

Real Estate Development Marketing Act

Policy Statement 16 (Amending Policy Statement 1)

ADDITIONAL DISCLOSURE STATEMENT REQUIREMENTS FOR DEVELOPMENT PROPERTY CONSISTING OF FIVE OR MORE STRATA LOTS REGARDING ASSIGNMENTS OF PURCHASE AGREEMENTS

EFFECTIVE JANUARY 1, 2019

1. Interpretation

In this Policy Statement:

- (a) Act means the Real Estate Development Marketing Act;
- (b) superintendent means the person appointed as Superintendent of Real Estate under the Real Estate Development Marketing Act; and
- (c) unless the context otherwise requires, other words and expressions have the meanings given to them in the Real Estate Development Marketing Act.

2. Applicability

This Policy Statement 16 applies to the marketing of any of five or more strata lots in a stratified building in a freehold or leasehold strata plan located in British Columbia.

This Policy Statement 16 does not apply to the marketing of bare land strata lots in a bare land strata plan, development units that are not strata lots or development units that are not located in British Columbia.

3. Disclosure Statements – General

The superintendent's Policy Statement 1, which includes Form 1, sets out the form and content required under section 14 of the Act for disclosure statements filed in relation to development property consisting of five or more strata lots. This Policy Statement 16 amends Policy Statement 1 in order to make the changes to Form 1 that are explained below.

4. Disclosure Statements – Purchase Agreement if Assignments Permitted

- (a) For the marketing of strata lots where the developer permits an assignment of a purchase agreement, Form 1 is amended to require that the following terms and notice, in substantially the following form, be included in the disclosure statement section entitled Purchase Agreement (i.e.: section 7.2 in Form 1):

“Without the developer's prior consent, any assignment of a purchase agreement is prohibited.

An assignment under the Real Estate Development Marketing Act is a transfer of some or all of the rights, obligations and benefits under a purchase agreement made in respect of a strata lot in a development property, whether the transfer is made by the purchaser under the purchase agreement to another person or is a subsequent transfer.

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.

Each proposed party to an assignment agreement must provide the developer with the information and records required under the Real Estate Development Marketing Act.

Before the developer consents to an assignment of a purchase agreement, the developer will be required to collect information and records under the Real Estate Development Marketing Act from each proposed party to an assignment agreement, including personal information, respecting the following:

- (a) the party's identity;
- (b) the party's contact and business information;
- (c) the terms of the assignment agreement.

Information and records collected by the developer must be reported by the developer to the administrator designated under the Property Transfer Tax Act. The information and records may only be used or disclosed for tax purposes and other purposes authorized by section 20.5 of the Real Estate Development Marketing Act, which includes disclosure to the Canada Revenue Agency."

- (b) Any form of purchase agreement used by the developer to market strata lots, where the developer may permit an assignment of that purchase agreement, must be attached as an exhibit to the disclosure statement. The disclosed form of purchase agreement must contain the terms and notice, in respect of assignment, in the form specified under the Real Estate Development Marketing Act and Regulations.

5. Disclosure Statements – Purchase Agreement If Assignments not Permitted

For the marketing of strata lots where the developer does not permit an assignment of a purchase agreement, Form 1 is amended to require that the developer disclose in the section entitled Purchase Agreement (i.e.: section 7.2 in Form 1) that the developer does not permit an assignment of a purchase agreement.

Any form of purchase agreement used by the developer to market strata lots, where the developer does not permit an assignment of a purchase agreement, must be attached as an exhibit to the disclosure statement. The exhibited form of purchase agreement must be consistent with the disclosure of it in the disclosure statement, including the section entitled Purchase Agreement (i.e.: section 7.2 in Form 1).

6. Other Policy Statements

The requirements in this Policy Statement 16 are in addition to, and do not displace, other requirements in the superintendent's Policy Statements that may apply depending on the specific circumstances of the developer and development property (e.g.: Policy Statements 1, 5, 6, 14 and 15).

7. Transition

Every new disclosure statement filed on or after January 1, 2019, for development property to which this Policy Statement applies as set out in section 2 above, must comply with this Policy Statement.

Every disclosure statement filed before January 1, 2019, for development property to which this Policy Statement applies as set out in section 2 above and marketable on or after January 1, 2019, must be promptly amended as of January 1, 2019, to include the additional disclosure required under this Policy Statement.