

Real Estate Development Marketing Act

Policy Statement 14

(Amending Policy Statements 1, 2, 3, 8, 10 and 11)

DISCLOSURE STATEMENT REQUIREMENTS FOR DEVELOPMENT PROPERTY THAT IS NOT YET COMPLETED

EFFECTIVE NOVEMBER 1, 2007

1. Interpretation

In this Policy Statement:

- (a) "Act" means the *Real Estate Development Marketing Act*;
- (b) "pre-sale unit" means a development unit
 - (i) for which any required subdivision plan, strata plan, or other plan has not been deposited in the appropriate land title office, or
 - (ii) for which any buildings, utilities and other services, or other significant improvements that the developer has agreed to provide have not yet been completed;
- (c) "superintendent" means the person appointed as Superintendent of Real Estate under the *Real Estate Development Marketing Act*; and
- (d) unless the context otherwise requires, other words and expressions have the meanings given to them in the *Real Estate Development Marketing Act*.

2. Disclosure Statements – General

The superintendent's Policy Statements 1, 2, 3, 8, 10 and 11, which include Forms 1, 2, 3, 8A, 8B, 10 and 11, set out the forms and content required under section 14 of the Act for disclosure statements filed in relation to development property. This Policy Statement 14 amends each of those Policy Statements, in order to make the changes in Forms 1, 2, 3, 8A, 8B, 10 and 11 that are explained below. These changes require additional disclosure for offerings of pre-sale units.

3. Disclosure Statements – Cover Page

For an offering of pre-sale units, Forms 1, 2, 3, 8A, 8B, 10 and 11 are amended to require the following statement in **conspicuous type** on the cover page of the Disclosure Statement:

"This Disclosure Statement relates to a development property that is not yet completed. Please refer to section [insert section number] for information on the purchase agreement. That information has been drawn to the attention of [insert purchaser's name], who has confirmed that fact by initialing in the space provided here: [space for purchaser's initials]."

NOTE: *It is recommended that a developer include the above initialed statement as part of the written acknowledgement obtained from a purchaser under section 15 of the Act, or alternatively retain a copy of each initialed cover page. This will help to show, if necessary, that the developer has met this disclosure requirement.*

The Superintendent of Real Estate issued this Policy Statement pursuant to the *Real Estate Development Marketing Act*. Effective August 1, 2021, the Superintendent of Real Estate operates within the BC Financial Services Authority.

4. Disclosure Statements – Purchase Agreement

For an offering of pre-sale units, Forms 1, 2, 3, 8A, 8B, 10 and 11 are amended to delete and replace the section entitled Purchase Agreement (i.e.: section 7.2 in Forms 1, 2, 3, 10 and 11; section 8.2 in Form 8A; and section 9.2 in Form 8B) with the following:

“*[insert section number]* Purchase Agreement

- (1) State that a copy of the developer’s form of purchase agreement is attached as an Exhibit to the Disclosure Statement, and attach that Exhibit.
- (2) Describe any provisions in the purchase agreement for terminating that purchase agreement.
- (3) Describe any provisions in the purchase agreement that allow for an extension of time for completing that purchase agreement. This description should include whether the developer or purchaser may require or refuse an extension, and whether the developer may seek a fee or increased purchase price in order to agree to an extension. Any other extension provisions should also be disclosed.
- (4) Describe any provisions of the purchase agreement for assigning that purchase agreement to a new purchaser. Additionally, state whether the developer may refuse to allow an assignment or seek a fee in order to agree to an assignment.
- (5) Describe any provisions of the purchase agreement for the purchaser or the developer to receive interest on the deposit monies.

NOTE: *Prior to any significant change in a developer’s form of purchase agreement, it would be necessary for the developer to amend its filed Disclosure Statement in order to include the revised form of purchase agreement as an Exhibit.*

Under Policy Statements 5 and 6, the form of purchase agreement attached as an Exhibit to the Disclosure Statement must also contain the terms set out in those Policy Statements.”

5. Leasehold Interests

Despite sections 2, 3 and 4 above, this Policy Statement does not apply to leasehold interests in strata lots that are not in a bare land strata plan and for which similar disclosure is already required as explained in section 5 of Policy Statement 1. This Policy Statement 14 also does not apply to leasehold units in a residential leasehold complex. Similar disclosure is already required for such leasehold units as explained in Part 3 of Form 9 under Policy Statement 9.

6. Transitional Provisions – Filings Prior to November 1, 2007

Despite sections 2, 3 and 4 above, a disclosure statement filed under the Act prior to November 1, 2007, including any prospectus or disclosure statement submitted under the now repealed *Real Estate Act* and deemed filed under the Act by virtue of section 47 of the Act, continues to satisfy the form and content requirements for a disclosure statement filed under the Act if the following circumstances apply:

- (a) the substantive content of the prospectus or disclosure statement filed prior to November 1, 2007 does not otherwise contain a misrepresentation; and
- (b) the only reason that the developer’s prospectus or disclosure statement does not comply with the Act and the superintendent’s Policy Statements is that it does not disclose on the cover page that the development property is not yet completed and does not disclose the purchase agreement information described above in sections 2, 3 and 4 of this Policy Statement.

7. Filings On or After November 1, 2007

Subject to section 5 above, if an amendment or new disclosure statement is filed on or after November 1, 2007, for an offering of pre-sale units to correct a non-compliant disclosure statement in accordance with section 16 of the Act or to otherwise revise the developer's disclosure, the amendment or new disclosure statement must also disclose on the cover page that the development property is not yet completed and disclose the purchase agreement information described above in sections 2, 3 and 4 of this Policy Statement.

Subject to section 5 above, if a disclosure statement is filed on or after November 1, 2007, for an offering of pre-sale units in respect of a development property for which there was no previous filing, the disclosure statement must also disclose on the cover page that the development property is not yet completed and disclose the purchase agreement information described above in sections 2, 3 and 4 of this Policy Statement.