

**The New Brunswick Real Estate
Association Act:
Proposed Legislation
with Rationale for Changes**



The New Brunswick Real Estate Association Act: Proposed Legislation Overview

The New Brunswick Real Estate Association (NBREA) is proposing a modernization of the *Act to Incorporate the New Brunswick Real Estate Association*, which dates to 1994. As a regulated profession, NBREA must comply with our legislation; modernizing that legislation is critical in providing contemporary methods and tools for regulating members in today's environment. Many trends and practices in real estate regulation have evolved considerably since 1994, and those practices must be reflected in our legislation.

NBREA co-regulates the real estate profession in partnership with NB Financial and Consumer Services Commission (FCNB). In that partnership, NBREA is responsible for overseeing the *Act to Incorporate the New Brunswick Real Estate Association* and the national REALTOR® Code, and FCNB is responsible for the provincial *Real Estate Agents Act*. While NBREA is focused on modernizing its own legislation, it is also capturing input gained through our consultation processes that relates to the legislation FCNB oversees. Our intent is to share this information with FCNB so it may consider suggestions to modernize that Act.

The proposed new legislation, entitled *The New Brunswick Real Estate Association Act*, is intended to protect the public and continue to increase professionalism. The most significant changes include:

- 1) An updated and enhanced Complaints and Discipline process, which provides:**
 - Greater flexibility and improved efficiency in responding to complaints.
 - Powers to efficiently dismiss frivolous complaints.
 - Powers to resolve complaints at the Committee level.
 - Stronger legislation to prosecute bad practices.
 - Stronger sanctions (fine maximums increased in the *Act*).
- 2) The introduction of a new Professional Standards Committee, which allows:**
 - Members to develop standards to address specific emerging scenarios (multiple offers, pre-emptive offers, escalating clauses, etc.)
 - Standards to be created that are timely and relevant to address changes in the market as identified by registrants, while ensuring a mandatory member consultation period.
 - Standards to be explicitly and clearly defined to ensure all members have the tools required to practice to the highest professional standards.
- 3) The clarification and implementation of best practices of regulators, which provides:**
 - Policy-making flexibility.
 - Faster adaptation by creating by-laws, rules, and policies instead of waiting for changes in legislation.
 - A modernized Board of Directors composition with more public representation.
 - Continued enhancement of the profession's reputation by implementing best practices.
 - Modernization of terminology.

New Brunswick Real Estate Association Act: Proposed Legislation with Rationale

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The current legislation with proposed changes, and rationale for the changes are described in the table below. **Words proposed for removal appear in red, new words added appear in green, and the black text is unchanged.**

<p>An Act to Incorporate The New Brunswick Real Estate Association (1994)</p>	<p>The New Brunswick Real Estate Association Act (2023 Draft)</p>	<p>Rationale for proposed change</p>
<p><i>Assented to December 16, 1994</i></p> <p>WHEREAS The New Brunswick Real Estate Association, Inc. prays that it be enacted as hereinafter set forth;</p> <p>THEREFORE, Her Majesty, by and with the advice and consent of the Legislative Assembly of New Brunswick enacts as follows:</p> <p>1 This Act may be cited as <i>The New Brunswick Real Estate Association Act</i>.</p>	<p>WHEREAS the New Brunswick Real Estate Association prays that it be enacted as hereinafter set forth;</p> <p>AND WHEREAS it is desirable, in the interest of the public to continue the New Brunswick Real Estate Association as a body corporate for the purpose of advancing and maintaining the standards of the practice of trading in real estate carried on in New Brunswick, for governing and regulating registrants and providing for the interest of the public and the profession.</p> <p>THEREFORE, His Majesty, by and with the advice and consent of the Legislative Assembly of New Brunswick, enacts as follows:</p>	<p>This section was added to reflect changes in standards for legislation drafting. It also establishes that the association’s primary mandate, as granted by the legislature, is to protect the public and advance the profession.</p> <p>This matches similar wording found in the legislation of other professional regulatory bodies in our province.</p>
<p>2 In this Act</p> <p>“Association” means The New Brunswick Real Estate Association;</p> <p>“Board” means the Board of Directors of the Association;</p> <p>“member” means a member of the Association in good standing, and for the purposes of</p>	<p>DEFINITIONS AND INTERPRETATIONS</p> <p>1 In this Act,</p> <p>“Association” means the New Brunswick Real Estate Association. (<i>l’Association</i>)</p> <p>“Chair” means the Chair of the Association who also sits as Chair of the Council. (<i>président</i>)</p>	<p>Generally, Acts have a definition section. Its purpose is twofold:</p> <ol style="list-style-type: none"> 1. Use an abbreviated form for ease of reading; and 2. Clarify the meaning of a concept. <p>The new legislation simply updates this section.</p>

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<p>An Act to Incorporate The New Brunswick Real Estate Association (1994)</p>	<p>The New Brunswick Real Estate Association Act (2023 Draft)</p>	<p>Rationale for proposed change</p>
<p>disciplinary action includes a member under suspension or a member who has resigned; “member in good standing” means a person who is</p> <p>(a) the holder of a licence under the <i>Real Estate Agents Act</i>; (b) registered as a member under this Act; (c) not in arrears of any amount owing to the Association; and (d) not under suspension.</p> <p>“Minister” means the Minister of Justice and includes a person designated by the Minister to act on the Minister’s behalf;</p> <p>“real estate board” means a local association established pursuant to the provisions of this Act.</p>	<p>“Council” means the governing body of the Association under section 7. (<i>Conseil</i>)</p> <p>“Court” means the Court of King’s Bench of New Brunswick. (<i>Cour</i>)</p> <p>“complaint” means any complaint, report or allegation in writing signed by the complainant regarding a Respondent who is a registrant, or a former registrant. (<i>plainte</i>)</p> <p>“Commission” means the Financial and Consumer Services Commission continued under the <i>Financial and Consumer Services Commission Act</i>. (<i>Commission</i>)</p> <p>“Director” means the Director of Consumer Affairs appointed under the <i>Financial and Consumer Services Commission Act</i> and includes any person designated by the Commission or the Director to act on the Director’s behalf. (<i>Directeur</i>)</p> <p>“Directive” means a Directive of the Committee of Examiners. (<i>Directive</i>)</p> <p>“Minor infraction” means an infraction that, in the opinion of the Complaints Committee, is deserving of sanction but constitutes only a minor form of professional misconduct or incompetence. (<i>Infraction mineure</i>)</p> <p>“Policy” or “Policies” means a Policy or Policies of Council under section 7. (<i>Politique ou Politiques</i>);</p>	<p>Court of King’s Bench replaces the previous Court of Queen’s Bench.</p> <p>"Complaint" was added to eliminate any ambiguity over what constitutes a “complaint”.</p> <p>“Commission” is used to define FCNB in the <i>Real Estate Agents Act</i>. To be consistent with that legislation, the same abbreviated name is used here. Commission has an upper case “C” to distinguish from a <u>commission</u> as a form of payment.</p> <p>“Directive” was added to replace the old Committee of Examiners’ bylaws.</p> <p>“registrant” includes only active members. Former registrants are included as part of the “Respondent” definition below.</p> <p>“Policy or Policies” replaces what were called “Rules” of the Board of Directors in the previous Act. This follows legislation standards. "Trading in real estate" is defined in the <i>Real Estate Agents Act</i>. For consistency, it is appropriate to adopt the definition found in the <i>Real Estate</i></p>

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<p style="text-align: center; font-size: 48px; opacity: 0.2; font-weight: normal;">DRAFT</p>	<p>“Professional standards” means standards of professional conduct, standards of knowledge, standards of ethics, standards of practice or standards of qualification that relate to the practice of trading in real estate. (<i>normes professionnelles</i>)</p> <p>“Public representative” means a person who is not a registrant or former registrant and is appointed by the Director. (<i>représentant du public</i>)</p> <p>“registrant” means a member of the Association registered under s. 17 of this Act and holder of a licence in good standing under the <i>Real Estate Agents Act</i>. (“<i>membre</i>”)</p> <p>“registrant in good standing” means a person who is</p> <ul style="list-style-type: none"> (a) the holder of a licence under the <i>Real Estate Agents Act</i>; (b) registered as a registrant under this Act; (c) not in arrears of any amount owing to the Association; and (d) not under suspension. <p>“Respondent” means a registrant or a former registrant of the Association accused of professional misconduct or incompetence. (<i>intimé</i>)</p> <p>“Order” means an order, decision or findings of the Discipline Committee under section 33. (<i>Ordonnance</i>)</p>	<p><i>Agents Act.</i></p> <p>“Professional standards” was added to provide clear and concrete standards that support the <i>REALTOR® Code of Ethics</i>. This was added as a best practice from other regulated professions.</p> <p>“Respondent” was added to provide clarity under the sections of the Act referring to Complaints and Discipline.</p> <p>“Order” was added to further enhance the legal status of Discipline Committee decisions. Only the Discipline Committee has the ability to provide an Order, which is consistent with other professional regulators.</p>

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<p align="center">An Act to Incorporate The New Brunswick Real Estate Association (1994)</p>	<p align="center">The New Brunswick Real Estate Association Act (2023 Draft)</p>	<p align="center">Rationale for proposed change</p>
<p align="center">ASSOCIATION</p> <p>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 <i>Companies Act</i> on November 18, 1971, shall continue as a body corporate without share capital under the name The New Brunswick Real Estate Association.</p> <p>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.</p> <p>3(3) The category of membership of a person who is a member when this Act comes into force shall not change.</p> <p>4(1) The head office of the Association shall be as provided by by-law.</p> <p>4(2) The Association shall have a seal in a form approved by by-law.</p>	<p align="center">THE ASSOCIATION</p> <p>2 All registrants shall constitute the Association which shall continue as a body corporate without share capital and, subject to this Act, shall have the capacity, rights, powers, and privileges of a natural person.</p>	<p>This is a simpler way to describe the composition of the Association. It is consistent with other professional regulators.</p>
	<p align="center">OFFICIAL LANGUAGES</p> <p>3 English and French are the official languages of the Association.</p>	<p>This has been added to ensure compliance with the Official Languages Act. As a professional Association, NBREA must comply with this Act.</p>

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<p align="center">An Act to Incorporate The New Brunswick Real Estate Association (1994)</p>	<p align="center">The New Brunswick Real Estate Association Act (2023 Draft)</p>	<p align="center">Rationale for proposed change</p>
<p align="center">OBJECTS</p> <p>5 Subject to the provisions of the <i>Real Estate Agents Act</i>, the objects of the Association are to</p> <p>(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;</p> <p>(b) establish, promote and advance the interests of persons engaged in trading in real estate;</p> <p>(c) establish, maintain and develop standards of knowledge, skill and efficiency for trading in real estate;</p> <p>(d) establish, maintain, develop and enforce standards of qualifications for trading in real estate;</p> <p>(e) establish, maintain, develop and enforce standards of professional ethics for its members;</p> <p>(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;</p> <p>(g) encourage studies in trading in real estate and provide assistance for special studies and research;</p>	<p align="center">OBJECTS</p> <p>4(1) The objects of the Association are to</p> <p>(a) regulate the practice of trading in real estate as a profession in order to serve and protect the public interest;</p> <p>(b) provide for the regulation, discipline, governance, and honour of persons trading in real estate, including the determination and the enforcement of the standards of knowledge, skill, efficiency, and the standards of qualification, professional conduct, and ethics;</p> <p>(c) promote public awareness of the role of the Association and the practice of trading in real estate as a profession, and to communicate and co-operate with other professional associations for the advancement of the best interests of the Association;</p> <p>(d) establish, promote, and advance the interests of the practice of trading in real estate in the best interests of the public;</p> <p>(e) encourage studies and provide assistance for special studies and research;</p> <p>(f) execute membership agreements for the benefit of registrants with other professional associations to serve and protect the public interest; and</p>	<p>The Objects of the Profession have been refreshed to reflect recent changes in standards for legislation drafting. “Trading in real estate” has been replaced by “trading in real estate as a profession” to further promote and protect the evolution of this industry as a true profession. Some subject subsections were combined for clarity.</p> <p>This allows a judge to grant statutory ability to the Association with respect to an object that is not specifically</p>

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<p>An Act to Incorporate The New Brunswick Real Estate Association (1994)</p>	<p>The New Brunswick Real Estate Association Act (2023 Draft)</p>	<p>Rationale for proposed change</p>
<p>(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;</p> <p>(i) execute membership agreements for members' benefit with other professional associations in order to serve and protect the public interest.</p>	<p>(g) administer this Act and perform such duties and exercise such powers in the furtherance of its objects as are imposed or conferred expressly or implicitly on the Association by this Act or by any other Act.</p>	<p>provided but is otherwise implied.</p> <p>In addition, it allows other pieces of legislation to grant powers to the Association.</p>

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<p style="text-align: center;">POWERS</p> <p>6 The Association, in furtherance of its objects, shall have the power to</p> <ul style="list-style-type: none">(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,		<p>The stand-alone provision on POWERS has been removed from the Act because it represents an outdated standard for drafting legislation. These powers remain, but they have been moved or re-assigned to more relevant sections of the act.</p>
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<p>(ii) upon writing any examination prescribed by the Association for the purpose of licencing, or</p> <p>(iii) as annual dues;</p> <p>(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;</p> <p>(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 practice in a specialized field</p> <p>(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;</p> <p>(k) arrange and establish ways and means by which persons may be trained to trade in real estate;</p> <p>(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</p>		
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<p>members and providing for standards of competence and integrity that are reasonably necessary for the protection of the public;</p> <p>(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 nonpayment;</p> <p>(n) receive gifts, donations and bequests, and make gifts or donations for the promotion of the objects of the Association;</p> <p>(o) call and regulate meetings and the method of voting;</p> <p>(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 <i>ex officio</i> or honorary officers or members of the Board;</p> <p>(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;</p> <p>(r) establish categories of membership in the Association, and prescribe the privileges, obligations and conditions of membership;</p>		
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<p>(s) provide for the establishment and payment of scholarships, fellowships and other educational incentives, benefits and awards by the Association;</p> <p>(t) provide for professional liability insurance and a professional liability claims fund, and to enter into agreements for such purposes;</p> <p>(u) provide for investigations by the complaints and discipline committees, including the procedures to be followed;</p> <p>(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;</p> <p>(w) do all things that may be delegated or assigned to it by the Minister pursuant to the <i>Real Estate Agents Act</i>;</p> <p>(w.1) perform such duties and exercise such powers as are imposed on the Association by any other Act;</p> <p>(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.</p>	<p>DRAFT</p>	
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BY-LAWS	BY-LAWS	
<p>7(1) For the purpose of attaining its objects and the implementation of its powers, the Association may make bylaws not inconsistent with the provisions of this Act and the <i>Real Estate Agents Act</i>.</p> <p>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</p> <p>(a) the annual general meeting</p> <p>(b) a special meeting of the Association called for the purpose.</p> <p>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.</p> <p>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.</p> <p>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.</p>	<p>5(1) The Association, in furtherance of its objects, may make by-laws not inconsistent with the provisions of this Act and the <i>Real Estate Agents Act</i> for</p> <p>(a) the composition of the Council;</p> <p>(b) The calling, holding and conducting of meetings of the Council and the duties of members of Council;</p> <p>(c) the establishment of categories of membership in the Association, including the conditions, obligations, and privileges associated with any categories of registration;</p> <p>(d) the location of a Head Office and other offices of the Association;</p> <p>(e) the execution of documents by the Association;</p> <p>(f) the custody and use of the Association seal;</p> <p>(g) 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;</p> <p>(h) the appointment of auditors; and</p> <p>(i) the administration of this Act and the performance of such duties and the exercise of such powers in the furtherance of its objects as are imposed or conferred on the Association by</p>	<p>The by-laws have been refreshed to reflect changes in legislation drafting standards.</p> <p>These items are already part of the current Act, except for (h) Arbitration proceedings. Please refer to the rationale found at section 36 (p.55-56) for a detailed explanation regarding this.</p> <p>Powers were brought forward from previous sections.</p>

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	<p>this Act expressly or implicitly and by any other Act.</p> <p>5(2) All proposed new by-law, amendment, or repeal of an existing by-law shall be ratified by</p> <ul style="list-style-type: none"> (a) a majority of Council and by a majority of the votes cast by the registrants, in attendance and in good standing, at any annual or special meeting, or (b) by two-thirds of the votes cast by the registrants, in attendance and in good standing, at any annual or special meeting. <p>5(3) A proposed new by-law, amendment, or repeal of an existing by-law shall be in writing signed by at least two registrants and shall, not less than 45 days before the meeting, be presented to the Chief Executive Officer.</p>	
<p style="text-align: center;">ANNUAL MEETING</p> <p>8 There shall be an annual meeting of the Association at a time and place fixed by the by-laws.</p>	<p style="text-align: center;">ANNUAL MEETING</p> <p>6(1) There shall be an annual meeting of the Association at a time and place with procedures fixed by the Policies.</p> <p>6(2) Council or delegate shall give notice of the annual meeting to each registrant of the Association in a manner determined in the Policies.</p> <p>6(3) The accidental omission to give notice of the annual meeting to any registrant or the non-receipt of the notice by any registrant does not invalidate any action taken at a meeting.</p>	<p>Changed from 60 to 45 days to build efficiency in process while allowing sufficient time for the Association to respond to requested by-law amendments prior to distributing notice of the AGM.</p> <p>Added to provide the Association with flexibility to adjust the date for the AGM if required, based on exceptional circumstances (e.g. the COVID 19 pandemic). The current Act dictates that the AGM must be conducted within a certain amount of time following year end without considering circumstances, making it challenging to plan the AGM as was the case in 2020.</p>

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BOARD OF DIRECTORS	COUNCIL	
<p>9(1) There shall be a Board of Directors of the Association consisting of</p> <ul style="list-style-type: none"> (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 bylaws; (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 bylaw. <p>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.</p> <p>9(3) Subject to the provisions of this Act, and the bylaws, the management of the Association shall be vested in the Board and the Executive Committee.</p>	<p>7(1) The responsibility for the administration of this Act and the management of the Association shall be vested in a Council which shall consist of at least seven Council members, including a Chair and other officers as may be provided in the by-laws.</p> <p>7(2) Council shall also include at least three public representatives in a manner consistent with the by-laws.</p> <p>7(3) The Chief Executive Officer sits on the Council, but has no vote.</p> <p>7(4) The number of Council members, their respective terms of office, the manner of their appointment, nomination or election, and their respective qualifications shall be established and governed by the by-laws or Policies and such by-laws or Policies may provide for additional and alternate Council members, for the filling of Council vacancies and for the appointment of additional public representatives.</p> <p>7(5) The Council shall exercise all the powers and functions of the Association save and except where stated otherwise in this Act.</p>	<p>The new legislation replaces “Board of Directors” with “Council” to eliminate confusion with “Real Estate Boards” and the Board of Directors of the Real Estate Board.</p> <p>Rather than having the Act dictate the composition of the Board of Directors, the new legislation proposes a shift of this function from the Act to the by-laws.</p> <p>This provides better flexibility for registrants (members) to vote on changes to Board composition when required. For example, registrants (members) may wish to consider alternatives to the requirement under the current Act that presidents of Real Estate Boards must act as Association directors, now that there has been a vote to amalgamate Real Estate Boards in the province. Instead, registrants could vote on by-laws to define regional representation. As the structure of organized real estate in the province evolves, this could evolve, too, if there is flexibility in the legislation.</p> <p>The concept of the “Executive Committee” is removed in the new legislation, acknowledging that greater transparency occurs when the full Council (Board of Directors) – and not</p>

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<p>10(1) The term of office of members of the Board shall be fixed by by-law.</p> <p>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</p> <ul style="list-style-type: none"> (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. <p>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.</p> <p>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.</p>	<p style="text-align: center; font-size: 48px; opacity: 0.2;">DRAFT</p>	<p>an Executive Committee – considers and votes on motions. This is consistent with modern Association management principles adopted by many other Associations across North America. If there is a need for this Committee in the future, there is flexibility for it to be resurrected.</p>
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<p style="text-align: center;">RULES BY BOARD</p>	<p style="text-align: center;">COUNCIL POLICIES</p>	
<p>11(1) The Board may make rules not inconsistent with the provisions of this Act or the by-laws providing for</p> <ul style="list-style-type: none"> (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; 	<p>7(6) The Council may enact Policies not inconsistent with the provisions of this Act and the <i>Real Estate Agents Act</i> to administer this Act, manage the Association, and carry out the powers and functions of the Association.</p> <p>7(7) Without limiting the generality of the foregoing, the Policies may provide for</p> <ul style="list-style-type: none"> (a) the notice period and the practice and procedure in respect of annual and special general meetings of the Association; (b) the appointment of <i>ex officio</i> non-voting persons to the Council for such term as Council determines; (c) meetings of Council or committees whether in person, by teleconference, video conference, or other communications equipment by means of which all persons participating in the meeting can hear each other, and a member of Council or committee participating shall be deemed to be present in person at the meeting; (d) banking, finance, and borrowing money; (e) 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; (f) the establishment and payment of 	<p>The term “Council Policies” replaces “Rules by Board”. This change makes it possible for the Association to be responsive and adaptable to the profession as it continues to evolve, rather than being limited by a fixed and permanent set of Rules. As times change, the Association will operate most effectively if it has the flexibility to adapt to that change.</p>

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<p>(j) the payment of necessary expenses of the Board and committees in the conduct of their business;</p> <p>(k) the management of the property of the Association;</p> <p>(l) the appointment, composition, powers and duties of additional or special committees;</p> <p>(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.</p> <p>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.</p>	<p>scholarships, fellowships, and other educational incentives, benefits, and awards by the Association;</p> <p>(g) the payment of necessary expenses of the Council and committees in the conduct of their business;</p> <p>(h) the management of the property of the Association, including real property being acquired, alienated, mortgaged, charged, disposed of, leased or rented;</p> <p>(i) gifts, donations and bequests received or made by the Association;</p> <p>(j) professional liability insurance and a professional liability claims fund;</p> <p>(k) the establishment of real estate boards and the Association’s work with them in achieving the objects of the Association and the real estate boards;</p> <p>(l) the appointment, the composition, the powers, the functions, the procedure and the operations of committees;</p> <p>(m) the ability to make or terminate appointments and fill vacancies on committees;</p> <p>(n) the quorum, number of members, the terms of office, qualifications and the manner of appointment of the Discipline Committee, the Complaints Committee, the</p>	
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	<p>Professional standards Committee, the Committee of Examiners, the Finance and Audit Committee or any other committee established by Council;</p> <p>(o) Professional standards of practice and a Code of ethics in accordance with subsection 12(5) of the <i>Act</i>;</p> <p>(p) the review of a registrant’s professional conduct or competence;</p> <p>(q) all things that may be delegated or assigned to it by the Director pursuant to the <i>Real Estate Agents Act</i>;</p> <p>(r) registrant fees or special assessment in accordance with paragraph 5(1)(d) and section 10 and any penalty or consequence associated with the failure to pay such fees;</p> <p>(s) the arbitration of disputes for commission or fees charged by a registrant relating to trading in real estate in accordance with s. 36;</p> <p>(t) Nominations criteria;</p> <p>(u) The election of registrants-at-large on Council;</p> <p>(v) any action it considers necessary for the promotion, protection, interest, welfare, or to attain the objects of the Association; and</p> <p>7(8) The Policies are binding on the Association, its</p>	<p>(p) This is a standard best practice among regulated professions and while it is used only under exceptional circumstances, it is an essential tool used to protect the public and the reputation of the profession.</p> <p>(n and v) As regulated professions continue to evolve, these proposed changes provide the Association with the flexibility to adapt and be responsive.</p> <p>Because legislation under the Act is amended very infrequently (typically not for decades), it must be written with as much flexibility as possible to ensure that the Association’s purpose remains relevant.</p>
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	<p>registrants, former registrants, and Council.</p> <p>7(9) A new Policy or the amendment or repeal of a Policy is not effective unless a majority of the members of Council then in office vote in favour of it, and it comes into force upon approval by Council or such later date as provided in the Policy.</p> <p>7(10) The <i>Regulations Act</i> does not apply to the Policies enacted by Council under this Act.</p>	<p>7(8) has been added and should be interpreted to include registrants who have left the industry and are still subject to an order of the Discipline Committee.</p>
	<p style="text-align: center;">CHIEF EXECUTIVE OFFICER</p> <p>8(1) Council shall appoint a Chief Executive Officer of the Association.</p> <p>8(2) The Chief Executive Officer shall provide for the management of the Association’s property, assets, and of its affairs and business including the employment of staff.</p> <p>8(3) The Chief Executive Officer reports to Council.</p>	<p>In the current legislation, there is no stand-alone provision that describes the Chief Staff Officer role. This new section provides for this.</p>
<p style="text-align: center;">RIGHT TO TRADE IN REAL ESTATE</p> <p>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 <i>Real Estate Agents Act</i> and is registered under the provisions of this Act and by-laws.</p> <p>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.</p>	<p style="text-align: center;">AUTHORIZED PRACTICE</p> <p>9 Only persons who are registered as registrants in the register of the Association under s. 17 of this Act and holders of a licence in good standing under the <i>Real Estate Agents Act</i> shall be entitled to trade in real estate.</p>	<p>This is an update to the exclusive right to trade in real estate.</p>
<p style="text-align: center;">PAYMENT OF FEES</p>	<p style="text-align: center;">PAYMENT OF FEES</p>	

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<p>19(1) Every member shall pay to the Association annual fees in an amount and by such date as fixed by the bylaws.</p> <p>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.</p> <p>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,</p> <p>(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;</p> <p>(b) require the person to pass such examinations as it considers necessary; or</p> <p>(c) impose such other conditions as it considers in the public interest.</p>	<p>10(1) Every registrant shall pay to the Association annual fees or special assessments in an amount and by such date as fixed by the Policies in accordance with the recommendation of the Finance and Audit Committee.</p> <p>10(2) Subject to subsection (3), a registrant who fails to pay the annual fees as required by subsection no longer is in good standing and (1) loses all rights and privileges conferred under this Act and the registrant's registration may be suspended until payment of the fees.</p> <p>10(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 Council for approval, in which case the Council may, after consideration of the circumstances,</p> <p>(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;</p> <p>(b) require the person to pass such examinations as it considers necessary; or</p> <p>(c) impose such other conditions as it considers in the public interest.</p>	<p>Edited to provide clarity that the registrant's (member) registration is suspended until payments are made.</p>
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<p style="text-align: center;">APPOINTMENT OF COMMITTEES</p> <p>12(1) The Board shall establish and appoint the following committees</p> <p>(a) Committee of Examiners;</p> <p>(b) Complaints Committee; and</p> <p>(c) Discipline Committee</p> <p>and may establish such other committees as the Board considers appropriate.</p> <p>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.</p>	<p style="text-align: center;">APPOINTMENT OF COMMITTEES</p> <p>11(1) Council shall establish and appoint the following committees</p> <p>(a) Professional Standards Committee;</p> <p>(b) Committee of Examiners;</p> <p>(c) Finance and Audit Committee;</p> <p>(d) Complaints Committee; and</p> <p>(e) Discipline Committee.</p> <p>11(2) Council may establish other committees as Council considers appropriate.</p>	<p>A Professional Standards Committee has been added to create a committee with the legal ability to establish or recommend the adoption of new Professional Standards of Practice.</p> <p>A Finance and Audit Committee has been added to reflect the fact that this critical committee has been in place for many years.</p>
	<p style="text-align: center;">PROFESSIONAL STANDARDS COMMITTEE</p> <p>12(1) There shall be a Professional Standards Committee appointed by Council, composed of</p> <p>(a) at least four registrants in good standing, one of whom shall be named chairperson by Council, and</p> <p>(b) at least one public representative.</p> <p>12(2) None of the Professional Standards Committee members shall be Council members.</p> <p>12(3) The quorum, number of Professional Standards Committee members, their terms of</p>	<p>Both this section, and the Committee it proposes, are new and based on feedback provided by the Legislative Advisory Group.</p> <p>A Professional Standards Committee, made up of active members, would create or clarify standards for the profession. This will create a common set of operating standards – essentially the “rules of the road” – helping the Association better protect the public and to assist the professionals with clarifying otherwise potentially vague standards.</p>

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	<p>office, qualifications, and the manner of their appointment shall be established and governed by the Policies and the Policies may regulate the procedures, functions and operations of the Professional Standards Committee.</p> <p>12(4) The Professional Standards Committee may establish Professional standards relating to trading in real estate.</p> <p>12(5) A new Professional standard, or the amendment or repeal of a Professional standard, is not in force until it has been approved by Council in a Policy.</p> <p>12(6) The approval process of Council shall include a consultation period as prescribed by a Policy.</p> <p>12(7) Professional standards, once in effect, are binding on the Association, the registrants, former registrants and Council and failure to follow the Professional standards may constitute professional misconduct or incompetence.</p>	
<p align="center">COMMITTEE OF EXAMINERS</p> <p>14(1) There shall be a Committee of Examiners consisting of</p> <p>(a) three members of the Association appointed by the Board, one of whom shall be named chairperson by the Board, and</p> <p>(b) any two persons appointed by the Minister.</p> <p>14(2) The members of the Committee shall hold office for a period of two years, except that</p>	<p align="center">COMMITTEE OF EXAMINERS</p> <p>13(1) There shall be a Committee of Examiners appointed by Council, composed of</p> <p>(a) at least three registrants in good standing, one of whom shall be named chairperson by Council; and</p> <p>(b) at least two public representatives.</p> <p>13(2) None of the Committee of Examiners</p>	

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<p>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.</p> <p>14(3) Any member of the Committee shall be eligible for reappointment.</p> <p>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</p>	<p>members shall be members of Council.</p> <p>13(3) The quorum, number of Committee of Examiners members, their terms of office, qualifications, and the manner of their appointment shall be established and governed by Policies and the Policies may regulate the procedures, functions and operations of the Committee of Examiners.</p>	<p>To provide greater flexibility, this section moves the terms of office for the Committee of Examiners from legislation into Policies.</p>
	<p style="text-align: center;">FINANCE AND AUDIT COMMITTEE</p> <p>14(1) There shall be a Finance and Audit Committee appointed by Council, composed of at least three Council members, one of whom shall be named chairperson by Council.</p> <p>14(2) The quorum, number of the Finance and Audit Committee members, their terms of office, qualifications and the manner of their appointment shall be established and governed by Policies and the Policies may regulate the procedures, functions and operations of the Finance and Audit Committee.</p>	<p>This is added to formalize the existing Finance and Audit Committee into legislation.</p>
<p style="text-align: center;">REGISTRATION</p> <p>15(1) The Committee of Examiners shall provide for and conduct educational programs and examinations to qualify persons for licencing under the <i>Real Estate Agents Act</i>.</p> <p>15(2) The Committee shall recommend to the</p>	<p style="text-align: center;">REGISTRATION</p> <p>15(1) The Committee of Examiners shall provide for and conduct educational programs and examinations to qualify persons for licencing under the <i>Real Estate Agents Act</i>.</p> <p>15(2) The Committee shall recommend to the</p>	

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<p>Minister for licensing under the <i>Real Estate Agents Act</i> persons who</p> <p>(a) successfully complete the required educational programs and examinations, and</p> <p>(b) pay the required fees in respect of the required educational programs and examinations.</p> <p>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 <i>Real Estate Agents Act</i>.</p> <p>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.</p> <p>15(5) Subject to the approval of the Minister, the Committee may make by-laws</p> <p>(a) prescribing the proofs to be furnished as to education;</p> <p>(b) prescribing the subjects for examination of candidates to be licenced to trade in real estate;</p> <p>(c) relating to examinations, the duties and functions of examiners and the place examinations are to be held;</p>	<p>Director for licensing under the <i>Real Estate Agents Act</i> persons who</p> <p>(a) successfully complete the required educational programs and examinations, and</p> <p>(b) pay the required fees in respect of the required educational programs and examinations.</p> <p>15(3) Any person recommended under subsection (2) shall be registered as of the date of licensing as a registrant in good standing entitled to trade in real estate.</p> <p>15(4) Subject to the approval of Council, the Committee may delegate to the Registrar such functions for the approval of an application for registration as it considers appropriate.</p> <p>15(5) Subject to the approval of the Director, the Committee may make Directives</p> <p>(a) prescribing the proofs to be furnished as to education, good character and experience;</p> <p>(b) prescribing the subjects for examination of candidates to be licensed to trade in real estate;</p> <p>(c) prescribing the annual mandatory continued professional development requirements;</p> <p>(d) relating to examinations, the duties and functions of examiners, and the place examinations are to be held;</p> <p>(e) prescribing the reconsideration process under</p>	<p>In the current legislation, the Committee of Examiners has its own by-laws. To eliminate confusion, “by-laws” has been changed to “Directives”.</p> <p>“Good character and experience” has been added as a best practice from other regulated professions.</p>
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<p>(d) respecting such other matters as the Committee considers necessary to more effectively discharge its functions.</p> <p>15(6) The Committee shall meet at such places and times as it shall determine.</p> <p>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.</p> <p>16(2) In the event of an appeal the Board, after considering all relevant factors, may</p> <p>(a) direct that the person be recommended under subsection 15(2);</p> <p>(b) refer the matter back to the Committee for reconsideration with such directions as the Board considers necessary; or</p> <p>(c) refuse the appeal and uphold the decision of the Committee.</p> <p>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.</p>	<p>subsection (7); and</p> <p>(f) respecting such other matters as the Committee considers necessary or advisable for the more effectual discharge of its functions or exercise of its powers.</p> <p>15(6) The Directives are binding on the Association, the registrants, former registrants, and Council.</p> <p>15(7) If the Committee or the Registrar refuses to approve a person for registration that person may request a reconsideration to the Committee in writing within thirty days of receipt of notification of the decision of the Committee or the Registrar.</p>	
<p style="text-align: center;">REGISTRAR</p> <p>13(1) The Board shall appoint a Registrar to hold office for such term and remuneration as it may decide.</p>	<p style="text-align: center;">REGISTRAR</p> <p>16(1) Council shall appoint a Registrar of the Association.</p> <p>16(2) In circumstances in which the Registrar is not</p>	<p>This provision clearly articulates the ability of Council in circumstances</p>

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	<p>able to act, or it is not appropriate that they do so, Council may appoint an individual to act as Registrar for a specified purpose and with all of the powers of the Registrar under this Act and in accordance with the Policies.</p> <p>16(3) The Registrar shall</p> <ul style="list-style-type: none"> (a) maintain a register of all registrants of the Association; (b) conduct or provide for the conduct of investigations on behalf of the Complaints Committee; (c) provide for the prosecution of complaints before the Discipline Committee; (d) engage counsel to assist in the prosecution of complaints or as otherwise required; (e) prepare notices of hearing; (f) ensure that all decisions of the Complaints Committee or the Discipline Committee are implemented; and (g) perform other functions inherent to the position. 	<p>where the Registrar is in a conflict of interest and there is a need to appoint a substitute for the purpose of that specific matter.</p> <p>This formalizes current functions of the Registrar. It also provides for flexibility should these functions evolve.</p>
<p>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.</p> <p>13(3) No name shall be entered in the register</p>	<p style="text-align: center;">REGISTER</p> <p>17(1) The Registrar shall maintain a register in which shall be entered the name of every registrant, and may issue a certificate of registration to every person who is registered.</p> <p>17(2) On payment of the applicable annual fees, if</p>	

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<p>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.</p> <p>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.</p> <p>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.</p> <p>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.</p> <p>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.</p>	<p>the person is otherwise in good standing and has complied with this Act, the by-laws, the Policies and the Directives, the Registrar shall register the person as a registrant for the year for which the fees are payable in the register.</p> <p>17(3) Any person affected by a decision of the Registrar with respect to registration not otherwise contemplated under this Act may appeal to Council in writing within 30 days of receipt of notification of the decision of the Registrar.</p> <p>17(4) The Registrar shall publish and maintain for inspection by any person at the Association’s Office, free of charge, an alphabetical list, together with the address, of all registrants.</p> <p>17(5) The Registrar shall forthwith enter into the register of the Association</p> <p>(a) the result of every proceeding before the Discipline Committee that resulted in a sanction against the registrant; and</p> <p>(b) where the Order of the Discipline Committee that resulted in the sanction against the registrant is appealed, a notation that it is under appeal.</p> <p>17(6) Where an appeal of the Order of the Discipline Committee is finally disposed of, the notation referred to in paragraph (5)(b) shall be removed and the register adjusted accordingly.</p> <p>17(7) For the purpose of paragraph (5)(a), "result", when used in reference to a proceeding before the Discipline Committee, means the Committee's findings and the penalty imposed and in the case of</p>	<p>This section was refreshed to formalize current practice.</p>
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	<p>a finding of professional misconduct, a description of the nature of the professional misconduct.</p> <p>17(8) The Registrar shall provide the information contained in the register referred to in subsection (5) to any person who inquires about a registrant or a former registrant who has received disciplinary sanctions.</p> <p>17(9) Upon payment of a reasonable fee established by Policy, the Registrar shall provide a copy of the information contained in the register referred to in subsection (5) that pertain to a registrant or a former registrant to a person who requests a copy.</p> <p>17(10) Notwithstanding subsection (9), the Registrar may provide, at the Association's expense, a written statement of the information contained in the register in place of a copy.</p>	<p>This provides the Association / Registrar with the ability to distribute Discipline decisions to registrants of the profession who, for example, wish to develop office education sessions based on recent discipline actions by the Discipline Committee. These are posted on the website currently so this amendment would result in no change to current practices.</p>
	<p style="text-align: center;">RESEARCHER</p> <p>18(1) The Registrar may appoint one or more researchers to research whether a registrant has committed an act of professional misconduct or is incompetent if</p> <p>(a) the Complaints Committee has received a complaint about the registrant and has requested that the Registrar appoint a researcher; or</p> <p>(b) the Registrar has reason to believe that the registrant has committed an act of professional misconduct or is incompetent.</p> <p>18(2) A researcher appointed by the Registrar may at any reasonable time, and upon producing proof of his or her appointment, enter and inspect the</p>	<p>18(1) This section of the Act has been added to reflect a current power in the Complaints and Discipline manual that isn't expressly stated in the Act. This formalizes a current practice.</p> <p>(b) This is a standard best practice among regulated professions and, while it is used only under exceptional circumstances, it is an essential tool in protecting the public and the reputation of the profession.</p>

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	<p>business premises of a registrant and examine anything found there that the researcher has reason to believe will provide evidence in respect of the matter being researched.</p> <p>18(3) No person shall, without reasonable excuse, obstruct or cause to be obstructed a researcher while the researcher is performing his or her duties under this Act.</p> <p>18(4) No person shall withhold, conceal or destroy, or cause to be withheld, concealed or destroyed, anything that is relevant to a research under this Act.</p> <p style="text-align: center;">COURT INTERVENTION</p> <p>19(1) Upon the <i>ex parte</i> application of a researcher, a judge of the Court who is satisfied on information by oath or solemn affirmation that the researcher has been properly appointed may issue a warrant authorizing the researcher to enter a building, receptacle, electronic device or place and search for and examine or remove anything described in the warrant when there are reasonable grounds for believing that</p> <p>(a) the registrant being researched has committed an act of professional misconduct or is incompetent, and</p> <p>(b) there is in a building, receptacle, electronic device or place, anything that will provide evidence in respect of the matter being researched,</p> <p>19(2) A researcher shall report the results of the</p>	<p>In practice, this could be used when no complaint has been filed but the Registrar has otherwise been made aware of a potential ethical breach. To fulfill its mandate, NBREA (through its Registrar) must be equipped with the ability to act on situations in which registrants (members) are suspected of professional misconduct.</p> <p>Providing these powers to investigators is a standard best practice among other regulated professions.</p> <p>While these powers are seldomly used, they are an essential tool in protecting the public and the image of the profession.</p>
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	<p>research to the Registrar in writing, who shall process it as a complaint against a Respondent.</p> <p>19(3) A researcher entering and searching a place under the authority of a warrant issued under subsection (1) may be assisted by other persons and may enter a place by force.</p>	
	<p style="text-align: center;">COMPLAINT</p> <p>20(1) A complaint against a Respondent shall be in writing, signed by the complainant and filed with the Registrar.</p> <p>20(2) Any person may file a complaint, including the Registrar and the Director in circumstances where no complaint has been filed and it is in the public interest that a complaint be filed.</p> <p>20(3) In the course of the Registrar’s gathering of information, the Registrar may file an additional complaint or additional complaints against the Respondent.</p> <p>20(4) Upon receipt of a complaint, the Registrar shall notify the Respondent of the complaint and provide a period of at least two weeks where the Respondent can submit in writing any reply the Respondent may wish to make concerning the matter.</p> <p>20(5) Upon receipt of the Respondent’s reply or if the expiration of the deadline for filing the reply has passed, the Registrar may</p>	<p>This formalizes a current practice in which the Registrar may currently file complaints on behalf of the Association in the preservation of the public interest. With this change, that right is formally expressed.</p> <p>This gives the Registrar the ability to file a new complaint(s) if other instances of professional misconduct or incompetence are found during an investigation.</p>

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<p style="font-size: 48px; opacity: 0.2; text-align: center;">DRAFT</p>	<p>(a) require additional information or production of documents by the Respondent;</p> <p>(b) further gathering of information into the matter;</p> <p>(c) refer the complaint to the Complaints Committee;</p> <p>(d) dismiss the complaint if, in the opinion of the Registrar, it is frivolous, vexatious or not within the jurisdiction of the Association.</p> <p>21(1) When the complaint is referred to the Complaints Committee under paragraph 20(5)(c), it shall include the complaint, the reply of the Respondent and any documentation relevant to the complaint.</p> <p>21(2) When the complaint is dismissed under paragraph 20(5)(d), the Registrar shall file a decision with the Complaints Committee with written reasons and a copy of this decision shall be forwarded to the complainant and to the Respondent.</p> <p>21 (3) A complainant or the Director, if not satisfied with the disposition of the complaint by the Registrar, may request in writing a review by the Complaints Committee.</p> <p>21(4) Upon receipt of a request under subsection (3) the Complaints Committee may dispose of the complaint in accordance with section 24.</p> <p>21(5) The Complaints Committee shall advise the complainant and the respondent in writing of the disposition of a complaint under subsection (4) and shall give reasons.</p>	<p>This section gives the Registrar the flexibility to dismiss “frivolous or vexatious” complaints or complaints that do not fall within the Association's jurisdiction. The Registrar can also streamline the back-and-forth investigation process that is currently practiced under the Complaints and Discipline Procedures manual, saving time and resulting in faster, more efficient decision making.</p> <p>Changes here also address the fact that, currently, there is no requirement for registrants to produce or disclose documents pertaining to a complaint. This provides the Complaints Committee with better access to the evidence necessary to make decisions.</p> <p>This provision grants complainants the right to a review of a Registrar’s decision to dismiss a complaint by the Complaints Committee. Similar language was used in the <i>Law Society Act</i>.</p>
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	<p>22(1) The Registrar may disclose to a law enforcement authority any information respecting possible criminal activity on the part of a registrant or any other person that was obtained during an investigation.</p> <p>22(2) No action or other proceeding shall be instituted against the Registrar for filing a report in good faith pursuant to subsection (1).</p>	<p>This is a safeguard to ensure that when the Registrar dismisses a complaint as frivolous, he or she must justify this with reasons.</p> <p>This provision allows the registrar to report possible criminal activities to the relevant authorities where warranted.</p> <p>This provides legal protection for the Registrar for actions taken in good faith relating to the new abilities above.</p>
	<p style="text-align: center;">INTERIM SUSPENSION BY REGISTRAR</p> <p>23(1) If the Registrar believes that a registrant’s practice presents or is likely to present serious harm to the public, the Registrar may</p> <ul style="list-style-type: none"> (a) impose conditions on the registrant; or (b) suspend the registrant’s registration, pending a hearing of the matter by the Complaints Committee. <p>23(2) Upon imposing conditions on the registrant under paragraph (1)(a) or suspending the registrant’s registration under paragraph (1)(b), the Registrar shall immediately refer the matter to the Complaints Committee.</p> <p>23(3) A panel of the Complaints Committee shall hold a hearing where the Respondent may make representations into the interim suspension under paragraph (1)(b) within ten days of the referral by the Registrar.</p>	<p>In cases where allegations made against a respondent represent a threat of harm to the public or a serious threat to the profession’s reputation (one in which the profession would suffer substantial damage or loss of public trust), the Registrar would have the ability to take immediate action.</p>

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	<p>23(4) The hearing under subsection (3) is <i>de novo</i> and does not constitute an appeal of the Registrar’s decision.</p> <p>23(5) Upon imposing conditions on the registrant under paragraph (1)(a) or suspending the registrant’s registration under paragraph (1)(b), the Registrar shall inform the Director as soon as practicable.</p>	
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COMPLAINTS COMMITTEE	COMPLAINTS COMMITTEE	
<p>20(1) There shall be a Complaints Committee consisting of</p> <ul style="list-style-type: none"> (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. <p>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.</p> <p>20(3) No person who is member of the Discipline Committee shall be a member of the Complaints Committee.</p> <p>20(4) Three members of the Complaints Committee constitute a quorum, provided that there shall always be one member appointed by the Minister.</p> <p>21(1) Upon receipt of</p> <ul style="list-style-type: none"> (a) a complaint in writing filed with the Registrar, 	<p>24(1) There shall be a Complaints Committee, appointed by Council, composed of</p> <ul style="list-style-type: none"> (a) at least two registrants in good standing, one of whom shall be named chairperson by Council; and (b) at least one public representative. <p>24(2) The quorum, number of Complaints Committee members, their terms of office, qualifications, and the manner of their appointment shall be established and governed by the Policies and the Policies may regulate the procedures, functions, and operations of the Complaints Committee and may permit the establishment of panels of the Complaints Committee to act for and to carry out and exercise all the duties and powers of the Complaints Committee provided that each panel shall include at least one public representative.</p> <p>24(3) None of the Complaints Committee members shall be members of Council.</p> <p>24(4) No person who is a member of the Discipline Committee shall be a member of the Complaints Committee.</p> <p>24(5) The Complaints Committee shall consider and investigate complaints referred to it, but no action shall be taken by the Committee under subsection (10) before</p> <ul style="list-style-type: none"> (a) the Respondent has been provided with a copy of the complaint and given at least two 	<p>The Complaints Committee would no longer be required to include a member of the Council (Board of Directors). This reflects current best practices by regulatory professions and creates a committee that can truly operate at arm's length.</p> <p>The quorum, number of Complaints Committee members, terms of offices, etc. would move out of the legislation and be reassigned to Council Policies, providing greater flexibility.</p>

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<p>(b) a resolution from the Board under subsection 22(6), or</p> <p>(c) a request from the Minister under the <i>Real Estate Agents Act</i>, referring a matter to the Complaints Committee for investigation,</p> <p>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</p> <p>(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</p> <p>(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.</p> <p>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.</p>	<p>weeks to submit in writing to the Committee any explanations or representations the Respondent may wish to make concerning the matter; and</p> <p>(b) the Committee has examined or has made every reasonable effort to examine all records and other documents relating to the complaint.</p> <p>24(6) In its effort to examine all records and other documents relating to the complaint, the Complaints Committee may require the Respondent to produce all documents and disclosure of all information that may be relevant to the complaint.</p> <p>24(7) Failure for the Respondent to comply with subsection (6) constitutes professional misconduct.</p> <p>24(8) Subject to subsection 23(3) the Committee is not required to hold a hearing or to give any Respondent an opportunity to make oral submissions before making a decision or giving directions under this section; however, a Respondent may, in the discretion of the Committee, be requested to appear before it to respond to the complaint or the matter under investigation.</p> <p>24(9) The Complaints Committee may engage such persons as it deems necessary including legal counsel to assist it in the consideration and investigation of complaints and shall determine its own rules of procedure.</p>	<p>Currently, there is no requirement for registrants to produce or disclose documents pertaining to a complaint. This provides the Complaints Committee with better access to the evidence necessary to make decisions.</p> <p>A consequence has also been added for non-compliance.</p> <p>This formalizes current practice and is an industry standard for decision makers.</p>
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<p>21(3) The Committee, in accordance with the information it receives, may</p> <p>(a) direct that the matter be referred, in whole or in part, to the Discipline Committee;</p> <p>(b) direct that the matter not be referred to the Discipline Committee;</p> <p>(c) direct that the matter be referred to the Minister for action under the <i>Real Estate Agents Act</i>; or</p> <p>(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 <i>Real Estate Agents Act</i>.</p> <p>21(4) The Committee shall give its decision under subsection (3) to the Registrar in writing, including the reasons for its decision.</p> <p>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.</p> <p>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</p>	<p>24(10) The Complaints Committee, in accordance with the information it has received, may</p> <p>(a) direct that the matter be referred, in whole or in part, to the Discipline Committee;</p> <p>(b) direct that the matter not be referred under paragraph (a);</p> <p>(c) direct that the matter be referred to the Director for action under the <i>Real Estate Agents Act</i>;</p> <p>(d) issue a written caution or warning to the respondent in circumstances considered by the Committee not to justify other forms of sanction;</p> <p>(e) impose such minor sanctions as it considers appropriate, to a maximum of a fee of one thousand dollars, where in the opinion of the Committee a Respondent has committed a Minor infraction;</p> <p>(f) for the purpose of determining whether a Respondent is professionally competent, order the Respondent to submit to a medical or psychological examination or assessment if it appears to the Committee that the respondent may not be capable of conducting practice or may have been addicted to or influenced by the use of drugs or alcohol, or</p> <p>(g) take such action as it considers appropriate in the circumstances to resolve the complaint, as long as such resolution is not inconsistent with this Act, the by-laws, or the <i>Real Estate Agents Act</i>.</p> <p>24(11) The Committee shall give its decision under</p>	<p>(d) and (e) This formalizes current practice that are not guaranteed by legislation. . By inserting it expressly in the Act, its validity is guaranteed.</p> <p>(f) This has been added and is included in other pieces of legislation as a best practice.</p> <p>This formalizes current practice. It also</p>
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<p>the Board may refer to the Discipline Committee under subsection 22(6).</p>	<p>subsection (10) to the Registrar in writing, including the reasons for its decision.</p> <p>24(12) The Registrar shall send to the Respondent, the Director and the complainant a copy of the written decision and reasons of the Committee.</p> <p>24(13) Not later than thirty days after receipt of a decision under paragraphs (10)(b) and (10)(d), a complainant or the Director who considers that a Complaint Committee had failed to take any matter into account in reaching its decision, may request the Committee in writing with reasons to reconsider its decision, in which case the Committee shall do so and advise the complainant or the Director in writing of its disposition of the reconsideration with reasons.</p> <p>24(14) In making a decision under subsection (13), the Committee may take any action it could have taken when first making a decision under subsection (10).</p> <p>24(15) A complainant, if not satisfied with the disposition of the complaint by the Committee under subsection (13), may make an application for judicial review of a Committee decision to the Court in accordance with the <i>Rules of Court</i>, NB Reg 82-73.</p> <p>24(16) The Respondent who is issued a minor sanction pursuant to paragraph (10)(e) may appeal within ten days from the date of the Complaints Committee’s decision to the Discipline Committee.</p>	<p>provides protection against overturning a decision of Council. It’s important to distinguish that Council’s process reviews are not bound to follow the same procedures as judicial proceedings.</p> <p>This provision allows complainants the right to a review of dismissed decisions. This provision varies from the previous Act in that the review is a reconsideration conducted by the Complaints Committee to ensure that the Committee has not missed a key piece of information when rendering their decision. Also, this ensures that Council will not be reviewing evidence on potential Complaints or Disciplinary files when that role would rest with Committee’s duly constituted to handle such matters. It will ensure that Council remains a governance-oriented body as it is intended. Similar language can be found in the <i>Law Society Act</i>.</p>
	<p>INTERIM SUSPENSION BY THE COMPLAINTS COMMITTEE</p>	

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	<p>25(1) In circumstances where the Complaints Committee makes a referral under paragraph 24(10)(a), the Committee may suspend or place conditions on the Respondent, pending completion of the proceedings before the Discipline Committee if it is of the opinion that a harm to the public could result from not suspending or placing conditions on the Respondent.</p> <p>25(2) In circumstances where the Registrar has imposed conditions or suspended the Respondent’s registration pursuant to section 23, the Committee may uphold the suspension or uphold the conditions on the Respondent, pending completion of the proceedings before the Discipline Committee if it is of the opinion that a harm to the public could result from not suspending or placing conditions on the Respondent.</p> <p>25(3) No order under paragraph (1) or (2) shall be made unless the Respondent has been given a notice of the Committee’s intention and the opportunity to make representations.</p> <p>25(4) An order of the Complaints Committee under subsection (1) or (2) shall be in writing.</p> <p>25(5) An order under subsection (1) or (2) continues in force until the matter is disposed of by the Discipline Committee, unless the order is stayed pursuant to an application under subsection (6).</p> <p>25(6) A registrant against whom action is taken under paragraph (1) or (2) may apply to the Court for an order staying the decision.</p> <p>25(7) When an order under paragraph (1) or (2) is</p>	<p>Here, the Complaints Committee is given the ability to take immediate steps to suspend or place conditions on a registrant if that registrant represents a threat to public safety.</p> <p>Prior to making any order to suspend or place conditions on a registrant, the Committee must provide the registrant with a notice and an opportunity to address the Committee.</p> <p>This reflects best practices for interim suspension found in the legislation of other regulated professions.</p>
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	<p>made, the Association shall act expeditiously with respect to the hearing of the matter by the Discipline Committee.</p> <p>25(8) The Registrar shall send the order under paragraph (1) or (2) to the Director as soon as practicable following the decision of the Complaints Committee.</p>	
<p style="text-align: center;">DISCIPLINE COMMITTEE</p> <p>22(1) There shall be a Discipline Committee consisting of</p> <p>(a) four members of the Association appointed by the Board; and</p> <p>(b) one person, not a member of the Association, appointed by the Minister.</p> <p>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.</p> <p>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.</p> <p>22(4) Where the Committee commences a hearing and not more than two members become unable to act, the remaining members</p>	<p style="text-align: center;">DISCIPLINE COMMITTEE</p> <p>26(1) There shall be a Discipline Committee who shall sit in panels of three or five, which shall include one public representative presided over by the chairperson or a vice-chairperson, and decisions of a panel shall be by majority vote.</p> <p>26(2) The quorum, number of Discipline Committee members, their terms of office, qualifications, and the manner of their appointment shall be established and governed by the Policies and the Policies may regulate the procedures, functions, and operations of the Committee and may permit the establishment of panels of the Committee to act for and to carry out and exercise all the duties and powers of the Committee provided that each panel shall include at least one public representative.</p> <p>26(3) None of the Discipline Committee members shall be members of Council.</p> <p>26(4) No person who is a member of the Complaints Committee shall be a member of the Discipline Committee.</p> <p>26(5) The Discipline Committee may conduct its proceedings in accordance with its own rules of</p>	<p>The Composition of the Discipline Committee now has two different panel size (3 and 5) to provide flexibility. This reduces the need to delay hearings for which a limited number of Committee members are available to participate. However, in difficult cases, the Discipline Committee can still sit in panels of 5 members.</p> <p>The quorum, number of Complaints Committee members, terms of offices, etc. are assigned to Council Policies. This provides much greater flexibility.</p> <p>This formalizes current practice. It also</p>

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<p>may complete the hearing and shall have the same authority as the full committee.</p> <p>22(5) The Board shall name one member of the Committee to be chairperson.</p> <p>22(6) The Board, by resolution may</p> <p>(a) refer a matter concerning the conduct or competence of a member to the Complaints Committee for investigation;</p> <p>(b) refer a matter concerning the conduct of a member to the Minister for investigation under the <i>Real Estate Agents Act</i>; or</p> <p>(c) direct the Discipline Committee to hold a hearing and determine any allegation of professional misconduct or incompetence against a member</p>	<p>procedure and may do all things and engage such persons including legal counsel it deems necessary to provide for the investigation, hearing, and consideration of any complaint and in no case is the Discipline Committee bound to follow the technical rules of evidence or procedure applicable in judicial proceedings.</p> <p>26(6) The Director may refer a complaint to the Discipline Committee for a hearing.</p>	<p>provides protection against overturning a decision of the Discipline Committee based on a technicality. An example of this may be that they allowed relevant evidence to be considered at a hearing that might not be acceptable, based on a minor technicality, in a court of law. It's important to distinguish that disciplinary hearings are not bound to follow the same procedures as judicial proceedings.</p>
	<p style="text-align: center;">PROSECUTORIAL DISCRETION</p> <p>27 The prosecution, on behalf of the Association, may elect not to proceed before the Discipline Committee and withdraw the complaint if there are no reasonable prospects that the Respondent will be found guilty of professional misconduct or incompetence.</p>	<p>This formalizes current practices in which a prosecutor may, in exceptional circumstances, recommend a complaint be dropped if he or she is of the opinion that there is insufficient evidence for a successful prosecution and, based on that professional opinion, continuing would waste time and resources and/or bring discredit to the Association.</p>
<p>24(1) In proceedings before the Discipline Committee, the Association and the member whose conduct is being investigated are parties to the proceedings.</p> <p>24(2) A member whose conduct is being investigated in proceedings before the</p>	<p style="text-align: center;">DISCIPLINE COMMITTEE HEARINGS</p> <p>28(1) In proceedings before the Discipline Committee, the Association and the Respondent are parties to the proceedings.</p> <p>28(2) The Respondent shall be afforded an opportunity to examine, a reasonable time before the</p>	<p>This formalizes current practices.</p>

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<p>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.</p> <p>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.</p> <p>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.</p> <p>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</p>	<p>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.</p> <p>29(1) The Registrar shall prepare a notice of hearing which shall be served at least ten days before the date appointed for the hearing on</p> <ul style="list-style-type: none"> (a) the complainant; (b) the Respondent; (c) the Association; and (d) all members of the Discipline Committee. <p>29(2) The notice of hearing shall set out the charges made against the Respondent that are being referred to the Discipline Committee along with the date and time of the hearing.</p> <p>29(3) The charges may be amended with leave of the chairperson of the Committee.</p> <p>29(4) The Discipline Committee, on being satisfied with proof of service that the Respondent was notified of a notice of hearing and the individual fails to appear at the hearing, may continue with the hearing and deem the individual to have admitted to the substance of the complaint, and make whatever decision considered appropriate.</p> <p>30 The prosecution, on behalf of the Association, and the Respondent may present joint submission on the merits or the penalty.</p>	<p>This formalizes current and common Complaints & Discipline practices.</p> <p>This further protects the Discipline Committee in proceeding with decisions when the Respondent is unjustifiably absent. If the Respondent fails to appear at the hearing despite all reasonable steps to ensure his or her participation, the Discipline Committee may proceed in the absence of the Respondent. This avoids absence being unfairly used to stall delay justice.</p>
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<p>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.</p> <p>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.</p> <p>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.</p> <p>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.</p>	<p>31(1) The Discipline Committee, or someone designated by it to act on its behalf, may by summons in a form prescribed by Policy, 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</p> <p>31(2) For the purpose of subsection (1), the Committee may order that the records, reports or other documents be produced prior to the hearing at a date specified by the Committee.</p> <p>31(3) 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 in that person’s custody or control.</p> <p>31(4) 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 the chairperson’s behalf.</p> <p>31(5) 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 that person’s 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 the Court, cause the person to be cited</p>	<p>A large percentage of discipline committee decisions are decided this way. It makes sense to express it in the legislation.</p> <p>This provision allows the Discipline Committee to require additional information on which to base their decisions if there are any gaps in evidence.</p>
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<p>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.</p> <p>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.</p> <p>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.</p>	<p>for contempt under the provisions of the <i>Rules of Court</i> in the same manner and to the same extent as if the alleged contempt took place in proceedings before the Court.</p> <p>31(6) The oral evidence taken before the Discipline Committee shall be recorded and, if requested, copies of the transcript shall be furnished to the parties at their own expense.</p> <p>31(7) All findings of the Discipline Committee shall be based exclusively on evidence admitted before it.</p> <p>31(8) No member of the Discipline Committee shall participate in a decision of the Committee unless that member was present throughout the hearing and heard the evidence and argument of the parties.</p> <p>31(9) 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.</p> <p>31(10) Where a proceeding is commenced before the Discipline Committee, and the term of office of a member thereof on the Committee expires or is terminated, other than for cause, before the proceeding is disposed of, the member shall be deemed to remain a member of the Committee for the purpose of completing the proceeding as if that member’s term of office had not expired or been terminated.</p> <p>31(11) A copy of the decision of the Discipline</p>	<p>This formalizes existing procedural fairness requirements.</p>
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	<p>Committee shall be served upon the Respondent and the complainant.</p>	
<p style="font-size: 48px; opacity: 0.2; text-align: center;">DRAFT</p>	<p style="text-align: center;">PUBLIC HEARINGS</p> <p>32(1) Subject to subsection (2), Discipline Committee hearings shall be open to the public.</p> <p>32(2) The Discipline Committee may order that the public, in whole or in part, be excluded from a hearing or any part of a hearing if it is satisfied that</p> <ul style="list-style-type: none"> (a) financial, personal, or other matters that would otherwise be disclosed are of such nature that it is consistent with the public interest that they not be disclosed; or (b) the safety or security of a person may be jeopardized. <p>32(3) The Discipline Committee may make whatever order it considers necessary to prevent public disclosure, including orders prohibiting publication, broadcasting, or any other means of communication that the Committee considers may risk disclosure.</p> <p>32(4) No order shall be made pursuant to subsection (3) that prevents the publication of anything that is otherwise available to the public.</p> <p>32(5) The Discipline Committee may order that the public be excluded from the part of a hearing dealing with a motion for an order pursuant to subsection (2).</p> <p>32(6) The Discipline Committee may make any order it considers necessary to prevent public disclosure of matters disclosed in a submission</p>	<p>This is a new section that establishes the right for the Discipline Committee to determine which hearings are open to the public and which are not, and under what circumstances. A parallel example is to compare this to publication bans in court proceedings.</p> <p>Where changes in other sections of this document are proposed to enhance flexibility, this change seeks to be clear and firm that there must be no flexibility when a decision has been made to keep information private.</p>

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	<p>relating to any motion under this section, including any order it could make under subsection (3).</p> <p>32(7) The Discipline Committee shall state at the hearing the reasons for any order made pursuant to this section.</p> <p>32(8) Where the Discipline Committee makes an order pursuant to subsection (2), it</p> <p>(a) shall allow the parties and their legal or other representatives to attend the hearing, and</p> <p>(b) may allow such other persons as it considers necessary to attend all or part of the hearing.</p> <p>32(9) Notwithstanding anything contained in this section, public attendance at a hearing does not constitute authorization to take photographs, record sound, videotape, or otherwise mechanically, electronically, or by any other means record the proceedings, and no such recording is permitted, unless specifically authorized by the Discipline Committee.</p> <p>32(10) It is professional misconduct for any registrant to disclose or in any way facilitate the disclosure of matters ordered by the Discipline Committee not to be disclosed.</p>	
<p>23(1) The Discipline Committee shall</p> <p>(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</p>	<p style="text-align: center;">PROFESSIONAL MISCONDUCT AND SANCTIONS</p> <p>33(1) A Respondent may be found guilty of professional misconduct by the Discipline Committee if</p>	

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<p>(b) perform such other duties as are assigned to it by the Board or the Minister.</p> <p>23(2) A member may be found guilty of professional misconduct by the Discipline Committee if</p> <p>(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</p> <p>(b) the member has been guilty, in the opinion of the Committee, of professional misconduct.</p> <p>23(3) The Discipline Committee may find a member to be incompetent if in its opinion</p> <p>(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</p> <p>(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.</p> <p>23(4) Where the Discipline Committee finds a member guilty of professional misconduct or incompetence it may do one or more of the following</p>	<p>(a) the Respondent has been convicted in a court of competent jurisdiction of an offence which, in the opinion of the Committee, is relevant to the Respondent’s suitability to trade in real estate; or</p> <p>(b) the Respondent has been guilty, in the opinion of the Committee, of professional misconduct.</p> <p>33(2) The Discipline Committee may find a Respondent to be incompetent if in its opinion</p> <p>(a) the Respondent has displayed in carrying out the registrant’s 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 registrant is unfit to carry out the responsibilities of a person engaged in trading in real estate; or</p> <p>(b) the Respondent has a physical or mental condition or disorder of a similar nature and extent that makes it desirable in the interests of the public, that the Respondent no longer be permitted to engage in trading in real estate or that the practice of trading in real estate be restricted.</p> <p>33(3) Where the Discipline Committee finds a Respondent guilty of professional misconduct, incompetence or guilty of conduct deserving sanction, it may order one or more or a combination of the following</p> <p>(a) revoke the Respondent’s registration in the Association, in which case the Committee may</p>	<p>This provides the Committee with greater flexibility in determining incompetence. For example, if a registrant has been diagnosed with a condition or disorder that makes them unfit to trade in real estate, the Committee would have the ability to prevent them from continuing to trade in Real Estate.</p> <p>The current provision relating to membership revocation does not specify when a registrant may be</p>
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<p>(a) revoke the member’s membership in the Association;</p> <p>(b) suspend the member’s membership in the Association for a stated period, not exceeding twenty-four months;</p> <p>(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;</p> <p>(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;</p> <p>(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;</p> <p>(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;</p> <p>(g) fix the costs of any investigation or procedures by the Complaints Committee and the Discipline Committee to be paid by the member;</p> <p>(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</p>	<p>order that the Respondent not be permitted to apply for reinstatement before a period of time it specifies has elapsed;</p> <p>(b) suspend the Respondent’s registration in the Association for a stated period, not exceeding twenty-four months;</p> <p>(c) require that the Respondent be reprimanded or counselled;</p> <p>(d) require that the Respondent, within a fixed time, pay to the Association a fine in a specified amount not exceeding \$25,000 for each finding and not exceeding \$100,000 in the aggregate for all findings;</p> <p>(e) require the Respondent to refund, waive, or reduce the fee charged by the Respondent with respect to the trading in real estate related to the finding of professional misconduct or incompetence;</p> <p>(f) direct that a finding or order of the Committee be published in an official publication of the Association or the website in detail or in summary form and either with or without including the name of the Respondent, and in such other manners or media as it considers appropriate;</p> <p>(g) direct the Registrar to give public notice of any order or findings by the Committee that the Registrar is not otherwise required to give under this Act;</p> <p>(h) fix the costs of any investigation or procedures by the Complaints Committee and the Discipline Committee to be paid by the Respondent within</p>	<p>permitted to re-apply for reinstatement. This grants the Discipline Committee with an ability to determine the time period by which a revoked registrant can reapply for membership.</p> <p>This is in keeping with inflation and a proportional increase in the average commission payment for services rendered by members. The Fine maximum established in the current Act of \$5000 has been increased to reflect an amount that is representative of commission rates for members practicing in both the residential and commercial markets. This provision can also be found in real estate legislation in Saskatchewan.</p> <p>This new phrasing expressly allows the Discipline Committee to publish its decision through any medium (website, email), with or without the respondent’s name.</p> <p>This formalizes the new practices in place to provide notice.</p>
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<p>(i) the successful completion by the member of a particular course or courses of study;</p> <p>(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.</p> <p>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</p> <p>(a) that the member’s licence to trade in real estate be revoked or suspended;</p> <p>(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;</p> <p>(c) that the Minister impose specific restrictions on the right to trade in real estate including, but not limited to, requiring the member to</p> <p>(i) engage in the sale of real estate only under the personal supervision and direction of another member;</p> <p>(ii) not alone engage in the sale of real estate;</p>	<p>a fixed time;</p> <p>(i) impose specified terms, conditions and limitations on the Respondent's right to trade in real estate for a specified period of time or until specified conditions are satisfied, including the requirement to successfully complete specified courses of study or requiring that the Respondent engage in trading in real estate only under the personal supervision and direction of another registrant; and</p> <p>(j) make such other order as in its opinion is necessary and appropriate in the circumstances.</p> <p>33(4) In addition to any action taken by the Discipline Committee pursuant to subsection (3) it may recommend to the Director one or more of the following</p> <p>(a) that the Respondent’s licence to trade in real estate be revoked or suspended;</p> <p>(b) that the Director 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;</p> <p>(c) that the Director impose specific restrictions on the right to trade in real estate including, but not limited to, requiring the Respondent to</p> <p>(i) engage in the sale of real estate only under the personal supervision and direction of another registrant;</p>	<p>This sets clear deadlines.</p>
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<p>(iii) accept periodic inspections of the books, accounts, records and work of the member in connection with the member’s practice;</p> <p>(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.</p> <p>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.</p> <p>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.</p> <p>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.</p> <p>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</p>	<p>(ii) not alone engage in the sale of real estate;</p> <p>(iii) accept periodic inspections of the books, accounts, records and work of the registrant in connection with the registrant’s practice;</p> <p>(iv) report to the Registrar, or to such committee of Council as the Director may specify, on such matters with respect to the Respondent’s practice for such period and times, and in such form, as the Committee may specify.</p> <p>33(5) The Discipline Committee shall cause an order of the Committee revoking or suspending a Respondent’s membership in the Association to be published, with or without reasons, and shall immediately notify the Director in writing of the revocation or suspension.</p> <p>33(6) If the allegation of professional misconduct or incompetence was unfounded, the Respondent may elect to have, or not to have, the decision of the Discipline Committee published.</p> <p>33(7) An Order of the Discipline Committee under subsection (3) takes effect immediately, or at such other time as the Committee may direct, notwithstanding that an appeal has been taken from the Order.</p> <p>33(8) Where the Respondent has failed to comply with any terms of the Order of the Discipline Committee, the Association may, after the expiration of fourteen days from the date of the release of the Order or the date provided in the Order for compliance, whichever is later, file a copy of the</p>	<p>If the Respondent is found not guilty, they may elect to have, or not to have, the decision published.</p> <p>Currently, the Association does not</p>
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<p>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.</p> <p>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.</p> <p>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.</p>	<p>Order, exclusive of the reasons thereof, in the prescribed form, in the Court of King’s Bench of New Brunswick, whereupon the Order shall be entered as a judgment or order of that Court and is enforceable as such.</p>	<p>have the ability to enforce the payment of fines or costs, other than engaging in lengthy legal proceedings.</p> <p>In one such past proceeding, a fine and costs totalling \$46,000 was unrecoverable by the Association after the Respondents left the industry. Uncollectable amounts owed to the Association result in registrants in good standing unfairly footing the bill. This new provision allows a decision of the Discipline Committee to be entered into the courts, giving the Association additional abilities to recover costs and fines.</p>
<p style="text-align: center;">APPEAL</p> <p>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.</p> <p>25(2) Upon the request of a party desiring to appeal, and upon payment of the costs of</p>	<p style="text-align: center;">APPEAL</p> <p>34(1) A party to proceedings before the Discipline Committee may appeal within thirty days from the date of the decision or Order of the Committee to the Court by way of Notice of Application in accordance with the <i>Rules of Court</i>.</p> <p>34(2) Upon the request of a party desiring to appeal, and upon payment of the fee, 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 or Order appealed from.</p>	

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<p>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.</p> <p>25(3) An appeal under this section may be on questions of law or fact, or both. The Court may</p> <p>(a) affirm, vary or rescind the decision of the Committee;</p> <p>(b) exercise all powers of the Committee;</p> <p>(c) direct the Committee to take any action which it has the power to take;</p> <p>(d) substitute its opinion for that of the Committee; or</p> <p>(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.</p>	<p>34(3) An appeal under this section may be on questions of law, facts, or jurisdiction, and the court may</p> <p>(a) affirm or rescind the decision of the Discipline Committee;</p> <p>(b) direct the Discipline Committee to take any action which it has the power to take; or</p> <p>(c) refer the matter back to the Discipline Committee for rehearing in whole or in part, in accordance with such directions as the Court considers proper.</p>	<p>Regulated professions have a legislated authority to render Discipline decisions. To reflect this, references to the Court’s ability to act in place of the Committee or to substitute its own opinion in place of the Committee has been removed. The Court’s role in an appeal is to determine whether the Committee’s work complies with the law and whether the findings of facts were reasonable based on the evidence presented.</p>
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	<p style="text-align: center;">MANDATORY REPORT TERMINATION AND SUSPENSION</p> <p>35(1) A real estate agent who terminates or suspends the employment of a registrant or who imposes restrictions on the practice of a registrant for reasons of professional misconduct or incompetence shall file with the Registrar within thirty days after the termination, suspension, or imposition a written report setting out the reasons.</p> <p>35(2) The Registrar may process the report as a complaint of professional misconduct or incompetence against the registrant.</p> <p>35(3) The Registrar shall send the report to the Director as soon as practicable.</p>	<p>In instances where a registrant is being let go from their employment for reasons of professional misconduct or incompetence, this new provision would give managers the ability to inform the Registrar if such actions should be reviewed by the Complaints committee as a matter of public protection. This advances professionalism.</p>
	<p style="text-align: center;">ARBITRATION OF COMMISSIONS</p> <p>36(1) In the event of a dispute between two or more registrants with respect to a commission or fees charged by a registrant relating to the practice of the Profession, a registrant may apply to a board of arbitration who must adjudicate the dispute in a manner provided for in the by-laws.</p> <p>36(2) The decision of the board of arbitration is binding upon the registrants.</p> <p>36(3) Where a registrant has failed to comply with any terms of the decision of the board of arbitration within subsection (1), any registrant affected by the decision may, after the expiration of fourteen days from the date of the release of the decision or the date provided in the decision for compliance, whichever is later, file a copy of the decision, exclusive of the reasons thereof in the Court,</p>	<p>This provision outlines an arbitration policy and process for the Association. In the past, arbitration proceedings undertaken by the Association were struck down (Quinn v. NBREA) because they were not expressly stated within the Act. To operate within its jurisdiction, the Association must include these provisions in the Act.</p> <p>Currently, the local Real Estate Boards play a role in providing Arbitration services, as required by the Canadian Real Estate Association; whether the Association or the local Boards provide Arbitration proceedings, this bylaw ensures that the legal jurisdiction exists to provide this</p>

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	whereupon the decision shall be entered as a judgment or order of that Court and is enforceable as such.	service. Real estate boards will <u>also</u> have this power and the intention is that the Real estate boards, rather than NBREA, will use this power. However, the power exists for NBREA if ever circumstances change and there is a need for NBREA to set up this process in the future.
	INJUNCTION	
	37 The Association may apply to the Court in accordance with the provisions of the <i>Rules of Court</i> for an injunction restraining and enjoining any person from practising or attempting to practise trading in real estate or from doing or attempting to do anything contrary to the provisions of this Act or contrary to any by-law or Policy passed under the authority of this Act.	This formalizes current and newly-established practice of protecting the reputation of our profession by ensuring that suspended registrants or non-registrants do not engage in activities of the profession. While this power already exists, formalizing it clarifies this power.
	FINES	
	38 All fees, fines, and penalties payable or recoverable under this Act shall belong to the Association.	This provision expands on changes proposed earlier in this document to enhance the Association's ability to recover costs following a Discipline or public offence order.
REAL ESTATE BOARDS	REAL ESTATE BOARDS	
26(1) The Board may approve the establishment of local associations to be known as real estate boards.	39(1) Council may approve the establishment of local associations with principal objects to operate as real estate boards.	
26(2) Subject to subsection 28(1), a real	39(2) Subject to subsection (1), a real estate board	

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<p>estate board may not use a name, or change its name, unless it is ap-proved by the Board and registered with the Association</p> <p>26(3) Upon compliance with subsection (2) a real estate board is deemed to be a body corporate without share cap-ital under this Act with the right to exercise powers under subsections (8) and (9).</p> <p>26(4) A real estate board shall</p> <p>(a) have a board of directors and officers, and shall provide for the eligibility, nomination, election, num-ber and term of office of members of its board and officers;</p> <p>(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.</p> <p>26(5) A real estate board shall report to the Association within thirty days of the election of its board of directors</p> <p>(a) the names of its directors and officers;</p> <p>(b) the term of office of its directors and officers; and</p> <p>(c) the official address of the office of the real estate</p> <p>26(6) A real estate board shall report to the Association any changes with respect to the information required un-der subsection (5), within thirty days of such change.</p>	<p>may not use a name, or change its name, unless it is approved by Council and registered with the Association.</p> <p>39(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 section 40.</p> <p>39(4) A real estate board shall</p> <p>(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;</p> <p>(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.</p> <p>39(5) A real estate board shall report to the Association within thirty days of the election of its board of directors</p> <p>(a) the names of its directors and officers;</p> <p>(b) the term of office of its officers; and</p> <p>(c) the official address of the office of the real estate board.</p> <p>39(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.</p> <p>39(7) All information reported to the Association</p>	
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<p>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 in-spection by the public during normal business hours, or confirmed in writing upon the request of any person.</p> <p>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 un-der their letters patent and the <i>Companies Act</i> as on the date this Act comes into force.</p> <p>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).</p> <p>26(10) The exercise of all rights and powers by a real es-tate board under subsections (8) and (9) are subject to this Act, the by-laws of the Association, and the <i>Real Estate Agents Act</i>.</p> <p>27(1) A real estate board shall make by-laws necessary for carrying out its powers under subsections 26(4), (8) and (9).</p> <p>27(2) By-laws made under subsection (1) shall not be inconsistent or in conflict with</p>	<p>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.</p> <p>40(1) Subject to the approval of Council, the real estate boards incorporated under this Act may enact their own by-laws to exercise their own affairs and carry out their powers and functions.</p> <p>40(2) Subject to this Act and the <i>Real Estate Agents Act</i>, any real estate board may</p> <ul style="list-style-type: none"> (a) 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; (b) provide for the management of its property and assets, and of its affairs and business including the employment of staff; (c) borrow money for the purpose of carrying out any of the objects of the real estate board and give security for money borrowed on any of its real or personal property by way of mortgage, pledge, charge, or otherwise; (d) invest money of the real estate board not immediately required for any of its objects, in any manner as it may from time to time determine; (e) fix and collect membership fees; (f) assess members for any ordinary, special, or 	<p>The proposed wording more clearly describes powers given to real estate boards.</p>
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<p>this Act, the by-laws of the Association, or the <i>Real Estate Agents Act</i>.</p>	<p>extraordinary expenditure that may be deemed necessary or expedient to further any of the objects of the real estate board;</p> <p>(g) enter into agreements on behalf of the real estate board as may be necessary, incidental, or conducive to carrying out its objects, including membership affiliation agreements with associations and providing services for members.</p> <p>(h) exempt any person from the payment of fees, dues, or assessments for such reason and upon such terms and conditions as the real estate board may from time to time determine, and suspend members for non-payment;</p> <p>(i) receive gifts, donations, and bequests, and make gifts or donations for the promotion of the real estate board of the objects of the real estate board;</p> <p>(j) provide for the establishment of committees by the real estate board, prescribe their powers and duties, method of operation, including procedures at meetings for filling vacancies, and provide for the delegation of powers or duties of the board of directors to any committee.</p> <p>(k) establish categories of membership in the real estate board and prescribe the privileges, obligations, and conditions of membership;</p> <p>(l) provide for the establishment and payment of scholarships, fellowships, and other educational incentives, benefits, and awards by</p>	
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	<p>the real estate board;</p> <p>(m) subject to paragraph 4(1)(b), impose administrative penalties for breach of the real estate board’s by-laws, rules, or policies;</p> <p>(n) arbitrate commission disputes between members of the real estate board in accordance with the real estate board policies;</p> <p>(o) 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 exercising their own affairs and carrying out their powers and functions.</p> <p>40(3) By-laws made under subsection (1), rules, policies or otherwise of the Real estate board shall not be inconsistent with or in conflict with this Act, the by-laws or Policies of the Association, or the <i>Real Estate Agents Act</i>.</p>	
<p>28(1) 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</p> <p>(a) has disposed of its property, (b) has no debts or liabilities, or</p> <p>(i) its debts and liabilities have been duly</p>	<p style="text-align: center;">DISSOLUTION OF REAL ESTATE BOARDS</p> <p>41(1) 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 Council upon being satisfied that the real estate board</p> <p>(a) has disposed of its property,</p>	

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<p>provided for or protected, or (ii.) its creditors consent; and</p> <p>(c) has given notice of its intent to dissolve by publishing notice once in <i>The Royal Gazette</i> and once in a newspaper distributed in the area where it has its head office and carries on its activities</p> <p>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</p> <p>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.</p> <p>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</p>	<p>(b) has no debts or liabilities, or</p> <p>(i.) its debts and liabilities have been duly provided for or protected, or</p> <p>(ii.) its creditors consent; and</p> <p>(c) has given notice of its intent to dissolve by publishing notice once in <i>The Royal Gazette</i> and once in a newspaper distributed in the area where it has its head office and carries on its activities.</p> <p>42(1) The following real estate board shall be deemed to continue as a body corporate without share capital under the same name, or such name as approved by Council from time to time:</p> <p>The New Brunswick Real Estate Board</p> <p>42(2) Upon the continuation of a real estate board, 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 continue to be subject to all liabilities, contracts, disabilities, and debts.</p> <p>42(3) All real estate boards in New Brunswick, whether incorporated under this Act or under another Act, remain subject to this Act.</p>	
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and debts.		
<p style="text-align: center;">EXEMPTIONS</p> <p>29 Persons to whom the <i>Real Estate Agents Act</i> does not apply are not required to register under this Act to trade in real estate.</p>	<p style="text-align: center;">EXEMPTIONS</p> <p>43 Persons to whom the <i>Real Estate Agents Act</i> does not apply are not required to register under this Act to trade in real estate.</p>	
<p style="text-align: center;">REAL ESTATE AGENTS ACT</p> <p>30 This Act is subject to the provisions of the <i>Real Estate Agents Act</i>, and all terms defined in that Act have the same meaning when used in this Act.</p>	<p style="text-align: center;">REAL ESTATE AGENTS ACT</p> <p>44 This Act is subject to the provisions of the <i>Real Estate Agents Act</i>, and all terms defined in that Act have the same meaning <i>mutatis mutandis</i> when used in this Act.</p>	
<p style="text-align: center;">GENERAL</p> <p>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 <i>Real Estate Agents Act</i> or delegated or assigned by the Minister to the Association pursuant to the <i>Real Estate Agents Act</i>.</p> <p>33 No member shall be personally liable for any debt of the Association beyond the amount of that member’s unpaid dues or subscriptions.</p> <p>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 <i>Companies Act</i>, and the provisions of the <i>Companies Act</i> and the letters patent of The New Brunswick Real Estate Association, Inc. and the real estate boards named in subsection 28(1) shall</p>	<p style="text-align: center;">GENERAL</p> <p>45(1) No action lies against registrants, officers, directors or employees of the Association, the Board, or any committees of the Association for anything done in good faith pursuant to the provisions of this Act, the <i>Real Estate Agents Act</i> or the by-laws, Directives, standards, or Policies of the Association.</p> <p>45(2) Any action pursuant to the provisions of the <i>Real Estate Agents Act</i> in subsection (1) includes delegations or anything assigned to the Association by the Minister, Director, or the Commission.</p> <p>45(3) No registrant shall be personally liable for any debt of the Association beyond the amount of that registrant's unpaid dues, subscriptions, or unpaid Order of the Discipline Committee.</p> <p>45(4) The Association shall indemnify any person referred to in subsections (1), (2) or (3) for any costs or expenses incurred in any legal proceedings taken against that person for anything done or not done by</p>	<p>This is further protection for any powers not specifically found in this Act, but delegated under the <i>Real Estate Agents Act</i> (REAA). For example, inspections under the REAA.</p>

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<p>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.</p>	<p>that person in good faith under the provisions of this Act, the <i>Real Estate Agents Act</i> or by-laws, Directives, standards, or Policies of the Association.</p>	
<p>31 The <i>Regulations Act</i> 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.</p>	<p style="text-align: center;">REGULATIONS ACT</p> <p>46 The <i>Regulations Act</i>, Chapter R-7 of the Revised Statutes, 1973 does not apply to the Association or any by-law, Policy, or resolution made by the Association, its Committees, or the Board, but all by-laws and Policies 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.</p>	<p>This is a common best practice for regulated professions. Despite their name, regulators do not actually enact regulations; they enact by-laws, policies, etc.</p> <p>As defined in the Regulations Act, regulations are enacted only by Governor-in-council (Cabinet).</p>
	<p style="text-align: center;">TRANSITIONAL PROVISIONS AND REPEAL</p> <p>47(1) All persons who were members under <i>An Act to Incorporate the New Brunswick Real Estate Association</i>, chapter 115 of the Acts of New Brunswick, 1994, on the day this Act comes into force shall continue as registrants under this Act.</p> <p>47(2) Despite any provision of this Act, in the month following the commencement of this Act, Council may enact a new version of by-laws, and such by-laws shall be valid, binding and effective from the date of commencement of this Act until ratified, amended or repealed at the next annual meeting of members.</p>	<p>This is a necessary transition provision to ensure registrants are carried over from one piece of legislation to the other.</p> <p>Brand new by-laws will replace current by-laws.</p> <p>All existing proceedings will continue under the old regime until disposed of.</p>

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	<p>47(3) All applications for admission as a member and all disciplinary proceedings in progress on the day this Act comes into force, shall be continued and disposed of under <i>An Act to Incorporate the New Brunswick Real Estate Association</i>, chapter 115 of the Acts of New Brunswick, 1994.</p> <p>47(4) All complaints concerning matters of discipline or incompetence received after this Act comes into force shall be dealt with under this Act, notwithstanding when the subject matter of the complaint arose.</p> <p>48 <i>An Act to Incorporate the New Brunswick Real Estate Association</i>, chapter 115 of the Acts of New Brunswick, 1994 is repealed.</p>	<p>The current Act would no longer exist.</p>
	<p>49 This Act or any part comes into force on a day or days to be fixed by proclamation.</p>	<p>This reflects the practice of when legislation comes into force.</p>