

No. 33

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4th Session, 14th Legislature, Alberta  
10 Elizabeth II

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## **BILL 33**

A Bill to amend The Real Estate Agents' Licensing Act

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HON. MR. PATRICK

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## Explanatory Note

**2. Section 6, subsection (5) presently reads:**

"(5) In deciding whether to grant or refuse an application for a licence of an agent or salesman, or to suspend or cancel an existing licence, or to reinstate a suspended or cancelled licence, the Superintendent may, in a case where he deems it proper, nominate an advisory board consisting of three persons, one of whom shall be the Superintendent or other person appointed by him, and two of whom shall be agents licensed under the provisions of this Act, before which board a hearing may be had and a report made to the Superintendent, and in such case the Superintendent shall take such report into consideration when making his decision."

**3. Section 6a presently reads:**

"6a. A licensee who ceases to carry on the business of a real estate agent or salesman shall send notice in writing to the Superintendent by registered mail and shall return his licence with the notice."

**4. Section 10 presently reads:**

"10. A licensed agent shall notify the Superintendent in writing of  
(a) a change in the address for service,  
(b) a change in the partners in the case of a partnership, and  
(c) the commencement and termination of employment of each salesman."

# BILL

No. 33 of 1962

An Act to amend The Real Estate Agents' Licensing Act

(Assented to \_\_\_\_\_, 1962)

**H**ER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Alberta, enacts as follows:

**1.** *The Real Estate Agents' Licensing Act*, being chapter 279 of the Revised Statutes, is hereby amended.

**2.** Section 6 is amended by striking out subsection (5) and by substituting the following:

(5) In deciding whether to grant or refuse an application for a licence of an agent or salesman, or to suspend or cancel an existing licence, or to reinstate a suspended licence, the Superintendent may, in a case where he deems it proper, nominate an advisory board of not less than three and not more than five persons

(a) one of whom shall be the Superintendent or other person appointed by him,

(b) one of whom may be a salesman licensed under this Act, and

(c) the remainder of whom shall be agents licensed under this Act,

before which board a hearing may be had and a report made to the Superintendent, and in which case the Superintendent shall take the report into consideration when making his decision.

**3.** Section 6a is struck out and the following section is substituted:

**6a.** A licensee who ceases to carry on the business of a real estate agent shall immediately notify the Superintendent in writing and shall return his licence with the notice.

**4.** Section 10 is amended by adding immediately after the words "A licensed agent shall" the word "immediately".

**5. Section 12 presently reads:**

"12. (1) A bond mentioned in section 7 shall be forfeited and the amount thereof becomes due and owing by the person bound thereby as a debt due the Crown in the right of the Province of Alberta where

- (a) an agent, including a member of a partnership, or a salesman, in respect of whose conduct the bond has been conditioned, has been convicted under the Criminal Code of an offence involving fraud, theft, or conspiracy to commit an offence involving fraud or theft,
- (b) a judgment based on a finding of fraud has been given against the agent, including a member of a partnership, or against the salesman, in respect of whose conduct the bond is conditioned, or
- (c) proceedings by or in respect of an agent, including a member of a partnership, or a salesman, in respect of whose conduct the bond is conditioned, have been taken under the Bankruptcy Act (Canada) or by way of winding-up, and a receiving order under the Bankruptcy Act (Canada) or a winding-up order has been made,

and the conviction, judgment or order has become final by reason of lapse of time or of having been confirmed by the highest court to which an appeal may be taken.

(2) For the purposes of each act and omission occurring during the period of licensing, a bond continues in force for a period of two years after the licence to which it relates lapses or is cancelled.

(3) Notwithstanding any other provision of this Act the total liability of the insurer under the bond shall not exceed the face value of the bond."

In a recent Supreme Court case forfeiture of a bond was contested upon the grounds that a receiving order in bankruptcy was not given until after the licence had been cancelled and that the "act and omission" referred to in subsection (2) referred to the receiving order or a conviction or judgment. The Court upheld this position with the result that the forfeiture provisions in the Act are made largely inoperative since a conviction, judgment or order will rarely be obtained during the period of licensing.

**6. Section 23 presently reads:**

"23. No agent or salesman shall make a representation that he or another person

- (a) will re-sell or in any way guarantee or promise to re-sell real estate offered for sale by him,
- (b) will sell any of the purchaser's real estate, or
- (c) will procure a mortgage, extension of a mortgage, lease or extension of a lease, unless at the time of making a representation under this clause the person making it delivers to the person to whom the representation is made, a letter or photostatic copy thereof, setting out the representation in clear language."

**7. Section 26 presently reads:**

**5.** Section 12 is struck out and the following section is substituted:

**12.** (1) A bond mentioned in section 7 is forfeited and the amount thereof becomes due and owing by the person bound thereby as a debt due the Crown in right of Alberta upon any person in respect of the conduct of whom the bond has been conditioned,

- (a) being convicted under the *Criminal Code* of an offence, committed during the period of the bond, involving fraud, theft or conspiracy to commit an offence involving fraud or theft,
- (b) having a judgment, based on a finding of fraud or breach of trust in respect of any act or omission occurring during the period of the bond awarded against him, or
- (c) making an assignment in bankruptcy or being made the subject of a receiving order or winding-up order pursuant to the *Bankruptcy Act* (Canada) or any other statute as a result of any act or omission occurring during the period of the bond,

and in each case the conviction, judgment or order has become final by reason of lapse of time or of having been confirmed by the highest court to which an appeal may be taken.

(2) Proceedings in respect of a bond may be brought within, but not after, two years from the date of the termination of the bond.

(3) Notwithstanding any other provision of this Act the total liability of the surety under the bond shall not exceed the face value of the bond.

**6.** Section 23 is struck out and the following section is substituted:

**23.** (1) Subject to subsection (2), no agent or salesman shall make a representation that he or another person

- (a) will re-sell or in any way guarantee or promise to re-sell real estate offered for sale by him,
- (b) will sell any of the purchaser's real estate, or
- (c) will procure a mortgage, extension of a mortgage, lease or extension of a lease.

(2) Subsection (1) does not apply in the case of a representation made under clause (b) or (c) of that subsection if at the time of making the representation the person making it delivers to the person to whom the representation is made a letter or photostatic copy thereof setting out the representation in clear language.

**7.** Section 26 is struck out and the following section is substituted:

"26. (1) When advertising to purchase, sell, exchange or lease real estate, an agent shall clearly indicate

- (a) that he is the party advertising, and
- (b) that he is a real estate agent.

(2) A reference to the name of the salesman in the advertisement referred to in subsection (1) shall clearly indicate that the real estate agent is the employer of the salesman."

**8. Section 28 presently reads:**

"28. No licensed agent or salesman shall pay commission or other remuneration to an unlicensed person."

**9. Commencement of Act.**

**26.** (1) When advertising to purchase, sell, exchange, or lease any real estate whatsoever an agent or salesman shall clearly indicate

(a) that he is the party advertising, and

(b) that he is a real estate agent or salesman, as the case may be.

(2) A reference to the name of a salesman in the advertisement of an agent referred to in subsection (1) shall clearly indicate that the real estate agent is the employer of the salesman.

**8.** Section 28 is struck out and the following section is substituted:

**28.** No licensed agent or salesman shall pay a commission or other fee to an unlicensed person in consideration for furthering a trade in real estate.

**9.** This Act comes into force on the day upon which it is assented to.

No. 33

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FOURTH SESSION

**FOURTEENTH LEGISLATURE**

10 ELIZABETH II

1962

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**BILL**

An Act to amend The Real Estate  
Agents' Licensing Act

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Received and read the

First time .....

Second time .....

Third time .....

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HON. MR. PATRICK

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