

CHAPTER 115

An Act to Incorporate The New Brunswick Real Estate Association

Assented to December 16, 1994

WHEREAS The New Brunswick Real Estate Association, Inc. prays that it be enacted as hereinafter set forth;

THEREFORE, Her Majesty, by and with the advice and consent of the Legislative Assembly of New Brunswick enacts as follows:

1 This Act may be cited as *The New Brunswick Real Estate Association Act*.

2 In this Act

"Association" means The New Brunswick Real Estate Association;

"Board" means the Board of Directors of the Association;

"member" means a member of the Association in good standing, and for the purposes of disciplinary action includes a member under suspension or a member who has resigned;

"member in good standing" means a person who is

- (a) the holder of a licence under the *Real Estate Agents Act*;
- (b) registered as a member under this Act;
- (c) not in arrears of any amount owing to the Association; and
- (d) not under suspension.

"Minister" means the Minister of Justice and includes a person designated by the Minister to act on the Minister's behalf;

"real estate board" means a local association established pursuant to the provisions of this Act.

ASSOCIATION

3(1) Subject to section 34, The New Brunswick Real Estate Association, Inc., incorporated by Supplementary Letters Patent issued by the Province pursuant to the *Companies Act* on November 18, 1971, shall continue as a body corporate without share capital under the name The New Brunswick Real Estate Association.

3(2) The Association shall consist of persons who are members in good standing of The New Brunswick Real Estate Association, Inc. on the date this Act comes into force, together with such persons who are subsequently registered as members.

3(3) The category of membership of a person who is a member when this Act comes into force shall not change.

4(1) The head office of the Association shall be as provided by by-law.

4(2) The Association shall have a seal in a form approved by by-law.

OBJECTS

- 5** Subject to the provisions of the *Real Estate Agents Act*, the objects of the Association are to
- (a) regulate the practice of trading in real estate and to govern its members in accordance with this Act and the by-laws, in order to serve and protect the public interest;
 - (b) establish, promote and advance the interests of persons engaged in trading in real estate;
 - (c) establish, maintain and develop standards of knowledge, skill and efficiency for trading in real estate;
 - (d) establish, maintain, develop and enforce standards of qualifications for trading in real estate;
 - (e) establish, maintain, develop and enforce standards of professional ethics for its members;
 - (f) promote public awareness of the role of the Association and trading in real estate, and to communicate and cooperate with other professional associations in order to serve and protect the public interest;
 - (g) encourage studies in trading in real estate and provide assistance for special studies and research;
 - (h) administer this Act and perform such duties and exercise such powers as are imposed or conferred on the Association by this or any other Act;
 - (i) execute membership agreements for members' benefit with other professional associations in order to serve and protect the public interest.

POWERS

- 6** The Association, in furtherance of its objects, shall have the power to
- (a) provide for the discipline, government, control and honour of persons practising the profession of trading in real estate in the Province, including the power to determine standards of professional conduct;
 - (b) acquire and hold assets and property, both real and personal, by way of purchase, lease, grant, hire, exchange or otherwise, and to dispose of such property by any means;
 - (c) provide for the management of its property and assets, and of its affairs and business including the employment of staff;
 - (d) borrow money for the purpose of carrying out any of the objects of the Association and give security for money borrowed on any of its real or personal property by way of mortgage, pledge, charge or otherwise;
 - (e) invest money of the Association not immediately required for any of its objects, in any manner as it may from time to time determine;
 - (f) establish and maintain a register of members registered to trade in real estate;
 - (g) fix and collect fees payable by any person
 - (i) upon being admitted as a member,
 - (ii) upon writing any examination prescribed by the Association for the purpose of licencing, or
 - (iii) as annual dues;

- (h) assess members for any ordinary, special or extraordinary expenditure that may be deemed necessary or expedient to further any of the objects of the Association;
- (i) prescribe the nature and extent of the education and practical experience in trading in real estate required by any person before being registered, including mandatory continuing education for members as a condition of registration, and establish and define fields of specialization and qualifications necessary to practise in a specialized field;
- (j) provide for the determination, by examination or other means, of the competency of persons seeking to be registered to trade in real estate and grant certificates of registration to persons qualified to trade in real estate;
- (k) arrange and establish ways and means by which persons may be trained to trade in real estate;
- (l) enter into agreements on behalf of the Association as may be necessary, incidental or conducive to carrying out its objects, including membership affiliation agreements with other professional associations providing for services for members and providing for standards of competence and integrity that are reasonably necessary for the protection of the public;
- (m) exempt any person from the payment of fees, dues or assessments for such reason and upon such terms and conditions as the Association may from time to time determine, and suspend members for non-payment;
- (n) receive gifts, donations and bequests, and make gifts or donations for the promotion of the objects of the Association;
- (o) call and regulate meetings and the method of voting;
- (p) provide for the eligibility, nomination, election, number and term of office of members of the Board and committees, including the appointment and revocation of persons as *ex officio* or honorary officers or members of the Board;
- (q) provide for the establishment of committees by the Association or the Board, prescribe their powers and duties, method of operation, including procedures at meetings and for filling vacancies; and provide for the delegation of powers or duties of the Board to any committee and establish the form and frequency of reports to the Board or the Association;
- (r) establish categories of membership in the Association, and prescribe the privileges, obligations and conditions of membership;
- (s) provide for the establishment and payment of scholarships, fellowships and other educational incentives, benefits and awards by the Association;
- (t) provide for professional liability insurance and a professional liability claims fund, and to enter into agreements for such purposes;
- (u) provide for investigations by the complaints and discipline committees, including the procedures to be followed;
- (v) provide for the establishment of real estate boards and to work with them in achieving the objects of the Association and the real estate boards;
- (w) do all things that may be delegated or assigned to it by the Minister pursuant to the *Real Estate Agents Act*;
- (w.1) perform such duties and exercise such powers as are imposed on the Association by any other Act;
- (x) do all other things as may be necessary or desirable to exercise the powers conferred by this Act or any other Act, or any incidental powers in furtherance of the objects of the Association.

1995, c.31, s.24.

BY-LAWS

7(1) For the purpose of attaining its objects and the implementation of its powers, the Association may make by-laws not inconsistent with the provisions of this Act and the *Real Estate Agents Act*.

7(2) No by-law, amendment, or repeal of a by-law shall be effective until passed by resolution of two-thirds of members voting at

- (a) the annual general meeting, or
- (b) a special meeting of the Association called for the purpose.

7(3) A proposed new by-law, amendment or repeal of an existing by-law, shall be in writing signed by at least two members and shall, not less than sixty days before the meeting, be presented to the secretary who shall include a copy in the notice calling the meeting.

7(4) All by-laws made pursuant to paragraphs 6(i), (j) and (k), and all steps taken for the implementation of these by-laws are subject to approval by the Minister.

7(5) Subject to subsection (4), the powers of the Association under section 6 shall not be exercised by the Board except in accordance with the by-laws when the exercise of such powers may result in additional costs to members, affect the rights of individual members to practice the sale of real estate, or affect the right of membership in the Association.

ANNUAL MEETING

8 There shall be an annual meeting of the Association at a time and place fixed by the by-laws.

BOARD OF DIRECTORS

9(1) There shall be a Board of Directors of the Association consisting of

- (a) the president, immediate past president, two vice-presidents, and a secretary-treasurer, all of whom shall be elected by the members of the Association in the manner and for the terms prescribed in the by-laws;
- (b) the Executive Director, appointed by the Board of Directors, but who has no vote;
- (c) the president of each real estate board of the Association, or elected alternate, as provided by the by-laws;
- (d) a maximum of four members appointed at the discretion of the Board as soon as possible following the Board's election;
- (e) two persons, not members of the Association, appointed by the Minister; and
- (f) such additional persons as may be provided by by-law.

9(2) There shall be an Executive Committee consisting of the president, immediate past president, two vice-presidents, secretary-treasurer, and the Executive Director who shall not vote, together with such additional members as provided by by-law.

9(3) Subject to the provisions of this Act, and the by-laws, the management of the Association shall be vested in the Board and the Executive Committee.

10(1) The term of office of members of the Board shall be fixed by by-law.

10(2) Notwithstanding subsection (1), in the event of a vacancy occurring on the Board, the vacancy may be filled for the balance of the unexpired term as follows

(a) where the vacancy is with respect to a person elected under paragraph 9(1)(a) or appointed under paragraph 9(1)(b), the Board may appoint a replacement;

(b) where the vacancy is with respect to a person named or elected under paragraph 9(1)(c) the real estate board may appoint a replacement;

(c) where the vacancy is with respect to a person appointed under paragraph 9(1)(d) the Board may appoint a replacement; and

(d) where the vacancy is with respect to a person appointed under paragraph 9(1)(e) the Minister may appoint a replacement.

10(3) The members of the Board and Executive Committee in office when this Act comes into force shall continue in office until their successors are elected or appointed in accordance with section 9 and the by-laws.

10(4) At the first meeting following an election, or so soon thereafter as possible, the Board shall appoint such other persons or committees as may be necessary for the carrying out of the provisions of this Act, who shall hold office during the pleasure of the Board or as provided by by-law.

RULES BY BOARD

11(1) The Board may make rules not inconsistent with the provisions of this Act or the by-laws providing for

(a) the appointment, revocation and filling of vacancies on committees;

(b) the calling, conduct and proceedings of meetings of all committees;

(c) preliminary investigations into the conduct of a member;

(d) the establishment and conduct of committees of inquiry;

(e) the custody and use of the Association seal;

(f) the execution of documents by the Association;

(g) banking and finance;

(h) calling, holding and conducting of meetings of the Board and the duties of members of the Board;

(i) meetings of the Board and committees by conference telephone or other communications equipment by means of which all persons participating in the meeting can hear each other, and a member of the Board or committee participating in such a meeting shall be deemed to be present in person at the meeting;

(j) the payment of necessary expenses of the Board and committees in the conduct of their business;

(k) the management of the property of the Association;

(l) the appointment, composition, powers and duties of additional or special committees;

(m) the application of the funds of the Association and the investment and reinvestment of any of its funds not immediately required, and for the safekeeping of its securities.

11(2) A rule made under subsection (1) is for the administrative purposes of the Association only, and is not effective until confirmed by resolution of the Board and may not be exercised inconsistent with this Act or the by-laws.

APPOINTMENT OF COMMITTEES

12(1) The Board shall establish and appoint the following committees

- (a) Committee of Examiners,
- (b) Complaints Committee,
- (c) Discipline Committee,

and may establish such other committees as the Board from time to time considers necessary or as provided by the by-laws.

12(2) The composition of committees and appointments to committees shall be in accordance with the by-laws or the rules of the Board made under section 11.

REGISTRAR

13(1) The Board shall appoint a Registrar to hold office for such term and remuneration as it may decide.

13(2) The Registrar shall maintain a register in which shall be entered the name of every person registered under this Act, and shall issue a certificate of registration to every person who is registered.

13(3) No name shall be entered in the register other than as authorized by this Act or the by-laws, and unless the Registrar is satisfied by proper evidence that the person is entitled to be registered.

13(4) The Registrar shall perform such other duties and carry out such functions as may be prescribed by the Board or the Committee of Examiners.

13(5) Any person affected by a decision of the Registrar with respect to registration may appeal in writing within thirty days of receipt of the decision to the Committee of Examiners which may reconsider the decision of the Registrar and may order that the name of the person be entered on the register.

13(6) Each year the Registrar shall prepare and keep for inspection by any person at the head office of the Association, free of charge, an alphabetical list, together with the address, of all persons registered as members as of the first day of January, or such other date as established by by-law, for the ensuing twelve months, and shall maintain the list up to date at all times.

13(7) The register, or a copy of the list maintained in accordance with subsection (6), is *prima facie* evidence in all courts that the persons named are registered according to the provisions of this Act. In the case of any person whose name does not appear, the Registrar may certify the entry of the name in the register, and such is evidence that the person is registered under the provisions of this Act.

COMMITTEE OF EXAMINERS

14(1) There shall be a Committee of Examiners consisting of

- (a) three members of the Association appointed by the Board, one of whom shall be named chairperson by the Board,
and

(b) any two persons appointed by the Minister.

14(2) The members of the Committee shall hold office for a period of two years, except that three members of the first committee, including one appointed by the Minister, shall be appointed for one year only, their replacements to be appointed for two years.

14(3) Any member of the Committee shall be eligible for reappointment.

14(4) When a vacancy occurs in the membership of the Committee, otherwise than by expiration of the term of office of the member, the Board or Minister making the initial appointment may appoint another person to hold office during the unexpired term.

REGISTRATION

15(1) The Committee of Examiners shall provide for and conduct educational programs and examinations to qualify persons for licencing under the *Real Estate Agents Act*.

15(2) The Committee shall recommend to the Minister for licensing under the *Real Estate Agents Act* persons who

- (a) successfully complete the required educational programs and examinations, and
- (b) pay the required fees in respect of the required educational programs and examinations.

15(3) Any person recommended under subsection (2) shall be registered as of the date of licencing as a member entitled to trade in real estate under the *Real Estate Agents Act*.

15(4) Subject to the approval of the Board, the Committee may delegate to the Registrar such functions for the approval of an application for registration as it considers appropriate.

15(5) Subject to the approval of the Minister, the Committee may make by-laws

- (a) prescribing the proofs to be furnished as to education;
- (b) prescribing the subjects for examination of candidates to be licenced to trade in real estate;
- (c) relating to examinations, the duties and functions of examiners and the place examinations are to be held;
- (d) respecting such other matters as the Committee considers necessary to more effectively discharge its functions.

15(6) The Committee shall meet at such places and times as it shall determine.

1995, c.31, s.24.

16(1) If the Committee of Examiners refuses to recommend a person for licencing under subsection 15(2), that person may appeal to the Board in writing within thirty days of receipt of notification of the decision of the Committee.

16(2) In the event of an appeal the Board, after considering all relevant factors, may

- (a) direct that the person be recommended under subsection 15(2);
 - (b) refer the matter back to the Committee for reconsideration with such directions as the Board considers necessary;
- or
- (c) refuse the appeal and uphold the decision of the Committee.

16(3) No member of the Board who is also a member of the Committee shall sit for the purpose of considering an appeal under this section.

CERTIFICATION MARKS

17 No person shall use any certification mark, design mark or logo, or any name or symbol, or any form of advertisement, indicating that person is licenced or qualified to trade in real estate without the authorization of the Association.

RIGHT TO TRADE IN REAL ESTATE

18(1) Subject to subsection (2), no person shall trade or represent to trade in real estate in the Province, either privately or employed by another, unless that person is the holder of a licence in good standing under the *Real Estate Agents Act* and is registered under the provisions of this Act and by-laws.

18(2) Within six months after the date this Act comes into effect, all persons who are licenced to trade in real estate and intend to do so shall become members of the Association.

PAYMENT OF FEES

19(1) Every member shall pay to the Association annual fees in an amount and by such date as fixed by the by-laws.

19(2) Subject to subsection (3), a member who fails to pay the annual fees as required by subsection (1) loses all rights and privileges conferred under this Act and the member's name shall not be placed on the register.

19(3) If payment is not made as provided by subsection (1), within three years from the last date on which payment could be made, the person's name cannot be added to the register except upon application to the Board for approval, in which case the Board may, after consideration of the circumstances,

- (a) direct the Registrar to add the person's name to the register upon payment of such fees as it considers appropriate, but in no event less than payment for one full year;
- (b) require the person to pass such examinations as it considers necessary; or
- (c) impose such other conditions as it considers in the public interest.

COMPLAINTS COMMITTEE

20(1) There shall be a Complaints Committee consisting of

- (a) one member of the Board appointed by the Board who shall be chairperson;
- (b) one member of the Association appointed by the Board; and
- (c) one person, not a member of the Association, appointed by the Minister.

20(2) The Board shall name one member of the Association and the Minister shall name one person, not a member of the Association, as alternate members of the Complaints Committee who may be called upon by the chairperson of the Committee to act as necessary.

20(3) No person who is member of the Discipline Committee shall be a member of the Complaints Committee.

20(4) Three members of the Complaints Committee constitute a quorum, provided that there shall always be one member appointed by the Minister.

21(1) Upon receipt of

- (a) a complaint in writing filed with the Registrar,
- (b) a resolution from the Board under subsection 22(6), or
- (c) a request from the Minister under the *Real Estate Agents Act*, referring a matter to the Complaints Committee for investigation,

the Committee shall consider and investigate the conduct or competence of any member of the Association, but no action shall be taken by the Committee under subsection (3) unless

- (d) the member whose conduct or competence is being investigated has been given a copy of the complaint or resolution, or the substance of the matter being investigated, and given at least two weeks in which to submit in writing to the Committee any explanations or representations the member may wish to make concerning the matter; and
- (e) the Committee has examined or has made every reasonable effort to examine available records and other documents relating to the complaint or matter under investigation.

21(2) The Committee is not required to hold a hearing or to give any member an opportunity to make oral submissions before making a decision or giving directions under this section; however, a member complained against may, in the discretion of the Committee, be requested to appear before it to respond to the complaint or the matter under investigation.

21(3) The Committee, in accordance with the information it receives, may

- (a) direct that the matter be referred, in whole or in part, to the Discipline Committee;
- (b) direct that the matter not be referred to the Discipline Committee;
- (c) direct that the matter be referred to the Minister for action under the *Real Estate Agents Act*; or
- (d) take such action as it considers appropriate in the circumstances to resolve the complaint or matter under investigation as long as such action is not inconsistent with this Act, the by-laws or the *Real Estate Agents Act*.

21(4) The Committee shall give its decision under subsection (3) to the Registrar in writing, including the reasons for its decision.

21(5) The Registrar shall deliver or send to the member complained against, the Board and the Minister, a copy of the written decision and reasons of the Committee, and, in the case of a complaint, a copy to the complainant.

21(6) A complainant or the Minister, if not satisfied with the disposition of the complaint by the Committee, may apply to the Board for a review of the treatment of the complaint, which the Board may refer to the Discipline Committee under subsection 22(6).

DISCIPLINE COMMITTEE

22(1) There shall be a Discipline Committee consisting of

- (a) four members of the Association appointed by the Board; and
- (b) one person, not a member of the Association, appointed by the Minister.

22(2) The Board shall name three members of the Association and the Minister shall name one person, not a member of the Association, as alternate members of the Discipline Committee who may be called upon by the chairperson of the Committee to act as necessary, provided that the Committee shall always include one person appointed by the Minister.

22(3) Subject to subsection (4), five members of the Committee constitute a quorum, and all disciplinary decisions require the vote of a majority of the members of the Committee present at the hearing, and shall be in writing with reasons.

22(4) Where the Committee commences a hearing and not more than two members become unable to act, the remaining members may complete the hearing and shall have the same authority as the full committee.

22(5) The Board shall name one member of the Committee to be chairperson.

22(6) The Board, by resolution, may

- (a) refer a matter concerning the conduct or competence of a member to the Complaints Committee for investigation;
- (b) refer a matter concerning the conduct of a member to the Minister for investigation under the *Real Estate Agents Act*; or
- (c) direct the Discipline Committee to hold a hearing and determine any allegation of professional misconduct or incompetence against a member.

23(1) The Discipline Committee shall

- (a) when so directed by the Board, the Complaints Committee, or the Minister, hear and determine allegations of professional misconduct or incompetence against a member of the Association; and
- (b) perform such other duties as are assigned to it by the Board or the Minister.

23(2) A member may be found guilty of professional misconduct by the Discipline Committee if

- (a) the member has been convicted in a court of competent jurisdiction of an offence which, in the opinion of the Committee, is relevant to the member's suitability to trade in real estate; or
- (b) the member has been guilty, in the opinion of the Committee, of professional misconduct.

23(3) The Discipline Committee may find a member to be incompetent if in its opinion

- (a) the member has displayed in carrying out the members' professional responsibilities a lack of knowledge, skill, or judgment, or disregard for the welfare of the public of such nature or extent to demonstrate the member is unfit to carry out the responsibilities of a person engaged in trading in real estate; or
- (b) the member is suffering from a physical or mental condition or disorder of such a nature or extent as to render the member unfit to engage in trading in real estate.

23(4) Where the Discipline Committee finds a member guilty of professional misconduct or incompetence it may do one or more of the following

- (a) revoke the member's membership in the Association;
- (b) suspend the member's membership in the Association for a stated period, not exceeding twenty-four months;
- (c) require that the member be reprimanded or counselled and, if considered warranted, direct that the fact of the reprimand or counselling be recorded on the register;

- (d) impose such fine as the Committee considers appropriate, to a maximum of five thousand dollars, to be paid by the member to the Secretary-Treasurer;
- (e) require the member to refund, waive or reduce the fee charged by the member with respect to the trading in real estate related to the finding of professional misconduct or incompetence;
- (f) subject to subsection (6), direct that a finding or order of the Committee be published in an official publication of the Association in detail or in summary form;
- (g) fix the costs of any investigation or procedures by the Complaints Committee and the Discipline Committee to be paid by the member;
- (h) direct that the imposition of a penalty be suspended or postponed for such a period and upon such term or for such purpose as may be specified by the Committee, but not limited to
 - (i) the successful completion by the member of a particular course or courses of study;
 - (ii) the production to the Committee of evidence satisfactory to it that any physical or mental condition or disorder in respect of which the penalty was imposed has been overcome.

23(5) In addition to any action taken by the Discipline Committee pursuant to subsection (4) it may recommend to the Minister one or more of the following

- (a) that the member's licence to trade in real estate be revoked or suspended;
- (b) that the Minister impose terms, conditions and limitations on the right to trade in real estate including, but not limited to, the successful completion of a particular course or courses of study, as are specified by the Committee;
- (c) that the Minister impose specific restrictions on the right to trade in real estate including, but not limited to, requiring the member to
 - (i) engage in the sale of real estate only under the personal supervision and direction of another member;
 - (ii) not alone engage in the sale of real estate;
 - (iii) accept periodic inspections of the books, accounts, records and work of the member in connection with the member's practice;
 - (iv) report to the Registrar, or to such committee of the Board as the Minister may specify, on such matters with respect to the member's practice for such period and times, and in such form, as the Committee may specify.

23(6) The Discipline Committee shall cause an order of the Committee revoking or suspending a member's membership in the Association to be published, with or without reasons, and shall immediately notify the Minister in writing of the revocation or suspension.

23(7) The Discipline Committee shall cause a determination by the Committee that an allegation of professional misconduct or incompetence was unfounded to be published upon the request of the member against whom the allegation was made.

23(8) Where the Minister revokes, suspends or restricts the right to trade in real estate on grounds of incompetence, the decision takes effect immediately notwithstanding that an appeal is taken from the decision, unless the court to which the appeal is taken otherwise orders.

23(9) Where the Minister revokes, suspends or restricts the right to trade in real estate on a ground other than incompetence, the decision does not take effect until the time for appeal from the decision has expired, or until an appeal has been disposed of or abandoned, except that when the Minister considers it is necessary for the protection of the public the Minister may otherwise order.

23(10) Where the Discipline Committee finds a member guilty of professional misconduct or incompetence, a copy of the decision shall be served on the person complaining in respect of the conduct of the member.

23(11) Where a proceeding is commenced before the Discipline Committee and the term of office, whether as a member of the Board or the Committee, expires or is terminated, other than for cause, before the proceeding is disposed of but after evidence has been heard, the member shall be deemed to remain a member of the Committee for the purpose of completing the disposition of the proceeding in the same manner as if the term of office of the member had not expired or been terminated.

24(1) In proceedings before the Discipline Committee, the Association and the member whose conduct is being investigated are parties to the proceedings.

24(2) A member whose conduct is being investigated in proceedings before the Discipline Committee shall be afforded an opportunity to examine, a reasonable time before the hearing, any written or documentary evidence that will be produced, or any report the contents of which will be given in evidence at the hearing, and may be represented by counsel.

24(3) Members of the Discipline Committee holding a hearing shall not have taken part before the hearing in any investigation of the subject matter of the hearing other than as a member of the Board considering the referral of the matter to the Discipline Committee, or at a previous hearing of the Committee, and shall not communicate directly or indirectly in relation to the subject matter of the hearing with any person or party or with any of their representatives except upon notice to and opportunity for all parties to participate, but the Committee may seek legal advice.

24(4) Subject to the right of the Minister or a person filing a complaint to attend, hearings of the Discipline Committee shall be held in private unless the party whose conduct is being investigated requests otherwise by notice delivered to the Registrar at least five days before the day fixed for the hearing, in which case the Committee shall conduct the hearing in public except where the possible disclosure of intimate financial or personal matters outweighs the desirability of a public hearing.

24(5) The Discipline Committee, or someone designated by it to act on its behalf, may by summons in a form prescribed by by-law, require the attendance before it of any person whose evidence may be material to the subject matter of the hearing and may order any person to produce such records, reports or other documents as appear necessary for the purpose of the hearing.

24(6) A person served with a summons shall attend and answer all questions concerning matters being inquired into at the hearing and shall produce to the Discipline Committee all records, reports or other documents that are under that person's custody or control.

24(7) The testimony of any witness may be taken under oath or affirmation which may be administered by the chairperson of the Discipline Committee or any person designated to do so on behalf of the chairperson.

24(8) If a person on whom a summons has been served, either personally or by leaving a copy of the summons with some adult person at his last or most usual place of residence or business, fails to appear before the Discipline Committee or upon appearing refuses to be sworn or refuses without sufficient cause to answer any question relevant to the hearing, the Committee may by application to a Judge of The Court of Queen's Bench of New Brunswick, cause the person to be cited for contempt under the provisions of the Rules of Court in the same manner and to the same extent as if the alleged contempt took place in proceedings before the Court of Queen's Bench.

24(9) The oral evidence taken before the Discipline Committee shall be recorded, and if a party requests a copy of the transcript it shall be furnished at the party's expense.

24(10) No member of the Discipline Committee shall participate in a decision of the Committee unless the member was present throughout the hearing and heard the evidence and argument of the parties.

24(11) Documents and things put in evidence at a hearing of the Discipline Committee shall, upon the request of the party who produced them, be returned by the Committee within a reasonable time after the matter in issue has been finally determined, including appeals.

APPEAL

25(1) A party to proceedings before the Discipline Committee may appeal within thirty days from the date of the decision, order or recommendation of the Committee to The Court of Queen's Bench of New Brunswick by way of Notice of Application in accordance with the Rules of Court with such changes as the circumstances require.

25(2) Upon the request of a party desiring to appeal, and upon payment of the costs of reproduction, the Registrar shall furnish the party with a certified copy of the record of the proceedings, including the documents received in evidence and the decision, order or recommendation appealed from.

25(3) An appeal under this section may be on questions of law or fact, or both. The Court may

- (a) affirm, vary or rescind the decision of the Committee;
- (b) exercise all powers of the Committee;
- (c) direct the Committee to take any action which it has the power to take;
- (d) substitute its opinion for that of the Committee; or
- (e) refer the matter back to the Committee for rehearing in whole or in part, in accordance with such directions as the Court considers proper.

REAL ESTATE BOARDS

26(1) The Board may approve the establishment of local associations to be known as real estate boards.

26(2) Subject to subsection 28(1), a real estate board may not use a name, or change its name, unless it is approved by the Board and registered with the Association.

26(3) Upon compliance with subsection (2) a real estate board is deemed to be a body corporate without share capital under this Act with the right to exercise powers under subsections (8) and (9).

26(4) A real estate board shall

- (a) have a board of directors and officers, and shall provide for the eligibility, nomination, election, number and term of office of members of its board and officers;
- (b) provide for calling and regulating meetings of the board of directors and the membership of the real estate board, and the method of voting.

26(5) A real estate board shall report to the Association within thirty days of the election of its board of directors

- (a) the names of its directors and officers;
- (b) the term of office of its directors and officers; and

(c) the official address of the office of the real estate board.

26(6) A real estate board shall report to the Association any changes with respect to the information required under subsection (5), within thirty days of such change.

26(7) All information reported to the Association under subsection (5) and (6) shall be recorded and kept up to date by the Association and shall be made available for inspection by the public during normal business hours, or confirmed in writing upon the request of any person.

26(8) Subject to subsection (10), the real estate boards named in section 28 may continue to exercise the same rights and powers for the same purposes as exercised under their letters patent and the *Companies Act* as on the date this Act comes into force.

26(9) Subject to subsection (10), the real estate boards named in section 28 and real estate boards subsequently approved under subsection (1) shall have the right to exercise the same powers in relation to their own affairs as may be exercised by the Association under paragraphs 6(b), (c), (d), (e), (g), (h), (l), (m), (n), (q), (r), (s), (t) and (x).

26(10) The exercise of all rights and powers by a real estate board under subsections (8) and (9) are subject to this Act, the by-laws of the Association, and the *Real Estate Agents Act*.

26(11) A real estate board established under this Act shall not be dissolved unless by a majority resolution of its members at a meeting called for that purpose, and with the consent of the Board upon being satisfied that the real estate board

(a) has disposed of its property,

(b) has no debts or liabilities, or

(i) its debts and liabilities have been duly provided for or protected, or

(ii) its creditors consent; and

(c) has given notice of its intent to dissolve by publishing notice once in *The Royal Gazette* and once in a newspaper distributed in the area where it has its head office and carries on its activities.

27(1) A real estate board shall make by-laws necessary for carrying out its powers under subsections 26(4), (8) and (9).

27(2) By-laws made under subsection (1) shall not be inconsistent or in conflict with this Act, the by-laws of the Association, or the *Real Estate Agents Act*.

28(1) Subject to section 34, the following real estate boards shall be deemed to continue as bodies corporate without share capital under the same names, or such name as approved by the Board from time to time:

The Real Estate Board of the Fredericton Area, Inc.

The Greater Moncton Real Estate Board Inc.

The Northern New Brunswick Real Estate Board Inc./L'Association Immobilière du Nord du Nouveau-Brunswick Inc.

Saint John Real Estate Board Inc.

Sussex Real Estate Board

Valley Real Estate Board, Inc./L'Association Immobilière de la Vallée, Inc.

28(2) Upon the continuation of a real estate board or a change of name under subsection (1), all proceedings may be continued or commenced by or against the board or under its new name that might have been continued or commenced by or against the board under its former name, and a board shall continue to possess all its property and continues to be subject to all liabilities, contracts, disabilities and debts.

EXEMPTIONS

29 Persons to whom the *Real Estate Agents Act* does not apply are not required to register under this Act to trade in real estate.

REAL ESTATE AGENTS ACT

30 This Act is subject to the provisions of the *Real Estate Agents Act*, and all terms defined in that Act have the same meaning when used in this Act.

REGULATIONS ACT

31 The *Regulations Act* does not apply to the Association or any by-law, rule or resolution made by the Association, the Examining Committee or the Board, but all by-laws and rules shall be available for inspection by any person at the head office of the Association at all reasonable times during business hours, free of charge.

GENERAL

32 No action lies against members, officers or directors of the Association, the Board, or any committees of the Association for anything done in good faith pursuant to the provisions of this Act or the by-laws or the *Real Estate Agents Act* or delegated or assigned by the Minister to the Association pursuant to the *Real Estate Agents Act*.

1995, c.31, s.24.

33 No member shall be personally liable for any debt of the Association beyond the amount of that member's unpaid dues or subscriptions.

34 Upon the commencement of this Act, The New Brunswick Real Estate Association, Inc. and real estate boards named in subsection 28(1) shall be deemed to be discontinued under the *Companies Act*, and the provisions of the *Companies Act* and the letters patent of The New Brunswick Real Estate Association, Inc. and the real estate boards named in subsection 28(1) shall cease to apply; provided that all by-laws of The New Brunswick Real Estate Association, Inc. and the real estate boards named in subsection 28(1) in effect at that time, and which are not inconsistent with this Act, shall continue in effect with such modifications as the circumstances require, until repealed or amended under the provisions of this Act.

35 *This Act or any part comes into force on a day or days to be fixed by proclamation.*

N.B. This Act was proclaimed and came into force July 1, 1996.

N.B. This Act is consolidated to July 1, 1996.