

Preparing for the Home Buyer Rescission Period

Regulatory and Practice Resources

A co-presentation by BCFSA and BCREA

Background

Home Buyer Rescission Period

PARAMETERS

Definition of “Residential Real Property”	Defined by the type of structure, including: <ul style="list-style-type: none"> • A detached home • A semi-detached house • A townhouse • An apartment in a duplex or other multi-unit dwelling • A residential strata lot • A manufactured home that is affixed to land • A cooperative interest that includes a right of use or occupation of a dwelling
Duration	3 business days beginning the day after offer acceptance
Waivers	Individual purchasers cannot waive their rights under the HBRP
Exemptions	Narrow exemptions: <ul style="list-style-type: none"> • Sales subject to s. 21 of the <i>Real Estate Development Marketing Act</i> • Sales of residential real property that is located on leased land • Sales of a leasehold interest in residential real estate • Sales at auction • Sales under a court order or supervision of a court
Rescission Fee	0.25% of the purchase price (e.g., \$2,500 on \$1,000,000)
Deposits	If the buyer has paid a deposit to a brokerage and then rescinds their offer, regardless of what was agreed to in the contract, the brokerage must pay the rescission fee to the seller and return the balance (if any) to the buyer. No written release is required in this instance.

Home Buyer Rescission Period

PARAMETERS

Requirement to Inform Consumers	Licensees must provide general information on the HBRP to <u>all</u> consumers through the Disclosure of Representation in Trading Services form (content prescribed by Superintendent)
Service of Notice	Homebuyer must serve rescission notice on the seller in one of the following ways: <ul style="list-style-type: none">• Registered mail• Fax• E-mail with read receipt Seller contact information will be added to the contract of purchase and sale to support notice.
Rescission Notice Content	Rescission notice must contain: <ul style="list-style-type: none">• Address, PID, or description of the property• Names and signature of the purchaser• Name of the seller(s)• Date of notice
Additional Disclosure	Licensees must also provide an additional mandatory disclosure at the time of preparing an offer on behalf of, or presenting an offer to a client, containing the following information: <ul style="list-style-type: none">• Rescission rights cannot be waived• The period in which the right of rescission can be exercised• Dollar amount of the rescission fee• The requirement to return the remainder of the deposit to the buyer after the rescission fee is paid to the seller from those funds• HBRP exemptions
Records Retention	Brokerages must retain a copy of a rescission notice that it prepares or receives (enables audit and reporting)

HBRP Regulatory Resources

Advisory



New Regulatory Requirements and Resources Related to the Home Buyer Rescission Period

DATE: October 27, 2022

DISTRIBUTION: Real Estate Licensees

BCFSA Advisory

- Formally notify trading services licensees about new regulatory requirements
- Links to the website resources to support implementation

HBRP Materials – Website and Email Statistics

HBRP EMAIL STATISTICS

Total Sends	Opened By	Open Rate
28,140	20,548	72%

**Send date October 27, 2022*

WEBSITE STATISTICS (FOR PERIOD OF OCTOBER 27 – NOVEMBER 17)

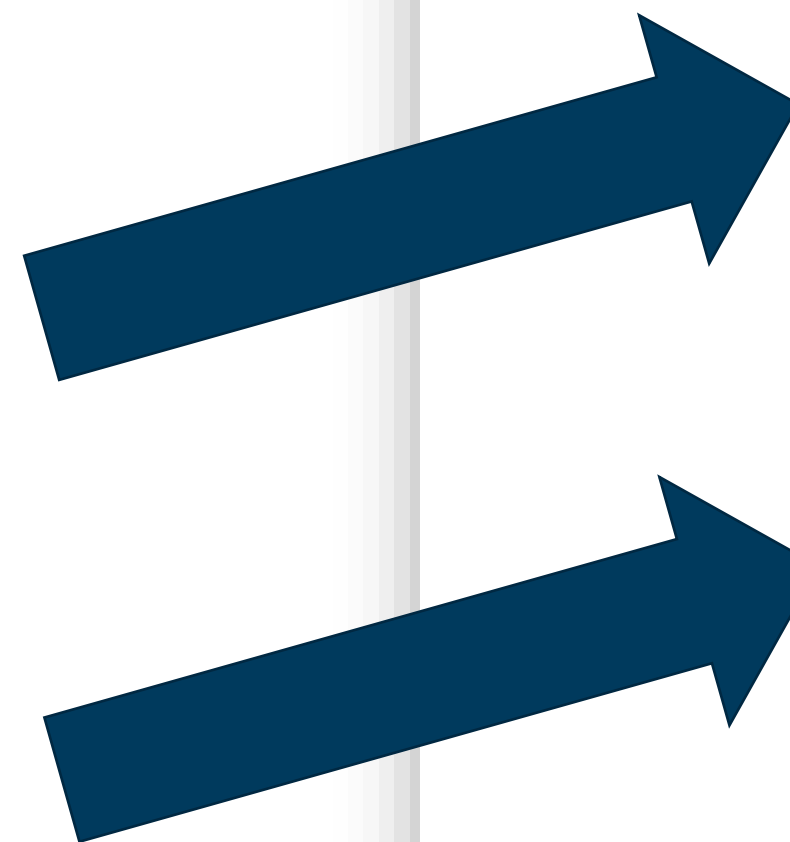
Data Point	Site Average	HBRP Results
Average Time on Page	1m 37s	3m 41s
Average Users per 30m	250	800*

**Data averaged for the 2-hour period following email send*

RESOURCES IN BCFSA's KNOWLEDGE BASE

To locate HBRP resources for licensees, you can:

- Use the [Knowledge Base Search function](#) or
- View the [Regulatory Resources Index](#) and choose HBRP from the list of topics



BCFSA BC Financial Services Authority PUBLIC PROTECTION INDUSTRY RESOURCES PUBLIC RESOURCES ABOUT US LOGIN

REAL ESTATE PROFESSIONAL RESOURCES / KNOWLEDGE BASE

Knowledge Base

Your information and resource hub. Find answers to your real estate questions and stay up-to-date on the latest developments.

Search the Knowledge Base

Enter your keywords below to find resources to support your real estate practice and enhance your regulatory compliance.

SEARCH

Regulatory Resources

A browsable index of all real estate Regulatory Information and Guidelines, organized by topic. These key resources support real estate professional to comply with their legislated requirements.

VIEW INDEX

<h4>Clauses</h4> <p>Browse the topic-based index of clauses to include in a Contract of Purchase and Sale.</p> <p>VIEW CLAUSE INDEX</p>	<h4>Disclosure Forms</h4> <p>Find mandatory agency and disclosure forms to ensure clients are well-informed about the services to expect from a real estate professional..</p> <p>BROWSE FORMS</p>
<h4>Regulatory Statements</h4> <p>Regulatory Statements provide details on how real estate professionals must comply with legislative requirements.</p> <p>SEE ALL</p>	<h4>Tools for Managing Brokers</h4> <p>Resources for managing brokers to support brokerage training needs related to regulatory guidance.</p> <p>LEARN MORE</p>

Regulatory Information: Home Buyer Rescission Period

PLAIN LANGUAGE INFORMATION ABOUT THE REGULATORY REQUIREMENTS

- What is the Home Buyer Rescission Period
- Exemptions
- Disclosures
- Deposits
- Rescinding a Contract of Purchase and Sale
- Record Keeping and Reporting Requirements

[Home Buyer Rescission Period Information | BCFSA](#)



HBRP Guideline

PRACTICAL GUIDANCE ON DEALING WITH CONSUMERS AND HBRP:

- Ensure that your clients are provided with all the information relating to the HBRP at the outset of your agency relationship.
- Ensure that the Contract of Purchase and Sale reflects the needs of your client.
- Dealing with unrepresented parties.
- Ensure that you are calculating the correct amount on the rescission fee and that you are providing the correct dates to your client.

➡ **Includes Managing Broker Considerations**

[Home Buyer Rescission Period Guideline | BCFSA](#)



New and Updated Forms

Disclosure of
Representation in
Trading Services

- will include information on HBRP

Disclosure of
Buyer's Right of
Rescission

- disclosure made at time of offer

Notice of
Recission

Frequently Asked Questions

If your client has purchased a property with one or more people, do all the buyers have to agree to rescind the contract? +

Do sellers also have a rescission right? x

No. Only buyers may rescind a contract under the Home Buyer Rescission Period.

Does the buyer have a right to access the property during the three-day rescission period? +

Does the buyer need a reason to exercise their right of rescission? +

Can my client, either buyer or seller, waive the rescission rights under the *Property Law Act*? +

A list of 27 questions and answers intended to help licensees understand HBRP

[Home Buyer Rescission Period
Frequently Asked Questions |
BCFSA](#)

Information for Consumers

- Home Buyer Recission Period Consumer Guide
- FAQs

[Home Buyer Rescission Period Consumer Guide](#)





Frequently Asked Questions

Q: Do subject removal periods run concurrently with the three-business day rescission period?

A: Yes – E.g. If you have a subject to finance in the offer with seven days to remove it, the three-day rescission period runs at the same time as the first three days of the financing subject removal period.

Q: Does the buyer have an automatic right to access the property during the rescission period?

A: • It depends

In a subject free offer the buyer would not have an automatic right to access the property.

If the offer is conditional on the buyer having access (i.e. such as for a home inspection), the seller would need to comply with the terms of the accepted offer.

Licensees must ensure when drafting offers that the terms and conditions reflect the needs and wishes of their client(s).

Q: How are three business days calculated?

A: The three business days (Monday to Fridays excluding Saturdays and holidays) must be **three full days** so that if an offer is accepted on Monday, the buyer would have until 11:59pm on Thursday to exercise their rescission rights.

Holidays are defined by the *Interpretation Act*

- Sunday
- Christmas Day
- Good Friday and Easter Monday
- Canada Day
- Victoria Day
- British Columbia Day
- Labour Day
- Remembrance Day
- Family Day
- New Year's Day
- December 26, and a day set by the Parliament of Canada or by the Legislature or appointed by proclamation of the Governor General or the Lieutenant Governor, to be observed as a day of general prayer or mourning, a day of public rejoicing or thanksgiving, a day for celebrating the birthday of the reigning Sovereign, or as a public holiday.

Q: What happens if the brokerage is not holding a deposit?

A: The brokerage will have no obligation as it relates to paying the rescission fee to the seller.

The buyer will legally be obligated to pay the rescission fee to the seller and if they do not the seller can seek legal advice on how to recover those funds.

Q: Can a buyer choose to waive their rescission rights?

A: No, a buyer cannot choose to waive their rescission rights.

Q: If a buyer notifies a seller that they are unable to remove subject conditions during the rescission period, do they owe the seller a rescission fee?

A: No, the buyer would only owe a rescission fee if they invoked their rescission right and provided the required notice to the seller.

If the buyer is unable to remove subjects, they would follow the same process they always have, even if it is during the rescission period.

Resources and Support

Knowledge Base

**Real Estate
Bulletin**

**Practice
Standards
Advisors**

**HBRP Consumer
Guide**

A close-up, shallow depth-of-field photograph of a person's hand holding a pen, poised to write on an open book. The book's pages are white and slightly aged, with some text visible. The background is a warm, out-of-focus orange-brown. An orange arrow-shaped banner is overlaid on the bottom left, containing the text 'BCREA FORMS OVERVIEW' in white, bold, sans-serif capital letters.

BCREA FORMS OVERVIEW

Overview


- **1 New Form** – Notice of Rescission
- **62 Revised Forms**
 - Regulatory Changes to 10 Standard Forms
 - Non-Regulatory formatting improvements and revisions to enhance professionalism and useability of Standard Forms.
- **Significant changes to the Contract of Purchase and Sale Residential and its enforceability**



NEW FORM

Notice of Rescission Residential Real Estate Property

NOTICE OF RESCISSION
RESIDENTIAL REAL PROPERTY



TO:

(*SELLER*)

(*SELLER*)

(*SELLER*)

(*ADDRESS*)

(*FAX NUMBER*)

(*EMAIL*)

AND:

(*LISTING BROKERAGE*)

(*ADDRESS*)

(*FAX NUMBER*)

(*EMAIL*)

FROM:

(*BUYER*)

(*BUYER*)

(*BUYER*)

Further to the Contract of Purchase and Sale (the "CPS") dated _____ between the Buyer and the Seller in respect of the purchase and sale of:

UNIT NO. ADDRESS OF PROPERTY

CITY/TOWN/MUNICIPALITY POSTAL CODE

PID

LEGAL DESCRIPTION

The Buyer hereby exercises their right to rescind the CPS pursuant to Section 42 of the *Property Law Act* (British Columbia).

Pursuant to Section 6 of the *Home Buyer Rescission Period Regulation* (British Columbia) (the "**Regulation**") the Buyer must pay the Seller an amount equal to 0.25% of the purchase price for the Property set out in the CPS (the "**Rescission Amount**") within the time required by the Regulation and as may have been agreed by the Buyer and the Seller in the CPS. The Buyer acknowledges that if a deposit has been received by or on behalf of the Seller under the CPS, the Rescission Amount will be paid first from such deposit and the remainder of the deposit (if any) will be promptly paid to the Buyer and the person holding such deposit is authorized to release such funds in accordance with the Regulation.

BUYER'S INITIALS

BC20xx REV. JAN 2023

COPYRIGHT BC REAL ESTATE ASSOCIATION

© 2023 British Columbia Real Estate Association ("BCREA"). All rights reserved. This form was developed by BCREA for the use and reproduction by BC REALTORS® and other parties authorized in writing by BCREA. Any other use or reproduction is prohibited except with prior written consent of BCREA. This form is not to be altered when printing or reproducing the standard pre-set portion. BCREA bears no liability for your use of this form.

This new form can be used where a buyer wants to exercise their right of rescission from the Contract of Purchase and Sale within the specified period of time after an offer is accepted pursuant to Section 42 of the *Property Law Act*.



REGULATORY CHANGES

Listing Brokerage's Remuneration

Provides an exception to the requirement where the seller pays the Listing Brokerage a gross commission, specifically where the buyer has exercised their right of rescission as set out in Section 42 of the *Property Law Act*.

except, in the case of (i) or (ii), if the Property is "residential real property" (as defined in the *Home Buyer Rescission Period Regulation*) that is not exempt and the buyer has exercised their right of rescission set out in Section 42 of the *Property Law Act* within the prescribed period and in the prescribed manner for doing so in which case no remuneration will be payable by the Seller; or

Forms this Rider appears in: **Multiple Listing Contract, Exclusive Listing Contract, Co-Listing Agreement and the Fee Agreements**

Contract of Purchase and Sale Residential

Contract of Purchase and Sale - Residential:

Section 1. Purchase Price. New wording has been added, where a property defined as residential real property, under the HBRP that is not exempt, sets out the rescission amount in dollars which will be payable by the buyer to the seller promptly and in any event within 14 days after the buyer exercises the rescission right . This amount will need to be recalculated and changed in the event of a counter offer(s).

Section 2. Deposit. A new paragraph, has been added indicating that if a buyer exercises their right of rescission within the prescribed period and in the prescribed manner, and if a deposit has been paid by the buyer, the rescission fee to be paid by the buyer will be paid to the seller first from the deposit, with the balance of the deposit being paid to the buyer. The paragraph further indicates that if the deposit is less than the prescribed rescission fee, the buyer must promptly pay the shortfall to the seller.

Contract of Purchase and Sale Residential

Contract of Purchase and Sale – Residential (Continued)

Section 23. Disclosure of Buyer's Rescission Right. A new section relating to the disclosure of the buyer's right of rescission has been added to the contract. This includes various acknowledgements as it relates to the buyer's rights to rescind the contract, as set out in subparagraph: .

"A" sets out that the rescission rights are not waivable by the buyer.

"B" sets out the provisions of the notice that it can only be given within three (3) business days after final acceptance, and includes what constitutes a business day.

"C" indicates the rescission amount, as set out in Section 1 Purchase Price should the buyer exercise their rescission right.

"D" indicates that the rescission amount is to be paid from the deposit, and for the balance of the deposit, if any, to be paid to the buyer, without any further direction or agreement of the parties. Additionally, if the deposit is less than the rescission amount, the buyer is required to pay the shortfall to the seller.

"E" lists the types of properties that are exempt from the rescission right. Finally, the parties are required to initial in the space provided to confirm that disclosure pursuant to Section 57.1 of the Real Estate Services Rules has been made.

Contract of Purchase and Sale Residential

Contract of Purchase and Sale – Residential (Continued)

Section 26. Acceptance. Additional language has been built into this section to include the Notice of the Buyer's Rescission Right allowing parties to provide addresses for serving notice under the HBRP. Additionally, this section indicates that notice given by delivery will be deemed (assumed) to have been given on the day of actual delivery, except in the case of a notice of rescission under Section 42 of the *Property Law Act*, which is deemed (assumed) to be delivered on the date it is sent. Furthermore, notice given by email is deemed (assumed) to be given on the day it is sent, but is only effective if the party that sends the notice, requests a read receipt.

Additional space has been provided for the final acceptance date and the date by which the buyer must exercise their rescission right, if applicable, has been provided. The party who does the final acceptance will need to complete this section, and calculate the rescission period of three clear business days (not including Saturdays, Sundays or statutory holidays) after the final acceptance date.

Why the Changes?

Contract of Purchase and Sale – Residential (Continued)

The majority of changes to the Contract of Purchase and Sale reflect the new Home Buyer Rescission Period (HBRP) regulations, which allows buyers to walk away from an offer within a prescribed period and in a prescribed manner.

Home Buyer Rescission Period: 2023 Standard Forms & HBRP Resources



Stay up-to-date on the 2023 Regulatory Changes and Standards Forms page by bookmarking the www.bcrea.bc.ca/forms2023
2023 Standard Forms & HBRP Resources

This page contains:

- background information on the launch,
- information and resources to help REALTORS® and managing and associate brokers prepare for use of the new and revised forms,
- updates on professional development, and
- quick links to other relevant resources.



Home Buyer Rescission Period: Calculators



BCREA has created **two** Home Buyer Rescission Period Calculators to support REALTORS® when you are calculating the rescission amount and timeframe a buyer has to exercise the right of rescission.

The calculators should only be used on transactions where the Home Buyer Rescission Period regulations apply.

A link to the calculators will also be sent in the follow-up email!



Updated Standard Forms Toolkits



Features:

- Form Introduction
- Videos
- How to Complete Form
- Annotated Forms
- Frequently Asked Questions
- Professional Development Opportunities

www.bcrea.bc.ca/sfresources

The Home Buyer Rescission Period: What REALTORS® Need to Know



New accredited self-paced online course!

The course will cover the specifics of the new legislation and equip REALTORS® with a strong foundation required to address the needs of their clients.

REALTORS® taking this course will find particularly useful various scenarios that walk through the process of exercising the right of rescission.

Launch: December 1, 2022

Where: Available on BCREA's Hub

Price: \$30

Accreditation: 1 PDP hour

Availability: 1 year (expires Nov 30, 2023)



Questions?