

September 24, 2020

To all Registered Real Estate Brokers,
Authorized Officials and Salespersons

Province of Manitoba

Re: Electronic Signatures

On April 14, 2020, the Manitoba Securities Commission issued Order No. 2785 providing a temporary exemption from the requirement that registrants obtain inked signatures on offers to purchase and listing contracts as prescribed in *The Real Estate Brokers Act* and allows for the use of digital signatures during the COVID-19 pandemic. This order will expire on September 30, 2020.

In light of the fact that social distancing protocols are still in place to address the pandemic, the Commission has issued Order No. 2792 extending the temporary exemption until March 31, 2021. Should public health officials dictate that social distancing protocols must still be maintained at that time, the Commission will look at extending the duration of the order.

Attached with this notice is a copy of Order No. 2792. All registrants should thoroughly review the order, as well as the additional direction provided in the Registrar's notice dated April 17, 2020, to ensure they satisfy all conditions and requirements if they intend to rely on the exemption.

A copy of the Registrar's notice from April 17, 2020 is available on the Commission's website at the following link: https://mbrealestate.ca/law-policy/policies-legislation/notices/pubs/electronic_signature.pdf

The Commission would like to remind registrants that it is not mandating the use of electronic signatures on offers to purchase and listing contracts and that their use is voluntary on the part of clients.

As previously stated, the order is a temporary measure intended to provide relief to registrants during the COVID-19 pandemic. Once public health officials determine that social distancing protocols are no longer needed we will return to the requirement that contracts be signed in ink.



Keith Schinkel
Registrar
The Real Estate Brokers Act



THE MANITOBA
SECURITIES
COMMISSION

THE REAL ESTATE BROKERS ACT)
Section 47)
)
)

Order No. 2792

Date: October 1, 2020

**Temporary Exemption from the Requirement to Obtain
a Physical Signature on Certain Documents and to physically
Deliver those Documents under *The Real Estate Brokers Act***

WHEREAS:

- (A) The Manitoba Securities Commission (the "Commission") has received an application from the Registrar to make an order which would provide an exemption from certain provisions under *The Real Estate Brokers Act* (the "Act"), on a temporary basis, that require physical signatures on certain documents and the physical delivery of those documents.
- (B) On March 11, 2020, the World Health Organization declared the outbreak of coronavirus disease 2019 ("COVID-19") to be a pandemic. On March 20, 2020, the Government of Manitoba declared a state of emergency under the powers set out in sections 10(1) and 10(2) of *The Emergency Measures Act* to enable the province to respond to the pandemic. The Registrar is of the opinion that obtaining a physical signature on certain documents and physically delivering copies of those documents may represent an undue hardship to real estate brokers, authorized officials and salesmen and the public given the COVID-19 pandemic and the risk of the transmission of the disease when people are in close proximity to each other.
- (C) Terms defined in the Act have the same meaning in this order.
- (D) The Commission has determined that compliance with the provisions of the Act requiring physical signatures and the physical delivery of certain documents would cause undue hardship and that it is not contrary to the public interest to issue this order.

IT IS ORDERED:

1. **THAT**, pursuant to subsection 47 of the Act a broker and an authorized official and a salesman of that broker are exempt from:
 - (a) section 20 of the Act regarding exclusive listings to the extent that this provision requires that:
 - (i) the parties to the listing physically execute the listing; and
 - (ii) a physically executed copy of the listing be physically furnished by the broker, authorized official or salesman to the person granting the listingsubject to the following conditions:
 - (iii) that the listing be executed in accordance with Part 3 of *The Electronic Commerce and Information Act* (the "Electronic Commerce Act");
 - (iv) that an executed copy of the listing be sent by the broker, authorized official or salesman to the person granting the listing in accordance with Part 3 of the Electronic Commerce Act; and
 - (v) that the person granting the listing consents to reliance on this exemption.
 - (b) subsection 21(1) of the Act regarding offers to purchase obtained by a broker, authorized official or salesman to the extent that this provision requires that:
 - (i) the offeror physically execute the offer;
 - (ii) the offer be completed in not less than quadruplicate if there is only one broker involved and otherwise not less than quintuplicate;
 - (iii) the offer be signed in the physical presence of a witness; and
 - (iv) the duplicate copy of the offer be immediately delivered by the broker, authorized official or salesman, as the case may be, to the offeror on executionsubject to the following conditions:
 - (v) that the offer be executed by the offeror in accordance with Part 3 of the Electronic Commerce Act;
 - (vi) that a copy of the offer be immediately sent by the broker, authorized official or salesman, as the case may be, to the offeror in accordance with Part 3 of the Electronic Commerce Act; and
 - (vii) that the offeror and the person to whom the offer is addressed consent to reliance on this exemption.

- (c) subsection 21(2) of the Act regarding acceptances of offers to purchase to the extent that this provision requires that:
- (i) the vendor physically sign the acceptance;
 - (ii) the acceptance of the offer by the vendor be duly witnessed;
 - (iii) the acceptance be signed by the vendor and the witness in not less than duplicate;
 - (iv) at least one copy of the accepted offer be left with the vendor; and
 - (v) the broker, authorized official or salesman, as the case may be, immediately notify the purchaser of the acceptance by physically delivering a copy of the accepted offer to the purchaser

subject to the following conditions:

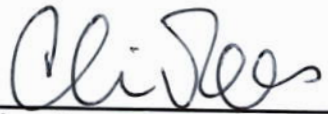
- (vi) that the acceptance be executed by the vendor in accordance with Part 3 of the Electronic Commerce Act;
 - (vii) that a copy of the accepted offer be immediately sent by the broker, authorized official or salesman, as the case may be, to the vendor in accordance with Part 3 of the Electronic Commerce Act;
 - (viii) that a copy of the accepted offer be immediately sent by the broker, authorized official or salesman, as the case to the purchaser in accordance with Part 3 of the Electronic Commerce Act; and
 - (ix) that the vendor and the purchaser consent to reliance on this exemption.
- (d) subsection 31(1) of the Act regarding listing agreements to the extent that this provision requires that:
- (i) the person granting the listing agreement physically sign the agreement; and
 - (ii) a copy of the agreement be delivered to the person granting the listing at the time it is executed

subject to the following conditions:

- (iii) that the agreement be executed in accordance with Part 3 of the Electronic Commerce Act;
- (iv) that a copy of the agreement be immediately sent by the broker, authorized official or salesman, as the case may be, who obtained the listing to the person granting the listing in accordance with Part 3 of the Electronic Commerce Act;

- (v) that the person granting the listing consents to reliance on this exemption.
 - (e) subsection 31(2) of the Act, provided that the only alleged reason for the invalidity is based on paragraph 31(2)(c) of the Act and the broker, authorized official or salesman, as the case may be, has complied with subsection 1.(d) of this order.
2. **THAT** a copy of the executed exclusive listing agreement, executed offer to purchase, accepted offer to purchase and executed listing agreement, as the case may be, and the consents to the use of the exemption be maintained by the broker in a form that is accessible so as to be usable for subsequent reference as part of the books and records that the broker must maintain under the Act;
3. **THAT**, this Order will expire on March 31, 2021.

BY ORDER OF THE COMMISSION



Director