

JULY 2024

# Summary of Consultation Feedback

Pre-sale Summary Form

**BCFSA** 

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# 1. Introduction

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On April 17, 2024, BC Financial Services Authority (“BCFSA”) undertook a 30-day public consultation on proposed amendments to the Superintendent of Real Estate’s (“the Superintendent”) Policy Statement 14, as well as a new Summary of Pre-sale Risks and Buyer Rights form (“summary form”).

The proposed summary form is intended to:

- Highlight critical provisions of the disclosure statement under the *Real Estate Development Marketing Act* and purchase agreement for purchasers;
- Direct purchasers to relevant sections of the disclosure statement for further review; and
- Enhance consumer understanding of the disclosure statement, while also encouraging purchasers to seek professional advice and to thoroughly read the disclosure statement in its entirety.

Given that a pre-sale purchase may be one of the most significant financial decisions a consumer will make in their lifetime, it is essential to ensure they are well-informed prior to entering into a purchase agreement. The proposed amendments to Policy Statement 14 and new summary form aim to enhance transparency and consumer protection in pre-sale transactions. If implemented, the changes would bring forth essential information from the developer’s disclosure statement and help to ensure that consumers are better equipped to make informed decisions about their real estate purchases.

This report provides a summary of the feedback received during the public consultation and outlines next steps.

For further information on the proposed amendments see the [Consultation on Pre-sale Consumer Disclosure Form](#) page on BCFSA’s website.

## 2. Consultation Process Overview

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The consultation was open for public comment from April 17 to May 17, 2024. The primary source of feedback came from BCFSA's online feedback form, although email submissions were also accepted and considered. Participants were invited to share their opinions on the draft amendments to Policy Statement 14, the summary form, as well as the proposed timing of implementation.

To support informed participation and raise awareness of the public consultation, BCFSA shared information and resources with stakeholders in advance and throughout the consultation period. Some of the engagement activities BCFSA undertook included:

- Notifying licensees of the opening of the consultation period via an email Advisory;
- Publishing a news release inviting the public and licensees to participate in the consultation;
- Inviting feedback from industry associations such as the BC Notaries Association, BC Real Estate Association, Condominium Home Owners Association, Society of Notaries Public of British Columbia, Urban Development Institute, Urban Land Institute, and Vancouver Island Strata Owners Association;
- Publishing a consultation webpage with a variety of resources explaining the proposed amendments and their anticipated effects, including: Policy Statement 14 Redline version, Frequently Asked Questions, Summary of Pre-sale Risks and Buyer Rights form, and Consultation Feedback Form;
- Sending regular participation reminders to licensees and the development community via email, newsletter articles, and social media; and
- Hosting an information session for the real estate development community and managing brokers to provide additional information about the proposed summary form requirement.

Prior to the public consultation, BCFSA established a Technical Working Group ("TWG") of key stakeholders to discuss the proposed summary form. The TWG was comprised of members from the following organizations: BC Notaries Association, BC Real Estate Association, Condominium Home Owners Association, Land Title Survey Authority, the Society of Notaries Public of British Columbia, Urban Development Institute, Urban Land Institute, Vancouver Island Strata Owners Association, and Jennifer M. Williams, MLT Aikins LLP.

BCFSA met with the TWG on two occasions to discuss the proposed summary form and its potential impact on developers and consumers. Several changes were implemented because of the TWG's feedback.

### 3. Summary of Feedback

A total of 129 individuals participated in the public consultation by responding to the feedback form.

The breakdown of participants is as follows:

- Two real estate developers;
- 13 lawyers or notaries;
- 110 real estate licensees;
- Two members of the public; and
- Two others.

Of the real estate licensees that participated, 24.8 per cent identified as managing brokers, 5.5 per cent as associate brokers, and 69.7 per cent as representatives.

BCFSA also received an additional four responses through email, including a letter from the BC Real Estate Association.

A total of 283 individuals attended BCFSA's information session on April 25, 2024.

Overall, there was a high level of support for the proposed summary form. The following table summarizes the key themes from the feedback received during the consultation.

#### STAKEHOLDER FEEDBACK TABLE

Theme	Summary of Issue/Comment	BCFSA Response
<b>Broad Support</b>	Most respondents indicated widespread support for the summary form.	The positive feedback suggests that the summary form will be a valuable tool in empowering consumers to make informed decisions about pre-sale purchases, by clearly outlining the associated risks and rights.
<b>Risk of Over-Reliance on the Summary Form</b>	A number of respondents believed that because the disclosure form provides such a brief and succinct summary of the key risks and consumer rights related to a pre-sale purchase, that consumers may be led to believe that the form is the only important document to read in the disclosure statement and that there is no need to read the entire disclosure statement.	While the summary form aims to highlight key provisions in the disclosure statement, BCFSA clearly states that the form is not a complete summary of a purchaser's rights and obligations under their purchase agreement and that purchasers should read the <b>entire</b> disclosure statement, as well as seek independent professional advice.

<p><b>Developer’s Employees should be Licensed</b></p>	<p>Many respondents stated their desire to see amendments to the Real Estate Services Regulation that would remove the exemption that allows an employee of a developer to provide trading services without a licence.</p>	<p>Amendments to the <i>Real Estate Services Act</i> and the Real Estate Services Regulation are out of scope of this project and are not within BCFSA’s authority to enact. Such changes require intervention from the Government of B.C., specifically, the Ministry of Finance. BCFSA will be sharing the full consultation summary results with the Ministry.</p>
<p><b>Addition to Summary Form Explaining Representation</b></p>	<p>Respondents noted that many unrepresented consumers are unaware that the developer’s employees working in the sales centre, or licensees in an agency relationship with the developer, do not represent their interests. A suggestion to include a statement in the summary form informing consumers of this fact and encouraging them to seek independent representation was identified.</p>	<p>The summary form's primary goal is to highlight key provisions and information within the disclosure statement. BCFSA may investigate potential enhancements to other consumer education materials to inform consumers about seeking independent representation, ensuring the summary form remains concise and focused on key information pertaining to the pre-sale development. Licensees are reminded that if they are representing a developer client, and a consumer enters the sales centre without being accompanied by a real estate licensee, they must provide them with a copy of the Disclosure of Representation in Trading Services form, as well as the Disclosure of Risks to Unrepresented Parties form.</p>
<p><b>More Education for Licensees</b></p>	<p>A number of respondents wanted BCFSA to provide more education to licensees about pre-sales. Some respondents believed additional education would alleviate the need for the summary form altogether, while others believed it would complement the form by allowing licensees to better explain the applicable risks in purchasing a pre-sale unit to consumers.</p>	<p>Moving forward, BCFSA will consider enhancing educational resources for licensees to better equip them in explaining the risks associated with purchasing a pre-sale unit. While BCFSA’s immediate focus remains on developing and implementing the summary form to provide concise, accessible information directly to consumers, improved education for licensees could complement these efforts and further support consumer understanding. In the short term, BCFSA will publish additional FAQs to support developers and licensees with the new disclosure requirements.</p>

<b>No Need for Summary Form</b>	Some respondents felt that the summary form was unnecessary as the information in the form could already be found in the disclosure statement, and that any attempt to highlight certain areas runs the risk of detracting from the disclosure statement.	Although the summary form includes information already present in the disclosure statement, its purpose is to enhance consumer comprehension by highlighting key provisions that may warrant additional consideration. Rather than act as a replacement for the disclosure statement, the summary form is intended to complement it and support better decision making by consumers. By providing a clear and accessible summary of key information, BCFSAs aims to ensure that certain risks are not overlooked and that consumers have a better grasp of their rights and obligations.
<b>Increased Regulatory Burden</b>	Some respondents expressed concerns that the summary form represents an increased regulatory burden for developers or their representatives. They argued that it adds to the existing compliance requirements under REDMA for developers, potentially complicating the disclosure statement filing process further.	BCFSAs summary form requires minimal developer input, using existing disclosure statement information to clearly outline consumer rights and risks. This concise format empowers buyers to make informed decisions, fostering transparency in pre-sale transactions. BCFSAs views these new requirements as proportionate and necessary for consumer protection.
<b>Speed of Implementation</b>	While some respondents advocated for a longer implementation timeline, most respondents indicated that the sooner BCFSAs brings the proposed summary form into effect, the better.	If the amended disclosure requirements are approved by the Superintendent of Real Estate, BCFSAs intends to bring the proposed summary form into effect sometime this fall.
<b>Summary Form Enhancements</b>	Many respondents brought forward various suggestions to enhance the summary form in some manner, ranging from minor changes to the wording of certain sections to larger and more extensive additions to the form.	BCFSAs has begun the process of working through the suggestions provided by respondents to enhance the summary form. BCFSAs will consider the comments received to determine whether and how best to address them. BCFSAs remains committed to creating a summary form that effectively highlights key information while maintaining clarity and brevity.

## 4. Consultation Outcomes and Next Steps

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BCFSA extends its gratitude to all participants in the consultation process. The feedback received was both extensive and diverse, demonstrating a high level of engagement from stakeholders. The majority of participants voiced their strong support for the implementation of the proposed summary form, aligning with the feedback received from the TWG.

BCFSA will review and consider all the responses it received during this consultation. Over the summer, BCFSA will work through the comments related to specific summary form improvements. This review may result in some adjustments to the summary form.

Once BCFSA finalizes the proposed summary form and Policy Statement 14 amendments, it will seek the Superintendent's approval to bring the amended disclosure requirements into effect. If approved, BCFSA expects the summary form and the applicable amendments to Policy Statement 14 to come into effect in the fall of 2024.

BCFSA will communicate the Superintendent's decision to the public, developers, licensees, and other interested parties through a news release and advisory.





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