

## New Real Estate Brokerage Laws

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The past few years have seen a massive increase in property prices and rentals in Dubai and international real estate investor interest in the market has intensified incredibly. Many analysts predict that this will have a negative impact on Dubai's economy and could lead to an inflation crisis.

This unprecedented rise has been largely attributed to the role played by real estate brokers within the market.

Until recently real estate brokerage had become a secondary source of income for many residents of Dubai as there were no pre-requisites in terms of qualifications or expertise required for entering the market. This disorganized approach significantly raised the prices of both free hold and lease hold properties.

To put an end to this unhealthy practice the Dubai Government has decided to organize the real estate brokerage industry as per international standards using methods similar to those adopted by other developed countries.

H.H. Sheikh Mohamed Bin Rashid Al Maktoum issued on 13 March 2006, Real Estate Law No. 7 of 2006 regulating registration of properties in Dubai.

Article 6 paragraph 6 of the above mentioned Law set out that the Chairman of the Dubai Land Department (DLD) has the competence to lay down rules in relation to regulating and keeping a register of real estate brokers.

Accordingly, the Chairman of the DLD issued on 30 May 2006, Circular No. 85 of 2006 (the "**Law**") which lay down the New Rules for real estate brokerage.

### **Facts**

#### **1- When did the Law come into effect?**

- The Law was passed in May 2006.
- Article 43 of the Law set out that real estate brokers in Dubai have a 6-month grace period, from the date of publication of the Law in the official gazette, to register themselves with the DLD and that the Chairman has the right to extend this period for an additional 3 months.
- The Law came into effect on 4 February 2007 making registration mandatory for all real estate brokers.

## **2-What is the new concept that the Law has imposed?**

The Law has created a new register in which every real estate broker should be entered. Each registered broker will be entitled to a broker's card which is subject to yearly renewal.

## **3-Is the registration condition applicable to all real estate brokers?**

Article 5 of the Law identified two categories of real estate brokers:

### **A – “People with expertise”.**

- This category is exempted from the registration pursuant to an order issued by the Chairman of the DLD.
- Although the Law does not explicitly specify the brokers to be included in this category, we have deliberated the matter with the DLD and they confirmed that this clause applies only to specific UAE nationals who have been in the real estate brokerage business for more than 20 years and are called “Dallal”.

### **B – Those persons not included in category A who wish to engage in real estate brokerage.**

Registration for Category B became mandatory as of 4 February 2007.

**No one can be registered as a real estate broker unless he/she is working for a fully registered and licensed real estate company.**

## **4- Who should be registered?**

- Only the employees of real estate brokerage companies who are involved directly in the brokerage activity, i.e. Managers, Sales Executives, etc. need to be registered.
- The shareholders and other support staff (e.g. Accountants, Receptionists, etc) of the real estate brokerage company are exempted from registration.
- The registration is compulsory for both UAE nationals and foreigners.

## **5- What are the requirements for registration?**

- The broker should attend special courses in real estate practice which are prepared by the DLD.
- After the completion of the courses, the broker should pass the brokerage test prepared by the DLD.

## **6- Is the DLD currently offering courses and conducting tests?**

- The DLD has yet to start conducting the courses, so for now the applicants can apply without taking the test.
- However, we have been informed by the DLD that the courses will come into effect in the summer of 2007 i.e. June/July.
- At this stage, upon submitting the required documents to the DLD a specialized committee will assess the file of the applicant and will either approve or reject the application.
- The committee will take into consideration the academic degrees and the past experience of the broker during the assessment process.

### **7-What is the time frame for the registration?**

Approximately 3 weeks.

### **8-What are the obligations and rights of the Broker?**

The obligations and rights set out in the Law are only applicable to registered brokers.

#### **Obligations:**

- The broker should respect the profession's code of conduct which is a charter prepared by the DLD in collaboration with expert brokers. The charter contains the ethics and rules of the real estate brokerage profession and should be respected by all brokers.
- Firms or individual brokers who break the code of conduct will receive one black point for each breach.
- In the event a broker receives 3 black points, his broker's card will be cancelled.
- The broker should hold a private register to record all brokerage transactions undertaken by him.
- The broker is not allowed to undertake any transaction if it breaches the laws and regulations of the Emirate of Dubai.
- The broker is liable to compensate the parties in a sale and purchase agreement i.e. the buyer and/or the purchaser, in the event he has caused them damages as a result of his fraudulent actions.
- The broker cannot hold two attributes at the same time. In the event the broker becomes a party to the sale and purchase of the property, he will not be entitled to his brokerage fees.
- The broker must return to the parties any document he has received from them. In case of default, he will be charged for breach of trust.

#### **Rights:**

- The broker has the right to charge a brokerage fee upon finalizing the sale and purchase agreement of the property.
- The fee can be specified in the brokerage agreement, however, if it is not specified the fee shall be in line with customs applied to the brokerage profession (Article 27 of the Law).
- If there are multiple brokers involved in the transaction the brokerage fee will be decided equally between them.
- In order to guarantee these rights the broker should submit the brokerage agreement to the DLD.

### **9-What are the punitive provisions under the Law?**

In the event of breach of any of the above mentioned obligations, punitive provisions will be imposed on the broker in the following manner:

1. Notice
2. Warning
3. Suspension from work for 6 Months
4. Blacklisting the broker

The DLD is expected to provide further details in due course.

### **10-What are the registration costs?**

- The cost incurred by each real estate brokerage company is AED 5,000. This price includes one broker's card.
- The cost of each additional broker's card is AED 500.

### **11-What are the consequences of not registering?**

According to the Law, there are two consequences for not registering:

- The DLD will not acknowledge transfer of property carried out by unlicensed real estate brokers; and
- The broker will not be able to claim his brokerage fee in the event of any disputes.

At this stage we understand that no fines will be imposed on non registered brokers.

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