

Information Bulletin

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Topic: PURCHASING DEVELOPMENT PROPERTY LOCATED OUTSIDE BRITISH COLUMBIA

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Purchasing Development Property Located Outside British Columbia

British Columbia's superintendent of real estate announced that the recent weakness in some American real estate markets and a stronger Canadian dollar have increased the number of foreign development properties being marketed in British Columbia. The superintendent reminded British Columbian purchasers that the *Real Estate Development Marketing Act* (Act) continues to govern the marketing in British Columbia of development properties located anywhere in the world.

Under the Act, local and foreign developments must meet similar requirements in order to be marketable in British Columbia. The developer must file a disclosure statement with the superintendent of real estate before marketing begins. The disclosure statement must explain the offering and must be provided to a purchaser before he or she enters into a purchase agreement.

Foreign property regimes may be different from British Columbia's property regime and may not be familiar to purchasers here. Therefore, the required disclosure of development approvals, land title, and land-use restrictions is especially important for foreign developments. Additionally, all deposits received from British Columbian purchasers must be held in trust in British Columbia by a lawyer, notary public or real estate brokerage, unless deposit insurance or an exemption has been obtained here.

The *Real Estate Development Marketing Act* provides remedies for British Columbian purchasers. Notably, a purchase agreement is not enforceable against a purchaser by a developer who has breached the Act. Each purchaser also has a right to pursue a civil claim against a developer and its directors for any misrepresentation. Additionally, any failure to comply with the Act may result in a cease marketing order, administrative penalty or other regulatory action by the superintendent of real estate.

This document was originally published as a news release. For more information contact the superintendent of real estate at realestate@ficombc.ca.

Staff at the Financial Institutions Commission periodically issue information bulletins to provide technical interpretations and positions regarding certain provisions contained in the *Real Estate Development Marketing Act* and *Regulations*. While the comments in a particular part of an information bulletin may relate to provisions of the law in force at the time they were made, these comments are not a substitute for the law. The reader should consider the comments 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. Subject to the above, an interpretation or position contained in an information bulletin generally applies as of the date on which it was published, unless otherwise specified.