

Robert Laing



New Real Estate Legislation

The provincial government delivered on its promise. In the first major overhaul of real estate legislation in nearly half-a-century, the *Real Estate Services Act (RESA)* and *Real Estate Development Marketing Act (REDMA)* will replace the existing *Real Estate Act*.

The new laws received Royal Assent in May and may come into force January 1, 2005.

After two years of consultations with many stakeholders, the British Columbia Real Estate Association (BCREA) believes the government has struck the right balance to ensure fairness and protect consumers in the marketplace. Interest in land—whether owning, renting or mortgaging—is the basis of a strong economic system and deserves clear and fair rules.

“The real estate industry is enjoying a banner year,” acknowledged Minister of Finance Gary Collins. “These changes will help to ensure that this important industry remains a vibrant part of our economy in the years to come.”

BCREA is pleased that most of the real estate profession’s recommendations to the government are reflected in the legislation. Those detailed recommendations would not have been possible without the support of its member boards, the Legislative Task Force, industry colleagues, and The Real Estate Foundation of British Columbia.

“We were confident the voice of our profession would be prominent throughout the legislation,” explains BCREA President Gordon Maroney. “Therefore, we wanted

the legislation passed this Spring and not relegated to the sidelines.” RESA introduces several new features, one of the most significant being self-regulatory status for the Real Estate Council of British Columbia (Council). This will give the council jurisdiction over the regulation of licensees and flexibility to make and amend bylaws and rules in response to changes in the marketplace.

Other features include creation of a special compensation fund to protect consumers from losses due to theft or fraud, clarification that a licensee may act in an independent contractor relationship with his or her brokerage, and protection of licensee’s remuneration by requiring commissions to be kept in trust until paid out.

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“The government wants to address several issues in the regulations,” notes Maroney, acknowledging that some of this work has already begun. “BCREA is involved in this process and continues to consult with the government and the Council.”

Provisions to enable real estate professionals to be licensed as personal corporations will be addressed in the regulations, as will most licensing exemptions. BCREA expects to see an exemption for Notaries in the regulations.

“The bill was amended after second reading to bring the lawyers’ exemption back into the statute,” Maroney explains.

“It was a minor detail from our point of view, since the switch in no way changes the agreement we reached with the legal community that lawyers’ staff not be exempt from licensing, as they are under the current legislation.”

REDMA replaces Part 2 of the existing *Real Estate Act*. The government says the legislation will streamline developers’ marketing activities, provide greater opportunity for pre-sale of developments, and reduce the regulatory burden on developers by allowing disclosure statements to be filed in all circumstances. It also permits developers access to purchasers’ deposit monies, on the condition that monies are insured appropriately.

The legislation gives purchasers the right to rescind offers if they do not receive disclosure statements. A seven-day cooling off period, during which purchasers can rescind purchase contracts, has also been introduced.

BCREA agrees with the government that the new legislation will provide better protection for the public, while modernizing and streamlining real estate practices in the province. With this legislation, the government has demonstrated sound judgment. ▲

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