

Real Estate Development Marketing Act

Policy Statement 7

SIGNING DISCLOSURE STATEMENTS

EFFECTIVE JANUARY 1, 2005

1. Interpretation

In this Policy Statement:

- (a) Act means the Real Estate Development Marketing Act; and
- (b) unless the context otherwise requires, other words and expressions have the meanings given to them in the Act.

2. Under sections 14(2)(d) of the Act and section 9 of the regulations, disclosure statements must be signed by

- (a) every developer of the development property to which the disclosure statement relates, and
- (b) if a developer is a corporation, every director of the developer.

3. Under section 9 of the regulations, the superintendent may exempt a person from the requirement to sign a disclosure statement, with or without conditions, or require an additional person to sign a disclosure statement.

4. If a disclosure statement filed under the Act contains a misrepresentation, a purchaser has a right of action for damages against the developer, directors of the developer and persons who signed, authorized or were named in the disclosure statement, subject to any available defences.

5. Ordinarily all directors of all developers must sign a disclosure statement. However, the superintendent will exempt a director, who is not resident in British Columbia, from the requirement to sign a disclosure statement on condition that

- (a) all directors who are resident in British Columbia have signed the disclosure statement, and
- (b) the developer has confirmed, in writing, that all non-resident directors are aware of their personal liability in respect of the contents of the disclosure statement.

Regardless of whether a director has signed a disclosure statement, the names of all directors must be disclosed in the disclosure statement.

6. If a developer is a "savings institution", as defined in the Interpretation Act, the superintendent will exempt a director from the requirement to sign a disclosure statement on condition that the savings institution confirms, in writing, that

- (a) it has appointed one or more of its senior officials, satisfactory to the superintendent and resident in the province, as a signing authority on behalf of the savings institution, and

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- (b) the directors of the savings institution are aware of their personal liability in respect of the contents of the disclosure statement.

Regardless of whether a director has signed a disclosure statement, the names of all directors must be disclosed in the disclosure statement.

7. An individual who holds a valid power of attorney from a director of a developer may sign a disclosure statement on behalf of the director if the director of the developer first delivers to the superintendent a copy of a valid power of attorney that,
 - (a) authorizes the attorney to sign on behalf of the director of the developer (insert director's name) the disclosure statement required under the Act in order to permit the marketing of development property legally described as (insert legal description), and
 - (b) declares the power of attorney to be at all times binding on the director in favour of third parties who have not received notice that the power has been revoked.