

On October 28, the Financial Institutions Commission posted this consumer alert to its website

### **Purchaser's right to cancel contract of purchase and sale**

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Recent difficulties in global financial markets have led to delays in obtaining financing commitments and building permits for some development properties marketed in British Columbia under the *Real Estate Development Marketing Act*.

Developers who have not obtained a building permit or satisfactory financing to build a development are permitted to market a development under the Superintendent of Real Estate's Policy Statements 5 and 6 for a period of nine months on certain conditions.

Those conditions allow marketing if the estimated date for the issuance of a building permit and for obtaining a satisfactory financing commitment, as disclosed in the disclosure statement, is nine months or less from the date the developer filed the disclosure statement with the Superintendent.

At the end of that nine month period, if a building permit or satisfactory financing commitment has not been obtained and disclosed by the developer, the developer must immediately cease marketing the development until an amendment has been filed which discloses that the necessary building permit or financing commitment, as the case may be, has been obtained.

Additionally, if an amendment to the disclosure statement is not received within 12 months after the initial disclosure statement was filed, the Policy Statements require provisions in the purchase agreement to allow the purchaser, at his or her option, to cancel the purchase agreement at any time after the end of that 12 month period until the required amendment is received by the purchaser. The purchase agreement must also contain a provision that all deposits paid by a purchaser, including interest earned, if applicable, be returned promptly to the purchaser upon notice of cancellation from the purchaser.

Purchasers who wish to consider cancelling their contract should immediately contract their real estate broker or lawyer if they have any questions about the cancellation of their agreement or how to cancel the agreement.

For more information go to [www.fic.gov.bc.ca](http://www.fic.gov.bc.ca)