

GOVERNMENT RELATIONS

Complying with the Homeowner Protection Act



In BC, the Homeowner Protection Office (HPO) is a provincial government agency that helps protect home buyers by:

- overseeing compliance with the *Homeowner Protection Act* and the Homeowner Protection Regulation;
- licensing residential builders;
- administering owner-builder authorizations;
- providing new home warranty information; and
- offering resources such as a New Homes Registry database.

The Act, HPO and new homes

The *Homeowner Protection Act* requires all new homes built in BC to be built by a licensed residential builder (LRB) and covered by home warranty insurance or have an approved exemption. Before a new and never occupied home can be legally offered for sale, a developer (owner) must be a licensed residential builder.

Owner-builders may qualify for an exemption from the mandatory residential builder licensing and home warranty insurance by being granted an Owner-Builder Authorization (OBA) by the HPO. To be granted this exemption, the owner-builder must:

- be an individual and personally own the land and be the builder of the home (either directly or act as the general contractor);
- own and occupy the home for at least 12 months after receiving a final occupancy permit or is granted an exemption by the HPO, for example, due to death or divorce; or
- provide an Owner-Builder Disclosure Notice, obtained through the HPO, to all potential buyers. Note: for 10 years after the occupancy permit is issued, all subsequent owners must also provide the Owner-Builder Disclosure Notice to potential buyers before they enter into an Agreement of Purchase and Sale.

Check the New Homes Registry

Before listing a home, REALTORS® should perform due diligence by asking the builder or the owner:

- Is the home currently under construction? Is it being built by a licensed residential builder?
- Is the home new and has never been occupied? Was it built by a licensed residential builder or by an owner-builder?
- Does the home have warranty insurance?
- Is the home less than 10 years old?
- Is the home more than 10 years old?

REALTORS® should also search the HPO's New Home Registry database, available at: www.hpo.bc.ca/new-homes-registry.

Homes registered with the HPO on or after November 19, 2007 to the present

Search the New Homes Registry by address or legal description (PID) to get information including:

- the name of the builder and whether they are registered with

the HPO and with home warranty insurance;

- the builder's warranty number, warranty commencement date and warranty provider; and
- the builder's incorporation number; licence; status, for example whether the builder is in good standing; the person responsible for the company and contact information.

The registry also includes information about homes that were not built by a licensed builder as well as whether home warranty insurance has been cancelled or withdrawn.

Homes registered with the HPO between July 1, 1999 and November 19, 2007

This data is not in the registry. However, owner-builders who built their home before November 19, 2007 must provide prospective buyers with an Owner-Builder Declaration and Disclosure Notice within the first 10 years after occupancy. Contact the HPO at 1.800.407.7757 for advice and guidance.

Check the Public Registry of Residential Builders

This registry shows if an individual or company has a valid HPO licence and any other information about the licensee. The registry is available at: www.hpo.bc.ca/public-registry-residential-builders

When not to list a home

If the home was built by an HPO licensed residential builder or by an HPO authorized owner-builder and was previously occupied, there will be a home warranty insurance policy which stays with the property and an HPO-issued Owner-Builder Declaration and Disclosure Notice, which confirms exemption information. The home can be listed for sale.

However, a REALTOR® cannot take a listing on a home not yet built, under construction, complete, or even "as is" if any of these scenarios apply:

- the home is not in the New Homes Registry or there is no Owner-Builder Declaration and Disclosure Notice;
- it is before the end of the ownership/personal use period (of at least 12 months following the final occupancy permit being issued);
- the home has not been built by a licensed residential builder or by someone with an Owner-Builder Authorization as issued by the HPO; or
- the home does not have warranty insurance.

Instead, contact HPO's licensing department for advice and guidance at 1.800.407.7757.

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A REALTOR® representing a buyer must:

- confirm the home is built by a licensed residential builder and registered with home warranty insurance; and
- obtain and supply a copy of the insurance policy; and
- obtain and supply a copy of the HPO Owner-Builder Disclosure Notice for homes built on or after November 19, 2007; or
- obtain and supply a copy of the HPO Owner-Builder Declaration and Disclosure Notice for homes built before November 19, 2007 to the buyers.

Abiding by legislation

Whether a REALTOR® represents a buyer or a seller, the REALTOR® is required to ensure their client isn't violating provisions of the *Homeowner Protection Act* and its regulations and the property in question is in compliance with the Act and regulations.

Penalties

A REALTOR® and their broker who lists (or offers to buy) a home that is not in compliance with the Homeowner Protection Act may receive an information/demand letter from the HPO. Under the *Offence Act*, REALTORS® and/or their managing broker who are seen as being a party to an offence under the *Homeowner Protection Act* could be fined up to \$25,000 for each offence. The HPO can also go through the courts where penalties are as much as \$25,000 for an individual and up to \$100,000 for a corporation and/or one year in prison for each conviction.

Resources

The Real Estate Council of BC

The Real Estate Council has developed useful clauses available in the Professional Standards Manual, 2010 7th Edition at www.recbc.ca/lisensee/psm.htm#ch2. (Go to Section 7 - New Construction)

Useful clauses include:

- Receipt of Owner-Builder Disclosure Notice Clause;
- Mandatory Warranty Insurance Coverage Clause;
- Licensed Builder and Warranty Insurance Clauses; and
- Receipt of Home Warranty Insurance Documents Clause.

HPO

Homeowner Protection Act and Regulations: www.hpo.bc.ca/acts-regulations

New Homes Registry: www.hpo.bc.ca/new-homes-registry

Public Registry of Residential Builders: www.hpo.bc.ca/public-registry-residential-builders

HPO online portal for licensed residential builders: <https://lims.hpo.bc.ca/LIMSPortal/LRBPortal/>

Regulatory guides: www.hpo.bc.ca/regulatory-bulletins

Resources for homeowners: www.hpo.bc.ca/homeowners

Resources for home buyers: www.hpo.bc.ca/homebuyers

Videos: www.hpo.bc.ca/homeowners#maintenance

Webinar workshops: www.constructivehomesolutions.com/BC-BECWindows/story.html

TECH KNOW: Technology news and updates

Data Distribution Facility update

The Data Distribution Facility (DDF), the Canadian Real Estate Association's (CREA's) new program designed to allow REALTORS® to generate more exposure for their listings online, will be coming to members this fall.

The DDF will give you control of how and where your listings appear online through permission-based components that will be accessed through a dashboard menu. The three components will allow members in participating offices to syndicate listings onto their own websites, the websites of other REALTORS® across Canada, and even to authorized third-party websites.

The DDF will also brand the syndicated listing information with the REALTOR® and MLS® trademarks as signs of accurate, quality information.

The Board is currently reviewing all of the components of the DDF to ensure we will be able to support our members when the DDF is released. If you'd like to learn more about the DDF, visit the Technology Products section of CREA's homepage on www.realtorlink.ca.

Installing Active X controls for Windows 7 or Vista

Recent updates to MLXChange require the installation of new Active X controls for members who use Windows 7 or Windows Vista. The Board's Help Desk has recently created a walkthrough document to help guide members through the installation process.

You can access the walkthrough document in the Most Requested Documents window in the Technology Help Desk section of www.realtorlink.ca.

REBGV Stats Centre maintenance on September 15–16

The REBGV Stats Centre will be working intermittently on the weekend of September 15–16. This is a regularly scheduled maintenance period for 10K Research, the REBGV Stats Centre provider. We apologize for any inconvenience this may cause.

If you haven't already tried REBGV Stats Centre for yourself, we encourage you to explore this free and powerful tool that allows you to create and share statistical graphs and charts based on 10 different statistical measures.

We are what we repeatedly do. Excellence, therefore, is not an act but a habit.

- Aristotle