

# Office of the Superintendent of Real Estate

## CLEBC Course Materials

Presented at the Course on  
Advanced Issues in Real Estate Development held by  
the Continuing Legal Education Society of British Columbia  
on June 8, 2007 at the Pan Pacific Hotel in Vancouver

Prepared and presented by  
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# Disclosure Statements, Exemptions and Disclosure Statement Amendments under REDMA

Understanding the disclosure requirements of the *Real Estate Development Marketing Act* (“REDMA”) for real estate developments marketed in British Columbia

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# I. Disclosure Statements required under the *Real Estate Development Marketing Act*

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Disclosure Statements are required before development units can be marketed in BC. To illustrate the general requirement for Disclosure Statements, five complex cases are described below.

# I. Disclosure Statements required under the *Real Estate Development Marketing Act*

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Disclosure Statements are required for

- Subsequent developers who acquire, complete and re-market unfinished developments or phases

# I. Disclosure Statements required under the *Real Estate Development Marketing Act*

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Disclosure Statements are required for

- Developers or purchasers of existing rental developments who market individual units
  - provide building condition disclosure

# I. Disclosure Statements required under the *Real Estate Development Marketing Act*

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Disclosure Statements are required for

- Foreign development properties of all types
  - see Information Bulletin REDMA-07-1 on disclosure issues and requirements
  - the exemption for serviced or bonded non-strata lots in BC is not available

# I. Disclosure Statements required under the *Real Estate Development Marketing Act*

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Disclosure Statements are required for

- Real estate securities
  - includes lots or other development units offered for sale together with limited partnerships or corporate shares under *BC Securities Act* exemptions



# I. Disclosure Statements required under the *Real Estate Development Marketing Act*

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Disclosure Statements are required for

- Foreclosing lenders, receiver managers, and trustees in bankruptcy who market development properties
  - see Policy Statement 7 on Disclosure Statement signing requirements for non-resident directors and savings institutions

## II. Exempt activity under the *Real Estate Development Marketing Act*

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Disclosure Statements are not required for

- Developments that are not large enough to be REDMA “development property”
  - for example, multiple separate strata developments (i.e., separate strata corporations) of less than 5 strata lots each that are offered for sale as whole strata lots by the same developer

## II. Exempt activity under the *Real Estate Development Marketing Act*

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Part 2 of the REDMA Regulation sets out several standard exemptions. For example, Disclosure Statements are not required for

- Bulk sales between two developers in a single transaction
  - may include the sale of less than all of a developer's units if the units sold are enough to constitute a "development property" (e.g., 5 or more strata lots)

## II. Exempt activity under the *Real Estate Development Marketing Act*

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Individual exemptions from some or all of the REDMA requirements for marketing and holding deposits may be requested in appropriate cases from the Superintendent of Real Estate.

- Previous individual exemptions have allowed deposits for some foreign development units to be held in trust where the development is located, rather than held in trust in BC

### III. Amending a Disclosure Statement

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Amending a Disclosure Statement does not provide another 7-day statutory rescission right under REDMA.

Amending a Disclosure Statement may provide a 7-day contractual rescission right under Policy Statement 5.

### III. Amending a Disclosure Statement

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Amend a Disclosure Statement to address

- A “misrepresentation”
  - a “misrepresentation” means a false or misleading statement of a material fact, or an omission to state a material fact
  - a “material fact” includes something that could affect the value, price or use of the development unit or development property

### III. Amending a Disclosure Statement

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Amend a Disclosure Statement to address

- Most types of non-compliance with REDMA, regulations, or Policy Statements
- Outdated information and correct errors and omissions
- Changes in the size of development units or features of the development
- New phases, building permits and financing

## IV. Filing a new Disclosure Statement

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Filing a new Disclosure Statement provides another 7-day statutory rescission right under REDMA.



## IV. Filing a new Disclosure Statement

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File a new Disclosure Statement to address a

- Re-filing under Policy Statements 5 or 6
  - it is not necessary to terminate existing purchase agreements and return deposits
- Change in a developer's identity
  - includes a corporate amalgamation or the addition of a new general partner

## IV. Filing a new Disclosure Statement

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File a new Disclosure Statement to address a

- Foreclosure, receivership or bankruptcy in respect of a developer
- Substantial misrepresentation identified by the Superintendent of Real Estate
  - may include a fundamental change in the nature or use of a development unit, or the loss of a major common amenity

## V. Procedures for filing and distributing an Amendment or new Disclosure Statement

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### Procedures for filing

- File an Amendment or new Disclosure Statement immediately
- File in paper format by mailing or delivering to the Superintendent's office one signed original copy and payment of the filing fee

## V. Procedures for filing and distributing an Amendment or new Disclosure Statement

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### Procedures for filing

- Filing fees are payable by cheque or by credit card (Visa or MasterCard) to the Minister of Finance
- Do not submit filings by fax or e-mail

## V. Procedures for filing and distributing an Amendment or new Disclosure Statement

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### Procedures for distributing

- New purchasers may be provided with a consolidated Disclosure Statement that includes all Amendments
- If a consolidated Disclosure Statement is prepared, deliver a copy to the Superintendent

## V. Procedures for filing and distributing an Amendment or new Disclosure Statement

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### Procedures for distributing

- Developers must obtain and keep a written statement from each purchaser confirming that the purchaser received, and had an opportunity to read, the Disclosure Statement before entering into a purchase agreement
- Advisable to obtain and keep a receipt from each purchaser who receives an Amendment

## VI. REFERENCE MATERIALS

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The Financial Institution Commission's website at [www.fic.gov.bc.ca](http://www.fic.gov.bc.ca) contains, or provides links to, the following materials

- the *Real Estate Development Marketing Act*
- the Real Estate Development Marketing Regulation
- the Superintendent of Real Estate's 13 Policy Statements
- Information Bulletins

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## VI. REFERENCE MATERIALS

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The offices of the Financial Institutions Commission and the Superintendent of Real Estate are located at Central City in Surrey. They may be contacted at

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Surrey, British Columbia V3T 5X3  
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# Disclaimer and Errors and Omissions Excepted

- Staff at the Office of the Superintendent of Real Estate provide comments that are intended to accurately explain the Superintendent's technical interpretations and positions in respect of the *Real Estate Development Marketing Act* and Regulations. While staff comments may relate to provisions of the law in force at the time they were made, these comments are not a substitute for the law. Staff comments should be considered in light of the relevant provisions of the law in force at the time, taking into account the effect of any relevant amendments to those provisions or relevant court decisions occurring after the date on which the comments were made.
- Errors and omissions are excepted.

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