



Province of Alberta

NEW HOME BUYER PROTECTION ACT

NEW HOME BUYER PROTECTION (GENERAL) REGULATION

Alberta Regulation 211/2013

With amendments up to and including Alberta Regulation 206/2017

Office Consolidation

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(Consolidated up to 206/2017)

ALBERTA REGULATION 211/2013

New Home Buyer Protection Act

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(GENERAL) REGULATION**

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Definitions

1(1) In this Regulation,

- (a) repealed AR 97/2016 s2;
- (b) “building code” means the applicable Alberta Building Code as declared in force by a regulation under the *Safety Codes Act*;
- (b.1) “developer licence” means a licence under section 8.01;
- (b.2) “general contractor licence” means a licence under section 8.02;
- (b.3) “licence” means a developer licence or a general contractor licence;
- (b.4) “licensed developer” means a person who holds a valid and subsisting developer licence;
- (b.5) “licensed general contractor” means a person who holds a valid and subsisting general contractor licence;
- (b.6) “operator’s licence” has the same meaning as in section 1(1)(bb) of the *Traffic Safety Act*;
- (c) “private sewage disposal system” means a plant for the treatment and disposal of sewage, including a septic tank and absorption field, that is not connected to a municipal sewage disposal system and is installed during the construction of a new home;
- (d) “professional engineer” means a person who is permitted to practise engineering under the *Engineering and Geoscience Professions Act*;
- (e) “professional technologist” means a professional technologist as defined in section 86.4(m) of the *Engineering and Geoscience Professions Act*;
- (f) “qualified person” means a professional engineer, a professional technologist or a registered architect;
- (g) “registered architect” means a registered architect as defined in section 1(m) of the *Architects Act*;

(h) “statute” means the *New Home Buyer Protection Act*.

(1.1) In this Regulation, a reference to “the Act” includes the regulations made under the statute.

(1.2) For the purposes of this Regulation, a corporation is affiliated with another corporation if the corporations would be considered affiliated companies under the *Companies’ Creditors Arrangement Act* (Canada).

(2) For the purposes of section 1(1)(m) of the statute, the following are prescribed as delivery and distribution systems:

- (a) private sewage disposal systems that
 - (i) serve a single property,
 - (ii) are designed to receive not more than 25 m³ of sewage each day, and
 - (iii) are designed to dispose of sewage either on the property that the system serves or in a holding tank;
- (b) all components of a delivery and distribution system in a new home that are
 - (i) present on the date that coverage in respect of a new home commences under a home warranty insurance contract, and
 - (ii) installed during construction by the builder of the new home,

excluding any fixtures and appliances that are attached to a delivery and distribution system and that are subject to a manufacturer’s warranty.

(3) For the purposes of section 1(1)(n) of the statute,

- (a) “consequential losses or costs” means
 - (i) costs of repairing a new home resulting from defects in the new home, and
 - (ii) reasonable living expenses incurred by the owner of a new home while a new home is uninhabitable as a result of a defect or during the rectification of a defect;
- (b) “defect” means any design, construction or material used in the construction of a new home that is discovered after

the commencement of coverage under a home warranty insurance contract and

- (i) is contrary to the building code,
- (ii) requires repair or replacement due to the negligence of an owner builder or a residential builder or person for whom the owner builder or residential builder is by law responsible,
- (iii) constitutes an unreasonable health or safety risk, or
- (iv) has resulted in material damage to the new home.

(4) For the purposes of section 1(1)(s) of the statute, “portion of a building” includes retaining walls which have a structural function in supporting the building.

(5) Repealed AR 159/2014 s1.

(6) For the purposes of sections 1.1(1)(a) and 3(3)(a) of the statute and sections 4(2)(d) and (4) and 11(2)(i)(i) of this Regulation, “transfer of title” means a transfer of title in an arm’s length transaction.

(7) For the purposes of section 1(1)(z) of the statute, a building where after a change, alteration or repair to the building, at least 75% of the enclosed square footage of the building above the foundation at the completion of the change, alteration or repair is new, is prescribed to be a reconstruction.

(7.1) For the purposes of section 1(1)(dd) of the statute and for the purposes of this Regulation,

- (a) a reference to arranging for the construction or reconstruction of a new home means hiring another person to engage in or manage the construction or reconstruction,
- (b) a reference to managing the construction or reconstruction of a new home means controlling, supervising or leading the construction or reconstruction of a new home and includes oversight of the building site, procurement of materials and the hiring, direction, scheduling and payment of tradespersons and other labourers, and
- (c) “residential builder” does not include a qualified person whose involvement in the construction or reconstruction of a new home is limited to working within the scope of the qualified person’s profession.

(8) For greater certainty, a change, addition, alteration or repair to a building's surfaces, fixtures or decorations is not a reconstruction for the purposes of the Act.

(8.1) For the purposes of section 1.1(4) of the statute,

- (a) "plan of subdivision" means a plan of subdivision as defined in section 616(u) of the *Municipal Government Act*;
- (b) "subdivision" means subdivision as defined in section 616(ee) of the *Municipal Government Act*.

(8.2) For the purposes of sections 1.1(3) to (5) and 28(1)(f.1) of the statute and subsection (8.3) and sections 2 and 4(2)(d) and (4) of this Regulation, "multiple family dwelling originally built for rental purposes" means a multiple family dwelling that

- (a) was built pursuant to a permit issued in accordance with section 24(1)(a) or (c) of the statute, and
- (b) is not included in a condominium plan registered within 180 days after the beginning of the protection period for the multiple family dwelling.

(8.3) For the purposes of section 1.1(5) of the statute, the protection period for common property and common facilities in each building included in a condominium plan registered in respect of a multiple family dwelling originally built for rental purposes is deemed to be the 10-year period beginning on the earlier of

- (a) the date a unit in the building was first occupied as a rental unit, and
- (b) the date an accredited agency, accredited municipality or accredited regional services commission granted permission to occupy the unit as a rental unit.

(8.4) Subsection (8.3) applies where

- (a) the title to an inhabitable unit in the building is transferred from the owner of the building to a purchaser of a unit in an arm's length transaction, and
- (b) the owner provides the purchaser with a building assessment report prepared by a qualified person before the transfer of title described in clause (a).

(9) For the purposes of sections 3(6)(d) and 4(2)(d) of the statute, "structural defects" means

- (a) any defect in materials, labour and design that results in the failure of a load-bearing part of the new home, and
- (b) any defect that causes structural damage that materially and adversely affects the use of the new home for residential occupancy.

(9.1) For the purposes of section 4.1(3), 15 and 26 of the statute and for the purposes of this Regulation,

- (a) a reference to a director of a corporation means a person occupying the position of a director, by whatever name called, and includes a shareholder that
 - (i) owns 25% or more of issued shares in the corporation, or
 - (ii) pursuant to a unanimous shareholders agreement, manages or supervises, whether alone or with others, the business and affairs of the corporation,

and

- (b) a reference to an officer of a corporation
 - (i) in respect of a corporation applying for a developer licence, includes an employee of the corporation who arranges for the construction of a new home and anyone holding a supervisory position in respect of that employee, or
 - (ii) in respect of a corporation applying for a general contractor licence, includes an employee of the corporation who engages in or manages the construction of a new home and anyone holding a supervisory position in respect of that employee.

(10) Words and expressions used in sections 2 to 6 and not defined in section 1 of the statute or this section have the same meanings as may be assigned to them in or under the *Condominium Property Act*.

AR 211/2013 s1;159/2014;31/2015;97/2016;206/2017

Statutory protection for conversions of multiple family dwellings

2 Despite section 4(2.1) of the statute, in section 4(2) of the statute, with respect to the common property or common facilities in a building or a phase of development included in a condominium plan registered in respect of a multiple family dwelling originally built for rental purposes, “the date the protection period begins”

means the date that is 180 days after the earlier of the dates set out in section 1.1(3) of the statute.

AR 211/2013 s2;159/2014

Common property and common facilities

3(1) If a new home is included in a condominium plan, a home warranty insurance contract must provide coverage for any common property and any common facilities located in the building in which the new home is located.

(2) A home warranty insurance contract referred to in subsection (1) must name the condominium corporation as the insured.

Preparation of building assessment reports

4(1) A residential builder must arrange for a qualified person to prepare a building assessment report for the common property and common facilities of a condominium building.

(2) A building assessment report must contain the following:

- (a) the identification, location and description of
 - (i) each delivery and distribution system in the building,
 - (ii) any mechanical system in the building,
 - (iii) the building envelope,
 - (iv) the surface water drainage system around the building, and
 - (v) the load-bearing parts in the building as the building was built;
- (b) a notation of any differences in any of the items in clause (a) from the original design plans;
- (c) the identification of any defects or deficiencies in or damage to the building resulting from any defect or deficiency in each delivery and distribution system, the building envelope and any mechanical systems, and of the load-bearing parts in the building;
- (d) a report on an inspection of the common property, if any, and common facilities, if any,
 - (i) in the case of a building other than a building included in a condominium plan registered in respect of a multiple family dwelling originally built for

rental purposes, after the first transfer of title to a unit in the building, and

- (ii) in the case of a building included in a condominium plan registered in respect of a multiple family dwelling originally built for rental purposes, not earlier than 180 days before the sale or offering for sale of a unit in the building;
 - (e) a report of a survey of any occupants of the building or phase of development at the time of the inspection referred to in clause (d) of the building of any observed defects or deficiencies in or damage to the building resulting from any defect or deficiency in
 - (i) any delivery and distribution system,
 - (ii) the building envelope, or
 - (iii) the load-bearing parts in the building.
- (3)** For greater certainty, subsection (2)(a) requires descriptions of every existing
- (a) delivery and distribution system and mechanical system that serve two or more units,
 - (b) roofing and sub-roof installation, including water and vapour control systems, insulation and venting for attic space and soffits, and
 - (c) water control system, including
 - (i) eavestroughing,
 - (ii) cladding components,
 - (iii) balcony membranes and sealants,
 - (iv) grade and landscaping drainage courses,
 - (v) weeping tile,
 - (vi) foundation membranes and sealants, and
 - (vii) parkade membranes and sealants.
- (4)** A building assessment report must be prepared
- (a) in the case of a building other than a building included in a condominium plan registered in respect of a multiple family dwelling originally built for rental purposes, within

180 days of the first transfer of title to a unit in the building, and

- (b) in the case of a building included in a condominium plan registered in respect of a multiple family dwelling originally built for rental purposes, not earlier than 180 days before the sale or offering for sale of a unit in the building.

(5) The Registrar may, on application by a residential builder, exempt the residential builder from the requirements of subsection (1).

(6) Subsection (5) applies where there is no delivery and distribution system or mechanical system that serves two or more units in or for a condominium building.

(7) The Registrar may impose terms and conditions on any exemption granted under subsection (5), including

- (a) that a specific individual other than a qualified person prepare the building assessment report, and
- (b) that the Registrar may require an applicant under subsection (5) provide the Registrar with any information required to evaluate the application, including
 - (i) whether the building satisfies subsection (6), and
 - (ii) respecting the competency of the individual who is proposed to prepare the building assessment report.

(8) A decision of the Registrar under subsection (5) or (7) is final and may not be appealed to the Board.

AR 211/2013 s4;159/2014

Multiple buildings and phases

5(1) If a condominium is developed in phases, a separate building assessment report must be prepared for each building in each phase of development as set out in the phased development disclosure statement.

(2) For greater certainty, if a building or land that is subject to a condominium plan or a proposed condominium plan is developed in phases, the protection period for the common property and common facilities of the condominium corporation applies only to the common property and common facilities that are completed in a phase as set out in the phased development disclosure statement.

AR 211/2013 s5;159/2014

Distribution of building assessment reports

6(1) When a building assessment report is prepared, the person who prepared the building assessment report shall submit the building assessment report to the condominium corporation and to the warranty provider who issued the home warranty insurance contract in respect of the condominium.

(2) Within one week of receiving the building assessment report, the condominium corporation must serve any owner, purchaser or mortgagee of a unit in the condominium building or in the phase of development of the condominium with notice that the building assessment report has been prepared.

(3) On request of the owner, purchaser or mortgagee, the condominium corporation must give the owner, purchaser or mortgagee a copy of the building assessment report within 10 days of the request.

Additional coverage

7 For the purposes of section 3(7)(a) of the statute, a warranty provider must offer an option to purchase at least 2 years of additional coverage for defects in the building envelope.

Restriction of liability

8 For the purposes of section 4(2) of the statute, a residential builder or an owner builder of a new home is not deemed to have agreed that the new home is free from any defect that may be excluded from coverage under the *Insurance Act* by a warranty provider from a home warranty insurance contract.

Licences**Developer licence**

8.01(1) Subject to the terms and conditions of the licence, a developer licence authorizes the holder to

- (a) arrange for the construction or reconstruction of a new home on land owned by the licence holder or by an individual on whose behalf the new home is to be constructed or reconstructed,
- (b) engage in, arrange for or manage the construction or reconstruction of a new home in circumstances in which the building code requires the involvement of a qualified person, or

- (c) employ persons to engage in or manage construction or reconstruction referred to in clause (b).

(2) Subject to the Act and the terms and conditions of the licence, a licensed developer may sell or agree to sell new homes directly or indirectly to any person.

AR 206/2017 s3

General contractor licence

8.02(1) Subject to the terms and conditions of the licence, a general contractor licence authorizes the holder to

- (a) engage in or manage the construction or reconstruction of a new home in circumstances in which the building code does not require the involvement of a qualified person,
- (b) engage in construction or reconstruction where hired to do so by a licensed developer in circumstances in which the building code requires the involvement of a qualified person, or
- (c) employ persons to do anything described in clause (a) or to engage in construction or reconstruction that the licence holder is hired by a licensed developer to do under clause (b).

(2) Subject to the Act and the terms and conditions of the licence, a general contractor may sell or agree to sell new homes directly or indirectly to any person.

AR 206/2017 s3

Prescribed qualifications and conditions

8.03 For the purposes of section 4.1(1)(a) of the Act, the following are prescribed qualifications and conditions for a licence:

- (a) that the licence holder is at least 18 years of age;
- (b) that the licence holder is legally authorized to work in Canada;
- (c) where the licence holder is a corporation, that the corporation is registered in Alberta.

AR 206/2017 s3

Ineligibility for licence — conviction for offence under other Act

8.04 The following offences under other Acts are prescribed for the purposes of section 4.5(1)(c) of the statute:

- (a) an offence under any provision of the *Condominium Property Act*;
- (b) an offence under any provision of the *Fair Trading Act*;
- (c) an offence under any provision of the *Occupational Health and Safety Act*;
- (d) an offence under any provision of the *Safety Codes Act*;
- (e) an offence under any provision of the *Workers' Compensation Act*;
- (f) an offence involving fraud, deceit or breach of trust under any provision of an enactment of Canada or Alberta or another province;
- (g) an offence under any provision of a similar enactment of another province or country.

AR 206/2017 s3

Ineligibility for licence — non-compliance with order or direction under other Act

8.05 The following orders and directions under other Acts are prescribed for the purposes of section 4.5(1)(f) of the statute:

- (a) an order or direction under any provision of the *Condominium Property Act*;
- (b) an order or direction under any provision of the *Fair Trading Act*;
- (c) an order or direction under any provision of the *Occupational Health and Safety Act*;
- (d) an order or direction under any provision of the *Safety Codes Act*;
- (e) an order or direction under any provision of the *Workers' Compensation Act*;
- (f) an order or direction under any provision of a similar enactment of another province or country.

AR 206/2017 s3

Ineligibility for licence — unpaid administrative penalty under other Act

8.06 The following Acts are prescribed Acts for the purposes of section 4.5(1)(g) of the statute:

- (a) the *Condominium Property Act*;
- (b) the *Fair Trading Act*;
- (c) the *Occupational Health and Safety Act*;
- (d) the *Safety Codes Act*;
- (e) the *Workers' Compensation Act*;
- (f) any similar enactment of another province or country.

AR 206/2017 s3

Application for licence or renewal**8.07(1)** An application for a licence or the renewal of a licence

- (a) must include all the information referred to in section 11(1),
- (b) where the applicant is an individual, must include a true copy of the applicant's operator's licence or another form of identification that is issued by the government of Canada or a province, is satisfactory to the Registrar and shows the applicant's date of birth,
- (c) where the applicant is a corporation, must include
 - (i) proof of corporate registration in Alberta,
 - (ii) a list of all affiliated corporations,
 - (iii) the information referred to in section 11(1)(a) to (f) for every director and officer of the corporation,
 - (iv) identification for every director and officer of the corporation in a form that is satisfactory to the Registrar, is issued by the government of Canada or a province and shows the director's or officer's date of birth,
 - (v) a list of all shareholders that hold 25% or more of issued shares in the corporation,
- (d) must be made in the form and manner required by the Registrar, and
- (e) must be accompanied by the licence fee required under the *New Home Buyer Protection (Ministerial) Regulation* (AR 220/2013).

- (2) The Registrar may require an applicant to provide any further information that the Registrar considers necessary for any of the following purposes:
- (a) determining whether to grant a licence or the renewal of a licence;
 - (b) determining what terms and conditions to impose under section 4.3 of the Act;
 - (c) auditing compliance with the Act and the terms and conditions of the licence;
 - (d) enforcing the Act.
- (3) A licence holder must ensure all information provided under this section is accurate and must inform the Registrar as soon as is reasonably possible of any change in that information.
- (4) An application to renew a licence must be made at least 14 days before the day the licence expires.
- (5) The Registrar may require applications for licences and licence renewals to be submitted online.

AR 206/2017 s3

Suspension

- 8.08(1)** Where a licence is suspended, the Registrar may, on any terms and conditions the Registrar considers appropriate, authorize the licence holder to continue to engage in, arrange for or manage the construction or reconstruction of any new home that the licence holder agreed to build and for which the licence holder obtained a permit under the *Safety Codes Act* before the licence was suspended.
- (2) An authorization under subsection (1) ceases to apply if the licence expires or the Registrar cancels the licence.

AR 206/2017 s3

Advertising

- 8.09** A residential builder that holds a licence may advertise that fact, but must specify in the advertisement whether the residential builder holds a developer licence, a general contractor licence or both.

AR 206/2017 s3

Owner Builder Authorizations

Criteria to be met

8.1 For the purposes of section 5(b) of the statute, the prescribed criteria that an individual must meet to obtain an authorization are as follows:

- (a) that the individual must intend to personally reside in the new home as the applicant's primary residence for at least 10 years;
- (b) that the individual must be registered under the *Land Titles Act*
 - (i) as the sole owner,
 - (ii) as a joint tenant, or
 - (iii) as a tenant in common with at least a one half interest of an estate in fee simple in the land upon which the new home is to be constructed;
- (c) in the case of a joint tenant referred to in clause (b)(ii) or a tenant in common referred to in clause (b)(iii), that all other registered owners must all be individuals;
- (d) that the individual must intend to personally engage in, arrange for or manage all or substantially all of the construction of the new home;
- (e) that the individual has not made a false or misleading statement in a previous application for an authorization;
- (f) that the individual has not contravened the Act;
- (g) that the individual has not been issued an authorization for at least 3 years since the date of the individual's first occupancy of a new home for which the individual was issued the most recent previous authorization;
- (h) that the individual has not been ordinarily resident in a new home for which another individual was issued an authorization in the previous 3 years.

AR 206/2017 s3

Owner builder authorizations

8.2(1) An applicant for an authorization must provide information, including but not limited to the following, in a form and manner acceptable to the Registrar:

- (a) the civic address and legal description of the land where the new home will be built;
- (b) the applicant's address for service;
- (c) a description of the applicant's registered interest in the land on which the new home will be built;
- (d) a true copy of the applicant's operator's licence or another form of identification that is issued by the government of Canada or a province, is satisfactory to the Registrar and shows the applicant's date of birth;
- (e) the names and birthdates of the adults who intend to be normally resident in the new home;
- (f) a list of the names, trades and contact information for all the subcontractors that the applicant intends to be involved in building the new home.

(2) The applicant must also provide a statutory declaration in a form and manner acceptable to the Registrar and signed by the applicant acknowledging or confirming that

- (a) the applicant meets the criteria listed in section 8.1,
- (b) the applicant intends to personally engage in, arrange for or manage all of the new construction of the new home,
- (c) the applicant intends to personally occupy the new home as the applicant's primary residence for at least 10 years,
- (d) the applicant understands the conditions under the Act applicable to authorizations and, in particular, the applicant's potential obligations under section 4 of the statute,
- (e) the applicant is required to and will update the registry under the Act to include information required under subsection (4),
- (f) the applicant is required to obtain warranty coverage on the new home, or obtain an exemption from the Registrar from that requirement, if the applicant wishes to sell or offer to sell the new home before the end of the protection period, and
- (g) warranty providers have the discretion respecting owner built homes
 - (i) not to provide coverage under a home warranty insurance contract,

- (ii) to determine the cost of coverage under a home warranty insurance contract based on a risk assessment performed by a warranty provider, and
- (iii) to request detailed information about the new home and the construction process from the owner builder.

(3) Despite subsection (2)(a), if the applicant does not meet the criteria listed in section 8.1, the applicant must provide, with the statement under subsection (2), a written explanation as to why the application should still be considered.

(4) An applicant for an authorization must undertake to provide information, including but not limited to the following, in a form and manner acceptable to the Registrar at the time the information becomes available:

- (a) the names of and contact information for all the subcontractors who were involved in building the new home, if different from those who were listed on the statement provided under subsection (1)(f);
- (b) the date when the applicant first occupies the new home.

(5) Where section 8.1(b)(ii) or (iii) applies, all registered owners of an interest in an estate in fee simple in the land upon which the new home is to be constructed must apply for the authorization.

(6) The Registrar may require any document that an applicant provides under this section be witnessed by a person who sees the applicant for authorization actually sign the document, who then must swear an affidavit of execution and give it to the Registrar.

AR 206/2017 s3

Additional powers and duties of Registrar

9(1) In addition to the powers and duties set out in the statute and this Regulation, the Registrar

- (a) shall keep records, including decisions and orders made by the Registrar, compliance officers and the Board,
- (b) may issue guidelines and interpretation bulletins respecting the interpretation or application of the Act,
- (c) may collect information, including personal information, about residential builders and the directors and officers of residential builders that are corporations, and
- (d) may require, either generally or in specific cases, any information provided to the Registrar to be provided in the

form of a declaration that is sworn or affirmed before a commissioner for oaths or a notary public.

(2) The Registrar may delegate the power to impose administrative penalties under section 8.1 of the statute only to a person to whom the Registrar has delegated the Registrar's powers and duties as an acting Registrar.

AR 211/2013 s9;159/2014;97/2016;206/2017

Registry

10(1) In addition to the information identified in section 9 of the statute, the registry may contain

- (a) any information received by the Registrar in the application process,
- (b) the application status in respect of a new home, and
- (c) the cessation of coverage for any reason of a new home under a home warranty insurance contract.

(2) The online registry referred to in section 9(2) of the statute may contain information respecting a new home, including

- (a) contact information for the builder of the new home, including the name of the primary contact where the builder is not an individual, and the address of the builder,
- (b) whether the new home was built by an owner builder,
- (c) the location of the new home,
- (d) whether there is coverage under a home warranty insurance contract in respect of the new home,
- (e) the name and contact information for the warranty provider, if any, in respect of the new home,
- (f) whether there is additional coverage for defects in the building envelope under a home warranty insurance contract in respect of the new home, and
- (g) the commencement date of coverage under a home warranty insurance contract, if any, for the new home,
- (h) repealed AR 206/2017 s5.

(3) The online registry referred to in section 9(2) of the statute may also contain information respecting

- (a) details of any administrative penalties imposed under the Act,
- (b) compliance orders issued under the Act,
- (c) offences committed under the Act,
- (d) decisions and orders issued by the Registrar or the Board under the Act,
- (e) other notices issued under the Act, and
- (f) the number of new homes, if any, for which a specified person was the residential builder and for which the warranty provider cancelled the home warranty insurance contract before the commencement of the protection period.

(4) The Registrar may establish terms of use that users must agree to in order to make an application online or to access the registry online.

AR 211/2013 s10;97/2016;206/2017

Information regarding residential builders and warranty providers

11(1) A residential builder must provide the following information to the Registrar concerning the residential builder:

- (a) company or business name;
- (b) business telephone number;
- (c) business facsimile number;
- (d) business address;
- (e) mailing address, if different from the business address;
- (f) the name, telephone numbers and e-mail address of a primary contact;
- (g) the name, telephone number and e-mail address of any registered directors and officers.

(2) A licensed developer, or where there is no licensed developer in respect of a new home or a proposed new home, a licensed general contractor, must provide the following information to the Registrar in respect of the new home or proposed new home:

- (a) the location of the new home;

- (b) whether the new home is a single detached residence, duplex or part of a multiple family dwelling;
 - (c) whether the new home is a reconstruction;
 - (c.1) the name and contact information for the licensed general contractor and the names and contact information for all qualified persons, if any, in respect of the new home;
 - (d) whether there is coverage under a home warranty insurance contract in respect of the new home or whether it was built pursuant to an exemption under the Act;
 - (d.1) if coverage under a home warranty insurance contract was cancelled in respect of the new home, the reasons for the cancellation,
 - (e) the name and contact information for the warranty provider, if any, in respect of the new home;
 - (f) whether there is additional coverage for defects in the building envelope under a home warranty insurance contract, if any, in respect of the new home;
 - (g) the commencement date of coverage under a home warranty insurance contract, if any, for the new home;
 - (h) the date the new home is first occupied;
 - (i) for condominium buildings,
 - (i) the date of the first transfer of title to a unit in each building in each phase of development,
 - (ii) the date on which the residential builder agreed with a qualified person to have the qualified person prepare a building assessment report, and
 - (iii) the date when the building assessment report was prepared.
- (3)** A warranty provider must provide the following information to the Registrar:
- (a) the policy number for a new home or proposed new home;
 - (b) if the coverage for a new home or proposed new home has ceased for any reason;
 - (c) if there is additional coverage for defects in the building envelope;

(d) information concerning a residential builder.

(4) A warranty provider who provides information to the Registrar on behalf of a residential builder must provide all information required under subsections (1) and (2).

(5) A warranty provider must, on request by the Registrar, provide statistical information to the Registrar regarding claims.

(6) Repealed AR 206/2017 s6.

AR 211/2013 s11;159/2014;97/2016;206/2017

Collection, use and disclosure of personal information

12(1) The Registrar shall maintain records with respect to

- (a) the data included in the registry, and
- (b) offences committed, compliance orders issued, administrative penalties imposed and amounts collected or owing under the Act.

(2) The Registrar may, for the purposes of assisting peace officers and the public, provide to peace officers and the public

- (a) information about warranty providers,
- (b) information about residential builders and directors, officers and agents of residential builders that are corporations, and any person who is refused a licence or the renewal of a licence or whose licence is suspended or cancelled, regarding
 - (i) contraventions of or offences committed under
 - (A) the Act,
 - (B) an Act prescribed under section 8.04or a similar enactment of another province or country,
 - (ii) assignments and proceedings under the *Bankruptcy and Insolvency Act* (Canada),
 - (iii) any compromise or arrangement proposed or proceedings commenced under the *Companies' Creditors Arrangement Act* (Canada),
 - (iv) relevant licences, permits or authorizations issued under an enactment of another province or country,

- (v) court orders requiring the payment of money,
- (vi) compliance orders issued, administrative penalties imposed and penalties assessed under the Act or any other enactment referred to in subclause (i),
- (vii) sworn declarations the person provided to the Registrar,
- (viii) in the case of a refusal to issue or renew a licence or a suspension or cancellation of a licence, the reasons for the refusal, suspension or cancellation,

and

- (c) any other information, including information about new homes built by owner builders, that the Registrar considers to be in the public interest to disclose,

and may publish any information referred to in clause (a), (b) or (c) in the registry.

AR 211/2013 s12;97/2016;206/2017

Compliance officers

13(1) In addition to the powers and duties set out in the statute, a compliance officer

- (a) may only enter a place occupied as a private dwelling place with the consent of the occupant,
- (b) may be accompanied by any person or with any thing that the compliance officer considers would be of assistance, and
- (c) shall obtain the consent of the owner of a new home or of a private dwelling place or a warrant before entering any business premises attached to or forming part of a new home or of a private dwelling place.

(2) Where under section 11(1)(b) or (b.1) of the statute a compliance officer requires a person to produce proof of a licence, authorization or exemption, the compliance officer may also require production of government-issued identification as proof of the person's identity.

AR 211/2013 s13;206/2017;206/2017

Administrative penalties

14(1) The Registrar may impose an administrative penalty of between \$250 and \$10 000 for

- (a) a single contravention of or failure to comply with any of the following provisions of the statute:
 - (i) section 2.1(1);
 - (ii) section 2.1(2);
 - (iii) section 3(1);
 - (iv) section 3(2);
 - (v) section 3.1(8);
 - (vi) section 4.7;
 - (vii) section 11(2);
 - (viii) section 24(1);
 - (ix) section 24(2),
 - (a.1) a single contravention of or failure to comply with any of the following provisions of this Regulation:
 - (i) section 6(1);
 - (ii) section 6(2);
 - (iii) section 6(3);
 - (iv) section 8.09;
 - (a.2) a contravention of or a failure to comply with a term or condition of or a restriction on a licence;
 - (b) failure to comply with a compliance order, or
 - (c) failure to comply with an exemption or a term or condition of an authorization or an exemption.
- (2)** The Registrar may impose a maximum penalty of \$1000 per day for continuing or repeated contraventions of or failures to comply with a provision referred to in subsection (1)(a) or (a.1).
- (3)** In imposing an administrative penalty, the Registrar may consider the following factors:
- (a) previous enforcement actions under the Act for contraventions of a similar nature by the person or its directors or officers;
 - (b) the severity and extent of the contravention;

- (c) the extent of the harm caused by the contravention or the degree of risk of harm;
- (d) the degree of wilfulness or negligence in the contravention;
- (e) whether the contravention was repeated or continuing and, if so, the length of time during which it continued or the number of times it was repeated;
- (f) any economic benefit derived by the person, or a person who is not at arm's length from the person, from the contravention;
- (g) whether there was any attempt by the person to remedy the contravention;
- (h) whether or not the person or the person's directors or officers who receives the notice of administrative penalty has a history of non-compliance;
- (i) any other factors that, in the opinion of the Registrar, are relevant.

(4) In addition to the information set out in section 15(5) of the statute, a notice of administrative penalty must contain information on how to appeal the administrative penalty, including that the appeal must be filed within one month in writing.

AR 211/2013 s14;159/2014;206/2017

Transitional

14.1 Section 2 as it read immediately before the coming into force of this section applies to new homes constructed under a building permit applied for before the coming into force of this section.

AR 159/2014 s1

Temporary exemption from licence requirements

14.2(1) In this section, "eligible person" means a person that registered more than one new home in the registry after November 1, 2015 but before December 1, 2017, other than as an owner builder.

(2) The Registrar may, if the Registrar considers it appropriate to do so, and on any terms and conditions the Registrar considers appropriate, grant an exemption, in writing, from the requirement for a licence under section 8.01 or 8.02 or both to

- (a) an eligible person, or

(b) a corporation affiliated with an eligible person that is a corporation.

(3) An exemption under subsection (2) expires on May 1, 2018 or on the issuance of a licence to the residential builder, whichever occurs first.

AR 206/2017 s10

15 Repealed AR 206/2017 s12.

Coming into force

16 This Regulation comes into force on the coming into force of section 28(1) of the *New Home Buyer Protection Act*.



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