BRITISH COLUMBIA

Property Law Act

HOME BUYER RESCISSION PERIOD REGULATION

B.C. Reg. 175/2022

Deposited July 21, 2022 and effective January 3, 2023
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Consolidated Regulations of British Columbia

This is an unofficial consolidation.

B.C. Reg. 175/2022 (O.C. 436/2022), deposited July 21, 2022 and effective January 3, 2023, is made under the *Property Law Act*, R.S.B.C. 1996, c. 377, s. 43.

This is an unofficial consolidation provided for convenience only. This is not a copy prepared for the purposes of the *Evidence Act*.

This consolidation includes any amendments deposited and in force as of the currency date at the bottom of each page. See the end of this regulation for any amendments deposited but not in force as of the currency date. Any amendments deposited after the currency date are listed in the B.C. Regulations Bulletins. All amendments to this regulation are listed in the *Index of B.C. Regulations*. Regulations Bulletins and the Index are available online at www.bclaws.ca.

See the User Guide for more information about the *Consolidated Regulations of British Columbia*. The User Guide and the *Consolidated Regulations of British Columbia* are available online at www.bclaws.ca.

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Definitions for regulation

1 In this regulation:

"Act" means the *Property Law Act*;

"brokerage trust account" has the same meaning as in the *Real Estate Services Act*;

"business day" means a day other than a Saturday or a holiday;

"parcel identifier" means a permanent parcel identifier assigned under section 58 of the *Land Title Act*.

Definitions for Act

2 In section 42 of the Act:

"days" means business days;

"residential real property" means any of the following:

(a) a detached house;

(b) a semi-detached house;

(c) a townhouse;

(d) an apartment in a duplex or other multi-unit dwelling;

(e) a residential strata lot, as defined in section 1 (1) of the *Strata Property Act*;

(f) a manufactured home that is affixed to land;

(g) a cooperative interest, as defined in section 1 of the *Real Estate Development Marketing Act*, that includes a right of use or occupation of a dwelling.

Exemptions

3 The following are exempt from the application of section 42 (1) of the Act:

(a) residential real property that is located on leased land;

(b) a leasehold interest in residential real property;

(c) residential real property that is sold at auction;

(d) residential real property that is sold under a court order or the supervision of a court.

Length of rescission period

4 For the purposes of section 42 (1) of the Act, the prescribed number of days is 3 business days.

Service of notice of rescission

5 (1) This section applies for the purposes of section 42 (1) of the Act.

(2) A notice of rescission may be served on a business day or any other day.

(3) A notice of rescission must contain the following:

(a) the address, the parcel identifier or a description of the residential real property in respect of which the contract of purchase and sale is being rescinded;

(b) the name, and the signature or electronic signature, of the purchaser who is exercising the right of rescission;

(c) the name of each seller who is a party to the contract;

(d) the date that the right of rescission is being exercised.

(4) A notice of rescission is deemed to have been served on a seller if

(a) the notice is sent by registered mail to the seller's address that is set out in the contract of purchase and sale,

(b) the notice is transmitted by fax to the seller's fax number that is set out in the contract, or

(c) the notice is transmitted by email, with a requested read receipt, to the seller's email address that is set out in the contract.

(5) If a notice of rescission is sent or transmitted in accordance with subsection (4), the notice is deemed to have been served when it is sent or transmitted, as the case may be.

Amount payable on rescission

6 (1) If a purchaser rescinds a contract of purchase and sale under section 42 (1) of the Act, the purchaser must promptly pay to the seller an amount that is equal to 0.25% of the purchase price for the residential real property that is set out in the contract.

(2) If a deposit was received under the rescinded contract of purchase and sale by or on behalf of the seller,

(a) the amount payable under subsection (1) must be paid to the seller from the deposit, and

(b) after the seller is paid under paragraph (a), the remainder of the deposit must be paid promptly to the purchaser.

(3) Money in a brokerage trust account may be withdrawn if it is money paid

(a) to the seller under subsection (2) (a), or

(b) to the purchaser under subsection (2) (b).

Right of rescission not waivable

7 The right of rescission under section 42 (1) of the Act cannot be waived.

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