



SHORT-TERM ACCOMMODATION RENTAL PROPERTIES GUIDELINES

Please read the following Guidelines in its entirety to ensure that you apply the proper instructions to your circumstances. If you are uncertain as to how to proceed – Please contact TICO at 1-888-451-8426 or email: tico@tico.ca

These guidelines are designed to assist individuals and businesses who are engaging in offering short-term accommodation rental properties to consumers that are owned by third parties (ex. cottages, condo apartments and homes) with determining whether they must be registered with either the Travel Industry Council of Ontario (TICO) or the Real Estate Council of Ontario (RECO), and possibly both if the business trades in real estate as well as sells other travel services to consumers.

In Ontario's *Travel Industry Act, 2002* (the Act) the sale of travel services includes accommodations for the use of a traveler, tourist or sightseer" which would require the transaction to be conducted through a TICO registered travel retailer (agency or website).

In addition, Ontario registered real estate brokers and salespersons are permitted under the *Real Estate and Business Brokers Act, 2002* (REBBA) to trade in limited types of short-term accommodation rental properties through a registered real estate brokerage.

Exemption under Ontario Regulation 26/05 Pursuant to the *Travel Industry Act, 2002*

A new exemption to section 2 of Ontario Regulation 26/05 (the Regulation) came into force on December 1, 2020 for real estate brokerages, brokers and salespersons registered with RECO pursuant to the *REBBA* generally codifying an existing practice. RECO registrants are permitted to trade in short-term accommodation rental properties on behalf of the brokerage that employs the broker or salesperson. This exemption was recently added to the Regulation to reflect what is already permitted by RECO and TICO in practice.

Note: The exemption only applies to trades in short-term accommodation rental properties that are made through the registered brokerage. If a registered broker or salesperson trades in short-term accommodation rental properties as a side business that is not accounted for and/or otherwise captured by the registered brokerage, he/she would not qualify for the exemption and would need to register under the *Travel Industry Act, 2002*.

Key criteria to require TICO Registration:

1. The person, corporation or entity operating, has a physical presence in Ontario (i.e. place of business)

2. The person, corporation or entity operating is **not**, as applicable:
 - a) a real estate brokerage registered under REBBA who offers or facilitates short-term accommodation rental properties **only as part of that registered brokerage's business**,
 - b) a real estate broker or salesperson registered under REBBA who offers or facilitates short-term accommodations rental properties **only in the name of and through their employer/ brokerage as part of that registered brokerage's business**

Note:

Registered real estate brokers and salespersons who choose to offer or facilitate transactions in short-term accommodation rental properties independent of and separate from a registered real estate brokerage, are required to be registered under TICO. This includes where the activity is carried on in the name of or on behalf of a person, corporation or entity that is not registered as a brokerage under REBBA.

3. In order to legally offer or facilitate short-term accommodation rental property transactions, REBBA registered brokerages, brokers and salespersons must only do so in the name of and through a real estate brokerage registered under REBBA and in compliance with all applicable requirements under REBBA. The person, corporation or entity operating does not own the accommodations being offered and is offering the short-term accommodations that are provided by or owned by another person.
4. The person, corporation or entity operating is acting as a travel agent by selling those travel services on behalf of the end-supplier and/or owner of accommodations and may be collecting customer funds and/or credit card information from the customer or receives benefit whether from the customer or the owner/end supplier – the Sale Component. **Note:** the absence of physically collecting customer monies or credit card information is not sufficient reason to conclude a company is not selling travel services (i.e. accommodations). Facilitating a travel transaction includes:
 - (a) The Travel Agent acts as an agent for the end supplier, i.e. the accommodation owner – *the Agency Component*
 - (b) The travel services (accommodation) is provided by the end-supplier – the *Travel Services Component*,

- (c) The Travel Agent sells those travel services on behalf of the end-supplier and may be collecting funds or credit card information from the customer – *the Sale Component*.

It is TICO's position that if the transactions being performed by a business have all of the components of the sale of travel services, it should therefore be performed by a registered travel agent. The activity of acquiring and providing travel services (accommodation) provided by another person, falls under the Act and therefore is captured as a travel agent because it is selling travel services to consumers as defined under the legislation.

5. The person, corporation or entity operating is offering accommodations for 30 days or less. If so, as a policy it is assumed, that in such cases the accommodations are for the use of a traveler, tourist or sightseer.
6. For accommodation **longer than 30 days**, a further determination must be made on a case by case basis as to whether or not it is temporary accommodations for a traveler, tourist or sightseer.

Who is RECO?

RECO regulates Ontario's real estate salespersons, brokers and brokerages by enforcing the *Real Estate and Business Brokers Act, 2002* (REBBA). For more information, visit [RECO's website](#).

For information about obligations for real estate brokers, salespersons and brokerages under REBBA, please see [RECO's Registrar's Bulletin on short-term rental accommodations](#).

If you have any questions, please contact TICO's Compliance Department at 1-888-451-TICO (8426) or email tico@tico.ca

DISCLAIMER

These guidelines have been developed to assist registrants in complying with the requirements and prohibitions found in the Travel Industry Act, 2002 (the "Act") and Ontario Regulation 26/05 (the "Regulation"). The document contains information regarding TICO's interpretation of the legislative and regulatory provisions and suggested best practices. If you have any questions regarding the information in this document, you should contact TICO.

The information provided is for general informational and educational purposes only and is not intended to provide legal advice to any individual or entity. These guidelines are not exhaustive and cannot hope to address the complexities of every travel business in the province. Further, registrants are subject to other federal, provincial and municipal laws that impact their businesses. We urge you to consult with your own legal advisor regarding the specifics of your business and compliance with the Act and Regulation. You should not rely on information in this document as an alternative to legal advice.

The content in these guidelines is current as of the date of publication. While TICO strives to keep the information as timely and accurate as possible, it makes no claims, promises or guarantees about the accuracy, completeness or adequacy of the content. In the event of a conflict, the requirements in the Act and Regulation will prevail.

December 01, 2020