



What Builders Need to Know About Owner Builder Projects

Who Should Read this Bulletin

Any individual involved in new home projects constructed through an Owner Builder Authorization, including owner builders, building officials, house designers, general contractors, construction managers, project managers, project consultants, and sub-contractors.

Overview

This bulletin explains the level of involvement a construction professional may have in building a home under an Owner Builder Authorization while complying with the *Homeowner Protection Act (Act)*.

Individuals may apply to the Licensing and Consumer Services branch of BC Housing for an Owner Builder Authorization to build a home for their personal use. For more information about being an owner builder, or to find out owner builder exam requirements, visit bchousing.org.

An owner builder is not required to be licensed or arrange for third-party home warranty insurance on that home. However, owner builders must build or directly manage the construction of their new home themselves. If an owner builder hires a builder, construction manager, project manager, or any third party to perform these functions, the owner builder is in breach of their declaration under section 4.1(2)(f) of its Regulations. The hired builder, if not already a Licensed Residential Builder, is committing an offence for breaching sections 14(1) and 22(1) of the *Act*. The hired builder could face monetary penalties of up to \$25,000.

In the past, some builders have been held responsible for providing home warranty insurance on new homes constructed under an Owner Builder Authorization. It is important for builders to understand that a homeowner's involvement in the construction process does not eliminate a builder's obligation to provide home warranty insurance.



Regulatory Bulletins are a series of publications developed by BC Housing to provide information on the *Homeowner Protection Act*. All *Regulatory Bulletins* can be viewed at www.bchousing.org.

This bulletin and the website are for convenience only, they do not constitute legal advice. For complete details consult the *Act* and its regulations. For more information contact:

Licensing and Consumer Services
Branch of BC Housing

Phone: 604-646-7050
Toll-free: 1-800-407-7757
Fax: 604-646-7051

E: qualifications@bchousing.org
www.bchousing.org
@RegistrarBCH

Cancellation of Owner Builder Authorizations

An Owner Builder Authorization may be cancelled by the Registrar if an owner builder does not engage in, arrange for or manage all or substantially all of the construction of the new home. If this occurs, the individual who manages all or substantially all of the construction is required to become a Licensed Residential Builder if not already licensed by our office. This individual also needs to arrange home warranty insurance for the home.

As a sub-contractor, if I installed the foundation, the house structure and the building envelope on an owner-builder home, would I be required to become a Licensed Residential Builder and obtain home warranty insurance for that home?

Yes, you are required to become a Licensed Residential Builder and obtain home warranty insurance for the home even though an Owner Builder Authorization was issued. The Owner Builder Authorization would likely be cancelled in this scenario. Depending on circumstances, the home warranty insurance policy may include exclusions on components not performed or completed by you.

If the owner builder didn't pay me for the home warranty insurance, wouldn't that excuse me from the warranty requirement?

No. Section 22 (1) of the *Act* clearly states, "A person must not build a new home unless the new home is registered for coverage by home warranty insurance provided by a warranty provider."

If you have arranged for, engaged in or managed all or substantially all of the construction of a new home – including an owner-builder home – you are acting as a general contractor and are therefore required by law to obtain third-party home warranty insurance for it, regardless of whether or not you have been compensated for the cost.

This costly mistake can be avoided by arranging for home warranty insurance up front as part of the builder's contract.

What if the owner says they don't want home warranty insurance?

Any term of an agreement that purports to waive, exclude, limit or qualify the requirement for mandatory home warranty insurance under section 22 of the *Act* is of no effect under the *Act*.

Are Licensed Residential Builders permitted to take on individual sub-trade contracts on an owner-builder project without triggering the warranty requirement under the Act?

Although each case must be examined on its own merits, and the final determination made by the Compliance department, you would not likely trigger the responsibility for home warranty insurance by taking on no more than two individual sub-trade contracts. For example, a framing sub-contract and a roofing sub-contract.

How would I know if I have done too much and triggered the warranty requirement?

You have likely triggered the warranty requirement under section 22 of the *Act* if the work you have performed on a new home is adequate for any two of the three warranty components in a 2-5-10 home warranty insurance policy for example: finishing and mechanical systems, building envelope, or structure. You are required to immediately cease construction and contact the Compliance department for guidance and instruction.

What if I ignore the warranty requirements?

Non-compliance with the *Act* and its Regulations can result in the issuance of Compliance Orders or Monetary Penalties, or both, resulting in significant legal and financial repercussions. Continued non-compliance with the *Act* and its Regulations can lead to a Monetary Penalty of up to \$25,000.

What if I am not sure if I am complying with the Act?

If you need help understanding your obligations with respect to work you do on owner-builder homes, contact the Compliance department at 1-800-407-7757 (option 5) or email: compliance@bchousing.org.

What Owner Builders Should Know

What would happen to my Owner Builder Authorization if I hired someone to build my owner-builder home and they completed construction, but failed to obtain home warranty insurance for the home?

If you did not engage in, arrange for, or manage all or substantially all of the construction of your home, the Owner Builder Authorization may be cancelled by the Registrar. If your new home is not covered by third-party home warranty insurance, it can not be legally sold or offered for sale by you, or anyone else, within 10 years of the date of first occupancy.

Owner builders are advised to either manage their own construction or to hire a Licensed Residential Builder to build their home with a policy of home warranty insurance. You may not waive home warranty insurance if it is required by the legislation.

