

## Discussion Guide

# Regulatory Changes to Ensure Coverage for Current and Future Purchasers

Following our previous consultation earlier this fall, Tarion modified the proposed changes and is now proposing regulatory changes to the deposit coverage policy, requiring purchasers to provide notice when they sign a purchase agreement, to help combat illegal vending of new homes and ensure protection for current and future new home purchasers. These changes include:

1. Requiring purchasers of new freehold homes (including freehold homes on parcels-of-tied-land) to provide notice and information to Tarion about their new home purchase within 45 Days after entering into an agreement of purchase and sale with a vendor/builder to qualify for the maximum entitlement to deposit coverage.
2. The notice to Tarion would potentially include specific information about the purchaser, address, builder, and deposit paid using a simple online, free, portal.
3. Introduce a variable compensation limit for freehold home deposit coverage depending upon whether the purchaser provides notice to Tarion that they have entered into a new home purchase agreement as would be required. Purchasers that do not provide notice to Tarion would continue to be eligible for deposit coverage at the variable limit up to the current maximum.

Based on the earlier public consultation Tarion has amended the proposed changes to:

- Allow for a longer implementation timeline where the requirement will be effective July 1, 2025; however, changes to coverage will not be in force until January 1, 2026;
- To help reduce onus on purchasers, allow for a purchaser's lawyer, agent, or representative to provide this notice on the purchaser's behalf;
- Doubling the size of the proposed fund available for those who do not provide notice in the applicable timeframe from the initial proposed \$5 Million to now \$10 Million, providing an increase in coverage for purchasers who do not register;
- Deferred for future consideration and consultation changes to when Tarion collects its enrolment fee due to concerns about the impact on housing affordability and potential impacts on business processes.

**For freehold home purchasers who provide notice of their purchase agreement** within the appropriate timeframe, their entitlement to deposit coverage remains at the current level, which depends on the purchase price and type of home they buy.

**For freehold homes where the purchasers do not provide notice within the required time of 45 days** of their purchase agreement, their deposit compensation limits will be subject to a further sub-limit (i.e., \$10 Million) in any given year. Such claims will be aggregated at the end of each calendar year. If the total is less than the sublimit, their deposit coverage limit will not be impacted, and their claim would be subject to the current limits. However, if the aggregate claims are more than the sublimit in a calendar year, their compensation limit will be based on a proportional share derived from the difference between the aggregate claims and the sublimit.

In all cases, consumers will continue to receive the construction warranty coverage for construction defects in their new home which take effect on occupancy.

In response to initial public feedback raised in the consultation, the implementation of this regulatory change would be accompanied by:

1. a robust public education campaign to increase consumer awareness;
2. an extended implementation period to further promote the education campaign to create awareness;
3. a requirement that agreements of purchase and sale contain a clear direction to the purchaser to register their agreement;
4. engagement with other stakeholder groups involved in the new home purchase process, such as real estate lawyers, real estate agents, and mortgage providers;
5. to reflect the role real estate agents, lawyers, financial professionals, or other representatives of new home purchasers have in the new home buying process, allow for them to provide notice on the purchaser's behalf;
6. a simple notification process, supported by an easy-to-use digital registration portal;
7. a secondary fund available to assist purchasers who do not register on time; and
8. transparent reporting on how the program functions.

## **Stakeholder Impacts**

### **Purchasers/Consumers**

- Purchasers will continue to receive the warranty coverage for construction defects in their new home which take effect on occupancy.
- Purchasers and current homeowners would benefit from the continued existence of a robust guarantee fund for warranty claims.
- There would be a new requirement for freehold purchasers, but one which would involve minimal effort for purchasers with only a few key pieces of information needing to be entered to provide notice of the purchase agreement.

- As part of the notification process, purchasers would receive warranty education materials earlier in the process.
- Purchasers of freehold homes who duly provide notice of their purchase agreements will continue to be eligible for full coverage up to the current \$100,000 limit.
- Purchasers of freehold homes who do not promptly provide notice of their purchase agreements will continue to be eligible for coverage up to the current \$100,000 limit but, depending upon the total number of claims in a calendar year, their entitlement may be affected and instead be based on a proportional share derived from the difference between the aggregate claims and sublimit (e.g., \$10 Million).
- There would be no impact to purchasers of condos or contract homes.
- Additionally, this should help reduce the instance of illegal vending, resulting in fewer purchasers being negatively impacted.

### **Builders and Vendors**

- Vendors benefit from a stable fund to backstop their warranty
- Tracking purchase agreements will be an invaluable tool in combating illegal vending, as builders and vendors will be unable to “stay under the radar” because purchasers will be disclosing the existence of the new home transaction, and this would benefit licensed builders and vendors by reducing competition with illegal vendors and reputational harm of illegal building to the industry.
- Vendors could potentially have the option to register for or on behalf of their purchasers, or otherwise assist with the process

### **Real Estate Agents, Lawyers, and Others**

- As key agents who participate in the new home sale and re-sale market, real estate and legal professionals have a key role to play in advising their purchaser clients of the need to provide notice of their purchase agreement to Tarion.
- Another key stakeholder would be mortgage and financial lending professionals who are involved with the financing and payment of the deposit. Tarion would work directly with industry groups and financial institutions who provide education and information about these changes so that it becomes widely understood that providing notice of purchase agreements is a critical part of buying a newly constructed home when discussing financing with potential purchasers.
- Empower these agents and/or representatives by providing them with the ability to provide notice on the purchaser’s behalf to further improve the protections for consumers;
- Tarion shares information about builder activity with the Home Construction Regulatory Authority, providing insight into who is involved in illegal selling and building activity, enabling them to better target enforcement activities.

**Tarion**

- By requiring prompt notification of purchase agreements, Tarion would be in a position to track whether or not the builder was licensed or had the appropriate QFE and would be able to take appropriate actions to mitigate the risk to the Guarantee Fund in a more immediate timeframe.
- Tarion would also be able to track the magnitude of the Fund's exposure to deposit coverage claims, allowing for better financial management of the Fund.
- Additionally, Tarion would be able to immediately act and intervene with HCRA to address illegal activity once identified.

**Submitting Feedback on Proposed Changes**

Do you have any comments, suggestions or feedback related to the proposed changes to Regulation 892?

Please submit any feedback on the proposed changes or the [draft regulation](#) to [submissions@tarion.com](mailto:submissions@tarion.com) or through [Ontario's Regulatory Registry](#) by January 15, 2025.

While this consultation focusses on specific proposed changes and questions, if you have additional comments, please send them to [submissions@tarion.com](mailto:submissions@tarion.com). Please title these with the subject "Additional Submissions". Tarion recognizes that not every topic will be relevant to each individual or organization. Please provide comments on the topics that are relevant to you or your organization.