BCFSA BC Financial Services Authority

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 APRIL 1, 2025

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 – Summary Form

For an offering of pre-sale units, Forms 1, 2, 3, 8A, 8B, 10 and 11 are amended to require the developer to attach a copy of a Summary of Pre-sale Risks and Buyer Rights form in front of the cover page of the initial disclosure statement (including each initial phase disclosure statement under section 15.1 of the Act) in the form set out in Schedule 1 of this Policy Statement and with the name of development and section numbers filled in. The dates in the "Contractual Rights and Obligations" section must be left blank when the disclosure statement is filed with the superintendent. The Summary of Pre-sale Risks and Buyer Rights form will form part of the disclosure statement.

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.

The dates in the "Contractual Rights and Obligations" section should only be filled in when the developer provides the disclosure statement to an individual purchaser. Please see BCFSA's Advisory number 25-004 for instructions regarding how to complete this form.

It is recommended that a developer retain a copy of each initialed Summary of Pre-Sale Risks and Buyer Rights form. This will help to show, if necessary, that the developer has met this disclosure requirement.

If the developer becomes aware that the Summary of Pre-sale Risks and Buyer Rights form contains a misrepresentation, the developer must immediately file an amendment to the disclosure statement or file a new disclosure statement to correct the misrepresentation.

If a form of approval other than a building permit is required, the developer must modify the cancellation rights set out in the "Contractual Rights and Obligations" section of the Summary of Pre-sale Risks and Buyer Rights form to replace the reference to a building permit with the applicable approval set out in sections 4 to 9 of the Act (e.g., preliminary layout approval).

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

Section 4 of 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. Section 4 of this Policy Statement 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 April 1, 2025

Despite sections 2, 3 and 4 above, a disclosure statement filed under the Act prior to April 1, 2025, 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 April 1, 2025 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 include a Summary of Pre-sale Risks and Buyer Rights form.

7. Filings On or After April 1, 2025

Subject to section 5 above regarding certain leasehold interests, if an amendment is filed on or after April 1, 2025 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 does not need to include a Summary of Pre-sale Risks and Buyer Rights form described in section 3, but must disclose all other purchase agreement information described above in sections 2 and 4 of this Policy Statement.

Subject to section 5 above regarding certain leasehold interests, if a disclosure statement is filed on or after April 1, 2025 for an offering of pre-sale units in respect of a development property, the disclosure statement must include a Summary of Pre-sale Risks and Buyer Rights form, as described in section 3 of this Policy Statement, and disclose the purchase agreement information described above in sections 2 and 4 of this Policy Statement.

Schedule 1

Summary of Pre-sale Risks and Buyer Rights Form