



MEMBER UPDATE

May 28, 2024

PROVINCE INTRODUCES BILL 200 – THE HOMEOWNER PROTECTION ACT, 2024 PROVINCE COMMITS TO CONSULTATION ON ILLEGAL BUILDING ACTIVITY

Yesterday, the Hon. Todd McCarthy, Minister of Public and Business Service Delivery (“PBSD”), introduced legislation (Bill 200) that, if passed, would significantly strengthen protections for homeowners and buyers of new freehold homes by providing additional protections for new homebuyers by establishing a 10-day cooling-off period for buyers of new freehold homes. The *Homeowner Protection Act, 2024*, would also ban the registration of Notices of Security Interest (NOSIs) for consumer goods on the Land Registry and deem NOSIs for consumer goods currently registered on title to be expired.

With respect to the 10-day cooling-off period the following details are of relevance:

- *The government is proposing to establish a 10-day cooling-off period for buyers of new freehold homes and potentially other prescribed new homes to help buyers make more informed and confident purchasing decisions. This proposal aligns protections for buyers of new freehold homes with those for buyers of new condos who currently have a 10-day cooling-off period under the Condominium Act, 1998;*
- *Through amendments to the New Home Construction Licensing Act, 2017 and its regulations, buyers of new freehold homes would be provided with time to understand any risks and decide whether to cancel their purchase agreement if they choose; and,*
- *The cooling-off period would start once buyers receive their executed purchase agreement, and other prescribed information. Buyers would be able to cancel their agreement during this period without penalty by providing written notice to their builder. Builders who receive the notice would have to promptly refund buyers their deposit and any other monies paid (e.g., for upgrades) with interest calculated at a prescribed rate.*

With respect to NOSIs, the following details are of relevance:

- *PBSD has seen an increase in the number of consumers impacted by having these registrations on title, which is often discovered when they try to sell their home or access additional financing. In cases where the business misuses the registrations, consumers are often pressured to negotiate a buyout of the contract for the equipment and services in its entirety – which can result in exorbitant payouts.*
- *NOSIs are registrations that may be made on the land registry system by a business when it rents, finances or leases goods such as a water heater or furnace installed on a property.*
- *While NOSI registrations are intended to help a business protect their interest in those goods, bad actors have been known to use NOSIs to extort exorbitant payments from consumers. When used adversely, it can sometimes involve leveraging the NOSI, or multiple NOSIs, to secure high-interest mortgages on the property, which can ultimately lead to the homeowner losing their property.*

The Bill received its 1st reading today, and it is expected that it will work its way through the legislative process, including being referred to a legislative committee for depositions. As the Legislature will recess for the summer in the next few weeks, we do not know the pace at which this legislation will receive third reading and Royal Assent. OHBA will actively monitor the Bill and will meet with PBSD staff and the Minister's office to get further clarification on various aspects of the Bill.

In addition to this, PBSD will begin consultations with stakeholders on the following issues of significance to OHBA members.

1. *Illegal Building and Selling*

Ontario plans to explore and consult on ways to protect consumers from the risks associated with purchasing homes from illegal builders who bypass licensing requirements and fail to enroll homes with Tarion. Illegally built homes tend to have more defects and pose higher risks compared to those built legally. The province plans to hold consultations in early 2025 to develop recommendations to combat illegal building and selling practices in Ontario. Tarion pays out significantly higher claims for illegally built homes, averaging \$45,928 per home compared to \$19,563 for legally built homes for homes whose warranties began between 2006–2016. This initiative aims to create a fairer market for compliant builders and ensure better quality homes for buyers of new freehold homes.

2. Cancellation Disclosures

The government intends to boost homebuyer confidence by making regulatory changes that would provide for public disclosure of a builder's history of cancelling purchase agreements for new freehold homes. Currently, buyers can access a builder's record of cancelling condo purchase agreements on the Home Construction Regulatory Authority's (HCRA) website. The proposed disclosure follows public consultations from summer 2023.

3. Expanding the Condominium Authority Tribunal's Jurisdiction

Many Ontarians call a condominium home, and they often have unique challenges and disputes. The Condominium Authority Tribunal is a fully online tribunal that resolves certain condo-related disputes, primarily between condo corporations and owners. Ontario is taking measured steps to expand the Tribunal's jurisdiction in a phased and thoughtful way, beginning with consultations to be held soon around owners' meetings.

4. Consultations for Condo Protections

The province will consult on initiatives aimed at improving how condos are run by strengthening protections for owners and buyers, including through improvements to status certificates, disclosure statements, material changes during construction, and records access. The province intends to explore changes that could help increase operational and financial clarity so that owners are provided with transparency while limiting the burden to the condo corporations that are entrusted with running a condo on behalf of a community.

5. Supporting municipalities and property owners in conserving heritage

The proposed legislation would also amend the *Ontario Heritage Act*, giving municipalities two (2) more years, until January 1, 2027, to complete the evaluation of properties on their municipal heritage registers. This would support municipalities by easing administrative pressures, allowing them more time to focus their efforts on conserving properties significant to their community.

In addition, the proposed amendments would provide clarity to municipalities and property owners on how certain legislated timelines and requirements apply to listed properties on municipal heritage registers.

OHBA Analysis

With respect to illegal building, OHBA is pleased that the government is prepared to act. We were hoping that this initiative would start in earnest immediately, and we will attempt to work with the government to expedite the process. Throughout this process, OHBA will emphasize that this consultation is equally important for improving consumer protection as it is to enhance the reputation of the Ontario home building industry and our membership,

who undertake their business activities with the highest degree of professionalism. We look forward to receiving further information on how the government intends to frame this consultation and the opportunities OHBA will have to table our advice in an effective manner.

If you have any questions, please contact [Scott Andison](#) and/or [Neil Rodgers](#) for more information on this announcement. We encourage our Executive Officers across our HBA network to share this information with their local membership for feedback that will form OHBA's responses to government.

For a copy of the Bill and related backgrounder from the Ministry, please refer to the attached links:

Bill 200, Homeowner Protection Act, 2024 - Legislative Assembly of Ontario (ola.org)
https://news.ontario.ca/en/backgrounder/1004635/ontario-strengthening-protections-for-homeowners-and-homebuyers?utm_campaign=%2Fen%2Frelease%2F1004636%2Fontario-strengthening-protections-for-homeowners-and-homebuyers&utm_medium=email&utm_source=newsroom&utm_term=public

The Bill is now posted on the ERO.

<https://www.ontariocanada.com/registry/view.do?postingId=47613&language=en>

OHBA will be preparing a response (due date is June 26) and will seek advice from our Chapters and Builder Developer Council working groups. Any feedback is welcomed and can be submitted to [Scott Andison](#) and/or [Neil Rodgers](#).