
**NINE MANDATORY REAL ESTATE BROKERAGE FORMS
HAVE BEEN AMENDED:**

Residential immovable containing less than 5 dwellings

- **EXCLUSIVE BROKERAGE CONTRACT – PURCHASE – CHIEFLY RESIDENTIAL IMMOVABLE CONTAINING LESS THAN FIVE DWELLINGS EXCLUDING CO-OWNERSHIP (BCP)**

Divided co-ownership

- **EXCLUSIVE BROKERAGE CONTRACT – SALE – FRACTION OF A CHIEFLY RESIDENTIAL IMMOVABLE HELD IN DIVIDED CO-OWNERSHIP (EBCD)**
- **NON-EXCLUSIVE BROKERAGE CONTRACT – SALE – FRACTION OF A CHIEFLY RESIDENTIAL IMMOVABLE HELD IN DIVIDED CO-OWNERSHIP (NEBCD) (NEW)**
- **EXCLUSIVE BROKERAGE CONTRACT – PURCHASE – CHIEFLY RESIDENTIAL IMMOVABLE HELD IN DIVIDED OR UNDIVIDED CO-OWNERSHIP (NEW)**
- **PROMISE TO PURCHASE – CO-OWNERSHIP – FRACTION OF A CHIEFLY RESIDENTIAL IMMOVABLE HELD IN DIVIDED CO-OWNERSHIP (PPD)**
- **DECLARATIONS BY THE SELLER OF THE IMMOVABLE – DIVIDED CO-OWNERSHIP (DSD)**

Undivided co-ownership

- **EXCLUSIVE BROKERAGE CONTRACT – SALE – SHARE OF A CHIEFLY RESIDENTIAL IMMOVABLE HELD IN UNDIVIDED CO-OWNERSHIP (EBCU)**
- **NON-EXCLUSIVE BROKERAGE CONTRACT – SALE – SHARE OF A CHIEFLY RESIDENTIAL IMMOVABLE HELD IN UNDIVIDED CO-OWNERSHIP (NEBCU) (NEW)**
- **PROMISE TO PURCHASE – SHARE OF A CHIEFLY RESIDENTIAL IMMOVABLE HELD IN UNDIVIDED CO-OWNERSHIP (PPU)**

In June 2022, following the launching of the revised versions of the real estate brokerage forms for residential immovables containing less than 5 dwellings, the OACIQ, in collaboration with the Ministry of Finance, continued revising the other mandatory forms. The aim of this revision is to align all the mandatory forms with the changes made in 2022 and, of course, to ensure that they comply with the *Real Estate Brokerage Act* (REBA) (CQLR, c. C-73.2) and its regulations.

Remember that the *Act mainly to improve the regulation of the financial sector, the protection of deposits of money and the operation of financial institutions* (2018, chapter 23, bill 141) introduced section 129.1 in the REBA, which made the publication of mandatory brokerage forms conditional upon the Finance Minister's approval.

During this review, the OACIQ wanted to make adjustments to these forms to address certain concerns collected over the years by both the regulator and various industry players. These proposals were, among other things, discussed by the Advisory Committee on Training and Professional Practices in Residential Brokerage, made up of real estate brokers working in this sector.

In addition, the Ministry of Finance has made some changes to these forms.

HIGHLIGHTS

RESIDENTIAL IMMOVABLE CONTAINING LESS THAN 5 DWELLINGS

Exclusive brokerage contract – Purchase – Chiefly residential immovable containing less than five dwellings excluding co-ownership (BCP) – amendments

- As of June 8, 2022, licensees who sign a CCA must provide their clients with a *Warning to the buyer* included in the OACIQ standard clause 1.16 (termination in the event of double representation). The *Warning to the buyer* is now incorporated into clause 2.1 of the BCP, which removes the obligation for the licensee to insert it in section 10.1 or in Annex G – General.
- A clarification is made to clause 7.2 to emphasize that, by analogy with the brokerage contract to sell, the buyer has the right to search for a property on his own. The concept of exclusivity applies only between licensees. However, the buyer bound by a BCP must disclose to the owner of an immovable or to his broker that he is represented by a licensee. He must also inform his own broker of the steps he has taken and of his interest, if any, in buying a property, especially following an open house (7.2 BCP).
- Clarifications were made to specify that in the event of an exception to the double representation prohibition rule, the licensee must notify the buyer in writing and obtain his written consent to continue representing him. **The OACIQ standard clause 1.15 contains all the required statements** (8.1.5b)c BCP).
- Following the amendment of section 36 of the *Regulation respecting brokerage requirements, professional conduct of brokers and advertising* (c. C-73.2, r.1) (in force since March 23, 2023), the licensee must disclose any remuneration agreement (8.1.6 BCP).

All revised forms contain the box on the role of the OACIQ provided for in s. 16.2 of the *Regulation respecting brokerage requirements, professional conduct of brokers and advertising*. If the licensee submits one of these revised forms, he does not have to provide any other separate documents about the mission of the OACIQ.

DIVIDED CO-OWNERSHIP

Brokerage contract – Sale – Fraction of a chiefly residential immovable held in divided co-ownership (EBCD/NEBCD)

- Following the co-ownership reform, the seller must provide the licensee with the documents that the syndicate of co-owners must now have, namely documents relating to the self-insurance fund and the description of the private portion (art. 1070, 1071.1 C.C.Q.) (8.5 EBCD, 8.6 NEBCD).
- Following the amendment of section 36 of the *Regulation respecting brokerage requirements, professional conduct of brokers and advertising* (in force since March 23, 2023), the licensee must disclose any remuneration agreement (9.1.8 EBCD, NEBCD).
- The other amendments are intended to align the co-ownership brokerage contract to sell forms with the brokerage contract to sell forms for residential immovables containing less than 5 dwellings, revised in June 2022.

Exclusive brokerage contract – Purchase – Chiefly residential immovable held in divided or undivided co-ownership – (BCPDU) (new)

- The amendments to the *Real Estate Brokerage Act* concerning the double representation ban and the obligation to have a written brokerage contract to represent a buyer necessitated the creation of a specific brokerage contract to purchase form adapted to co-ownership.¹

¹ Act to give effect to fiscal measures announced in the Budget Speech delivered on March 25, 2021 and to certain other measures, SQ 2021, c. 36, s. 31 and 32 (Bill 5)

Promise to purchase – Co-ownership – Fraction of a chiefly residential immovable held in divided co-ownership (PPD)

- Following the co-ownership reform, the seller must provide the buyer with the documents that the syndicate of co-owners must now have, namely documents relating to the self-insurance fund and the description of the private portion (art. 1070, 1071.1 C.C.Q.) (9.1 PPD).
- The other amendments are intended to align the promise to purchase form for divided co-ownership with the promise to purchase form for residential immovables containing less than 5 dwellings, revised in June 2022.

Declarations by the seller of the immovable – Divided co-ownership (DSD)

- Following the reform of co-ownership, a new question about the self-insurance fund was added (art. 1071.1 C.C.Q.) (D2.5).
- The question on the asset management plan was reworded to include the maintenance log (D2.6).
- The other amendments are intended to align the seller's declarations form for divided co-ownership with the seller's declarations form for residential immovables containing less than 5 dwellings, revised in June 2022.

UNDIVIDED CO-OWNERSHIP

Brokerage contract – Sale – Share of a chiefly residential immovable held in undivided co-ownership (EBCU/NEBCU)

- The condition requiring the buyer to obtain a loan from the financial institution indicated by the seller is removed. Although the nature of undivided co-ownership supposes that the undivided co-owners usually obtain financing from the same institution, there is no legal obligation in this regard. However, the parties may always provide for such a special condition in clause 11.1 (4.3 EBCU, NEBCU).
- The reference to the obligation of the licensee representing the seller to assign his claim to the licensee who collaborated in the transaction is removed. This clause does not refer to the obligations of the parties to the contract, but concerns the agreement that licensees may enter into with each other. Therefore, such a clause must not be included in a brokerage contract with the seller (7.2 EBCU, NEBCU).
- Following the amendment of section 36 of the *Regulation respecting brokerage requirements, professional conduct of brokers and advertising* (in force since March 23, 2023), the licensee must disclose any remuneration agreement (9.1.8 EBCU, NEBCU).
- The other amendments are intended to align the co-ownership brokerage contract to sell forms with the brokerage contract to sell forms for residential immovables containing less than 5 dwellings, revised in June 2022.

Promise to purchase – Co-ownership – Share of a chiefly residential immovable held in undivided co-ownership (PPU).

- The condition requiring the buyer to obtain a loan from the financial institution indicated by the seller is removed. Although the nature of undivided co-ownership supposes that the undivided co-owners usually obtain financing from the same institution, there is no legal obligation in this regard. However, the parties may always provide for such a special condition in clause 12.1 (6.1 PPU).
- The other amendments are intended to align the promise to purchase form for undivided co-ownership with the promise to purchase form for residential immovables containing less than 5 dwellings, revised in June 2022.

IMPORTANT:

Once the new forms mentioned above come into force, the old forms will no longer be used.