

## **BUILDER LICENSING – AN OVERVIEW**

### ***New Home Buyer Protection Amendment Act 2017***

In its aim to strengthen protection of **consumers** who purchase a new home, the New Home Buyer Protection Amendment Act, if passed, will create a **Builder Licensing Program**. The Bill is anticipated to come into force December **2017**.

The Program will require **potential builders** to first obtain a licence in order to build as a requirement for obtaining warranty coverage and building permits in Alberta. To ensure construction activities are not disrupted, the program will be phased in at the enforcement date with full implementation planned for May 1, 2018.

The phased in implementation would enable granting of Provisional Licence to **builders that are registered in the system** and who have good track record based on their recent construction history in Alberta. This licence will expire on May 1, 2018 after which they will then participate in the annual renewal process. Other builders, including new builders, can apply for a full licence at the expected program launch.

“Builders” refer to **individuals and companies that construct new homes** (this also includes **major renovations** that are more than 75% of the home’s footprint) and **condominium property**. For greater transparency, two classes of licence are being proposed that also cover sales arrangements administered by builders which have direct relation with consumers. (1) **Developer licences** are for those who build or sell new homes that include construction under Part 3 of the Alberta Building Code. (2) **General contractor licences** are for those who construct or sell smaller home buildings or under Part 9 of the Alberta Building Code. It **will not apply** to construction projects on First Nation Reserves or Métis Settlements.

The Amending Act requires **all new homes** to be built by someone with either a valid **builder’s licence** or an **owner builder authorization**. This means that going forward, **all owner builders** must apply for an authorization regardless of whether they are choosing to build with or without warranty.

The legislation establishes powers of the **Registrar** who will render decisions stemming from the results of screening applications and vetting builders’ information to determine risks of granting licences.

Screening will be based on the builder’s corporate structure, compliance with relevant legislation, financial standing and other material changes as disclosed to the Registrar.

Compliance with relevant legislation will cover review of Infractions under the *Safety Codes Act, New Home Buyer Protection Act, Fair Trading Act, Occupational Health and Safety Act, Workers Compensation Act* and *Condominium Property Act*.

There will also be provisions for the Registrar to remove builders or place conditions on a licence based on risk assessments on **records** of fraud convictions, construction-related court proceedings, undischarged company bankruptcies, arrangements under the *Companies’ Creditors Arrangement Act*, warranty de-enrollments, status of business registration through the Corporate Registry and loss of builder licence in another Canadian jurisdiction.

In addition, a random audit will also be exercised throughout the year with the provision for the Registrar to obtain additional information from builders for auditing purposes.

Consumers’ complaints will be reviewed by the Registrar who will consider whether the nature of the complaint indicates that the licence decision should be revisited, using the risk matrix and the scoring rubric. Complaints will be investigated to determine whether a material breach has occurred that could harm consumers if allowed to continue.

In light of duty of fairness, all licencing decisions may be appealed through the New Home Buyer Protection Board by which all Board appeals may be appealed to the Court.

This pertinent information will be made available to the public. A **Builder Registry Platform** targeted to be active by **Spring 2018** will be accessible online to provide information on builders, their associated companies, licence status, compliance record and warranty provider acceptance.

A new home is, after all, the most substantial investment an individual can make and the Builder Licensing Program will assist in protecting both the consumers and their investment.