made, an agent may undertake to (a) obtain a mortgage, lease or loan; (b) have a term of a mortgage or lease altered; or (c) assume or assign a mortgage or an agreement for sale.	15 20
Advertising	50.(1) An agent or salesperson advertising to purchase, sell, exchange or lease real estate shall clearly indicate in the advertisement (a) that he or she is the party advertising, and (b) that he or she is an agent or a salesperson, as the case may be.	25
Reference to name of salesperson	(2) A reference to the name of a salesperson in an advertisement referred to in subsection (1) must clearly indicate the name of the agent who employs the salesperson.	30
Use of name by agent	51.(1) No agent shall trade in any name other than that which appears on the licence issued under this Act.	35
Use of name by salesperson	(2) No salesperson shall trade in any name other than that of the agent who is the employer of that salesperson.	40

Disclosure of interest	52. No agent or salesperson shall trade (a) on behalf of himself or herself or on behalf of another person unless the agent or salesperson discloses in writing to the parties involved in the trade (i) any direct or indirect interest that he or she or any other agent or salesperson has in the real estate as vendor or purchaser, and (ii) that he or she is licensed under this Act as an agent or as a salesperson; or (b) on behalf of another agent or salesperson without disclosing in writing to the parties involved in the trade that he or she and the other agent or salesperson are licensed under this Act as agents or salespersons.	5 10 15
Employment of salesperson of another agent	53. No agent shall employ the salesperson of another agent in respect of a trade, or pay a commission or other remuneration to a salesperson of another agent.	20
Payment of commission	54. An agent shall not pay a commission or other remuneration for services rendered in respect of a trade except to a salesperson employed by that agent, or an agent who is licensed under this Act or similar legislation in a jurisdiction outside the Territories.	25 30
Purchase by agent or salesperson	55. An agent or salesperson shall not either directly or indirectly acquire any interest in real estate until the agent or salesperson has disclosed in writing to the owner of the real estate complete details of any negotiations for its trade to another person.	35
Duties of salesperson	56. A salesperson shall not (a) trade on behalf of an agent other than the agent who, according to the records of the superintendent, is the employer of the salesperson; (b) pay a commission or other fee to any person for services rendered in connection with a trade; and (c) accept a commission or other remuneration for a trade from any person except the agent who, according to the records of the superintendent, is the employer of the salesperson.	40 45 50

Commission	57.(1) No person shall accept commission or other remuneration in respect of a trade unless that person is licensed under this Act.	
Agreement for commission	(2) Any commission or other remuneration payable in respect of the sale or lease of real estate shall be fixed as either an agreed amount or an agreed percentage of the sale price.	5
No agreement for commission	(3) If no agreement as to the amount of or the rate of commission has been entered into, the amount of or the rate of commission is that generally prevailing in the community where the real estate is situated.	10
Prohibited arrangement for commission	58. An agent or salesperson shall not accept commission or other remuneration based on the difference between the price at which real estate is listed for sale and the actual sale price of the real estate.	15
Agreement to list real estate	59.(1) Where an agreement to list real estate with an agent is in writing, a true copy of the agreement shall be delivered by the agent as soon as practicable to the owner of the real estate or to the person entering into the agreement on behalf of the owner.	20
Agreement void	(2) An agreement under subsection (1) is void where it	25
	(a) provides for more than one date on which it expires;	30
	(b) does not specify a date on which it expires;	
	(c) does not provide for the amount of or the rate of commission payable in respect of the trade; or	
	(d) does not provide for the terms or conditions on which the commission is payable in respect of the trade.	35
Copy of offer or acceptance of offer	60. Where an agent or salesperson receives a written offer or acceptance of an offer from a party to a trade the agent or salesperson shall, as soon as practicable	40
	(a) provide that party with a true copy of the offer or acceptance, and	
	(b) deliver a true copy of the offer or acceptance to the other party to the trade.	45

TRADING IN REAL ESTATE OUTSIDE THE TERRITORIES

Prospectus	61.(1) A person shall not trade in real estate located outside of the Territories unless	5
	(a) the trade takes place through an agent licensed under this Act, and	
	(b) a prospectus is filed with the superintendent, and	
	(c) the superintendent has issued a certificate of acceptance in respect of that prospectus.	10
Exception	(2) Subsection (1) does not apply to	
	(a) an isolated trade where the trade is not part of continued successive transactions of a like nature, or	15
	(b) a trade consisting only of an advertisement placed or made from outside the Territories.	
Representation regarding prospectus	(3) A person shall not make any representation that the superintendent has rendered an opinion on the financial standing, fitness or conduct of any person in connection with the filed prospectus, or the merits of the prospectus.	20
Duties of vendor and rights of purchaser	62.(1) A person shall not, either as a vendor or as an agent or salesperson, enter into or negotiate any contract in respect of a trade in real estate located outside of the Territories unless	25
	(a) a copy of the prospectus is delivered to the prospective purchaser or tenant, as the case may be, and	30
	(b) the prospective purchaser or tenant acknowledges in writing that he or she has received a copy of the prospectus and has been afforded the opportunity to read it.	35
Retention of acknowledgment	(2) An acknowledgment referred to in subsection (1) shall be retained by the vendor or agent and shall be available for inspection by the superintendent for a period of not less than 5 years.	40

Rescission of contract	63.(1) Where a purchaser or tenant has entered into a contract in respect of a trade in real estate located outside of the Territories, the purchaser or tenant may rescind the contract by serving written notice on the vendor or agent	5
	(a) within 30 days of entering into the contract; or	
	(b) if there has not been compliance with section 62.	10
Onus	(2) In an action for rescission under paragraph (1)(b) the onus of proving compliance with section 62 rests on the vendor.	15
Other remedies	(3) The right of rescission provided in this section is in addition to any other right that the purchaser or tenant may have in respect of the contract.	15
Contents of prospectus	64. A prospectus submitted to the superintendent for filing shall meet the prescribed requirements and shall be accompanied by	20
	(a) an affidavit of the owner of the real estate or, if the owner is a corporation, a majority of the directors of the corporation, as to the correctness of every matter of fact stated in the prospectus;	25
	(b) a copy of every plan referred to in the prospectus;	
	(c) a copy of every form of contract referred to in the prospectus;	30
	(d) any document the superintendent may require to support any proposal, estimate or statement of fact set out in the prospectus;	
	(e) a performance bond, surety bond or whatever other security the superintendent requires;	35
	(f) any financial particulars of the owner the superintendent may require; and	
	(g) the prescribed fees.	40
Inquiry by superintendent	65.(1) The superintendent may, before issuing a certificate of acceptance, make any inquiries the superintendent considers necessary, including	
	(a) obtaining reports from public authorities or other qualified persons in the jurisdiction in which the real estate is located, and	45
	(b) examining the real estate.	

Costs of inquiry	(2) The person filing or on whose behalf a prospectus is filed shall bear the costs of any inquiry made under subsection (1).	
Acceptance of prospectus	66.(1) Where it appears to the superintendent that a person has complied with the Act and regulations the superintendent may grant a certificate of acceptance.	5
Refusal of prospectus	(2) The superintendent shall not grant a certificate of acceptance where it appears that the prospectus	10
	(a) contains any statement, promise or forecast that is false or misleading, or has the effect of concealing material facts;	
	(b) does not make adequate provision for the protection of deposits or other funds of purchasers, or for the assurance of title or whatever other interest is contracted for; or	15
	(c) fails to comply with section 64.	20
Order to cease trading	67. Where it appears to the superintendent, subsequent to the filing of a prospectus and the granting of a certificate of acceptance, that any of the conditions referred to in subsection 66(2) exist or that action is necessary in the public interest, the superintendent may, after giving the person on whose behalf the prospectus was filed an opportunity to be heard	25
	(a) cancel the certificate of acceptance; and	
	(b) order that all trading in the real estate to which the prospectus refers cease.	30
Amended or new prospectus	68. A person who files a prospectus shall provide written notice to the superintendent and shall file an amended prospectus within 20 days of the occurrence of a change respecting any of the matters set out in prospectus	35
	(a) that has the effect of rendering a statement in the prospectus false or misleading; or	
	(b) that brings into being a fact or circumstance that should have been disclosed in the prospectus if the fact or circumstance had existed at the time of filing.	40
	69. A prospectus expires one year from the date on which the superintendent grants a certificate of acceptance in respect of that prospectus.	45

ADMINISTRATION

Superintendent	70. The Minister may appoint a superintendent of real estate.	5
Service of notice	71.(1) Where this Act requires that written notice be provided to a person, the notice must be served personally or mailed or sent by electronic transmission to the address of the person.	10
Notice by mail	(2) Where a notice is mailed, service of the notice is deemed to be effective 14 days after the date of mailing.	15
Liability	72.(1) The superintendent, members of an appeal board and other persons employed in the administration of this Act are not liable for loss or damage caused by anything done or not done by them in good faith in the performance of their duties or in the exercise of their powers.	20
<u>Idem</u>	(2) The Government of the Northwest Territories is not liable for loss or damage caused by anything done or not done in good faith by any of the persons referred to in subsection (1) in the performance of their duties or in the exercise of their powers.	25

OFFENCES

Offences and penalties	73.(1) A person who contravenes sections 61, 62 or 68 is guilty of an offence and liable on summary conviction	30
	(a) in the case of an individual or partnership to a fine of not more than \$5,000 or to imprisonment for a term of not more than six months or to both; or	35
	(b) in the case of a corporation, to a fine of not more than \$25,000.	40
General offence	74.(1) A person who contravenes any provision of this Act or the regulations for which no specific punishment is provided is guilty of an offence and is liable on summary conviction to a fine of not more than \$5,000.	45

Return of
Commission

(2) In addition to any other fine or penalty imposed, a person who is convicted of trading without being licensed as an agent or salesperson, or of employing a salesperson who is not licensed, shall return any commission or other remuneration paid by any person on whose behalf the agent or salesperson acted while unlicensed.

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Burden of
proof

75. Where, in a prosecution under this Act, the accused pleads that a valid licence was in effect at the time of the act or omission complained of, the burden of proof is on the accused.

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REGULATIONS

Regulations

76. The Commissioner, on the recommendation of the Minister, may make regulations

(a) prescribing the fees payable on application for a licence or on an application for the renewal of a licence;

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(b) prescribing the form of applications for a licence or for the renewal of a licence;

(c) prescribing the form of licences for agents and salespersons;

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(d) prescribing the education, training and examination qualifications required of agents and salespersons;

(e) prescribing exemptions from the education, training and examination qualifications required of agents and salespersons and fixing the date when those exemptions cease to have effect;

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(f) prescribing classes of persons who may be exempted from the education, training and examination qualifications required of agents and salespersons;

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(g) prescribing the amount of bonds to be furnished under the Act and the conditions applicable to those bonds;

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(h) prescribing the practice and procedure upon an investigation under the Act;

(i) prescribing the information to be contained in the report of an auditor required to be filed under section 42;

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(j) prescribing the information to be contained in a prospectus required to be filed under section 60; and

(k) respecting any matter that the Commissioner considers necessary or advisable for carrying out the purposes and provisions of this Act.

77. This Act or any provision of this Act comes into force on a day or days to be fixed by order of the Commissioner.

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