



Obligations of property developers

This fact sheet has important information for people who are deemed to be property developers under the Real Estate and Business Agents Act 1978.

Who is a developer?

Unlike real estate agents and sales representatives who are required to be licensed or registered, people do not need to be licensed with the Real Estate and Business Agents Supervisory Board (REBA) to operate as developers in Western Australia.

The *Real Estate and Business Agents Act 1978* (the Act) defines a developer as “...a person whose business either alone or as part of or in connection with any other business, is to act on his own behalf in respect of the sale, exchange, or other disposal of real estate”.¹

REBA advises that a developer is a person whose business is to sell, exchange or dispose of real estate. A person who alone, or with another business, carries out these functions only once, or infrequently is not considered a developer. According to the Act real estate is considered to be both land and property within and outside the State.¹

Legal requirements

REBA is required by the Act to ensure that developers observe the following three obligations.

- ▶ **Principal place of business:** The Act requires all developers to register its principal place of business with REBA in writing.² The principal place of business is the address at which business is carried on. Written notice must be immediately given to REBA where there is any change in the situation of the principal place of business.³ Developers do not incur any fees or charges when registering the address of their principal place of business.
- ▶ **Record keeping:** The Act requires a developer to keep a record of all real estate transactions in which he has been involved and that record shall be kept in such manner, shall include such details, and shall be preserved for such period as is approved.⁴ Real estate transactions include the sale, exchange, purchase or acquisition of real estate as well as collection of rent or payment for use or occupation of the property.¹
- ▶ **Property sales:** A developer can sell the property themselves, or contract a real estate agent under an appointment to act to perform the task. However, if a developer wishes to employ a person to sell property on their behalf, then under the Act that person should be either a licensed real estate agent holding a current triennial certificate or a registered sales representative, who holds a current certificate of registration issued by REBA.⁵

As developers are not bound by the provisions of the Act relating to deposits being placed in a statutory trust account, parties engaging in any transaction should satisfy themselves that their interests, including any deposits paid, are adequately safeguarded. It may be prudent to seek independent legal advice.

¹ Section 4 of the Act

² Section 57 of the Act

³ Section 58 of the Act

⁴ Section 59 of the Act

⁵ Sections 54 and 55 of the Act

Further information

If you need further information about the obligations of developers in accordance with the Act please call the Real Estate and Settlement Advice Line on 1300 30 40 64, contact REBA directly on 9282 0843 or www.reba.wa.gov.au.

To register your business address with REBA complete a registration form. Registration forms are available online from REBA's website, or by phoning REBA.

Disclaimer

This fact sheet contains general information that was current at the time of publication. If you have specific inquiries about matters relating to your situation then you are strongly urged to seek independent professional advice. The producers of this publication expressly disclaim any liability arising out of a reader's reliance on this publication.

This publication was produced by the Real Estate and Business Agents Supervisory Board.