

Caution:

This consultation draft is intended to facilitate dialogue concerning its contents. Should the decision be made to proceed with the proposal, the comments received during consultation will be considered during the final preparation of the regulation. The content, structure, form and wording of the consultation draft are subject to change as a result of the consultation process and as a result of review, editing and correction by the Office of Legislative Counsel.

CONSULTATION DRAFT

ONTARIO REGULATION

to be made under the

ONTARIO NEW HOME WARRANTIES PLAN ACT

Amending Reg. 892 of R.R.O. 1990

(ADMINISTRATION OF THE PLAN)

1. (1) The definitions of “conciliation” and “conciliation assessment report” in subsection 1 (1) of Regulation 892 of the Revised Regulations of Ontario, 1990 are revoked and the following substituted:

“conciliation” means a process whereby the Corporation determines, with respect to a disputed item listed on a notice of claim given to the Corporation under this Regulation, including section 4 or any of sections 4.2 to 4.8,

- (a) whether the item is covered by a warranty and whether any repairs or compensation are required in respect of the warranty, or
- (b) whether there is a right to a payment under section 14 of the Act; (“conciliation”)

“conciliation assessment report” means a written report setting out the Corporation’s findings and assessment respecting a conciliation; (“rapport d’évaluation de la conciliation”)

(2) The definitions of “construction contract”, “purchaser” and “purchase agreement” in subsection 1 (1) of are revoked.

(3) Subsection 1 (1) of the Regulation is amended by adding the following definitions:

“special fund” means the amount within the guarantee fund that is established and maintained under section 8; (“French”)

“special fund claim” means a claim under subsection 14 (1) in respect of a purchase agreement, where the purchaser did not comply with section 2.1; (“French”)

2. The Regulation is amended by adding the following sections:

INFORMATION REGARDING PURCHASE TRANSACTION

2.1 (1) This section applies in respect of a purchase agreement entered into on or after July 1, 2025 in respect of a home of the type referred to in clause (a) or (b) of the definition of “home” in section 1 of the Act that is not a contracted home.

(2) The purchaser shall, within 45 days after entering the purchase agreement, provide the following information through the Corporation’s designated portal for purchasers and owners on the Internet or by delivering the information in writing to the Corporation:

1. Notice of the existence of the purchase agreement.
2. Particulars of the transaction and property, including the following:
 - i. Name and contact information of the purchaser.
 - ii. Name of the vendor.
 - iii. The municipal address or other description or identifier of the property.
 - iv. The amount of total deposits paid or to be paid by the terms of the purchase agreement.

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CLAIMS UNDER SUBSECTION 14 (1) OF THE ACT – PURCHASE AGREEMENT ENTERED INTO ON OR AFTER JULY 1, 2025

4.7 (1) This section and section 4.8 apply to purchase agreements entered into on or after July 1, 2025 in respect of a home of the type referred to in clause (a) or (b) of the definition of “home” in section 1 of the Act that is not a contracted home, and subsection 5 (1) does not apply to those purchase agreements.

(2) In order to make a claim under subsection 14 (1) of the Act for an amount paid as a deposit, the purchaser shall, no later than the first anniversary of the day the purchase agreement was terminated, submit to the Corporation a deposit claim form as required by the Corporation.

(3) A purchaser is not entitled to payment under subsection 14 (1) of the Act if the deposit claim form is submitted later than the first anniversary of the day the purchase agreement was terminated.

(4) For the purposes of subsections (2) and (3), the day the purchase agreement was terminated is the earliest of the following days:

1. The day on which the purchaser exercised a statutory right to rescind the contract before closing.
2. The first day on which the purchaser has a cause of action against the vendor under subclause 14 (1) (b) (i) or (ii) of the Act.

(5) The purchaser shall provide such information as the Corporation reasonably requires in order to assess the claim, as set out in the deposit claim form.

4.8 (1) Upon receipt of the information required under section 4.7 in accordance with that section, the Corporation shall use reasonable efforts to notify the vendor of the purchaser's claim.

(2) Upon receipt of notification under subsection (1), the vendor may, no later than 30 days following receipt of the notification, resolve the claim.

(3) The Corporation shall conduct a conciliation if,

- (a) after the 30-day period mentioned in subsection (2), the claim has not been resolved;
or
- (b) the vendor cannot reasonably be notified of the claim.

(4) Upon completion of the conciliation, the Corporation shall, as soon as reasonably possible, issue a conciliation assessment report to the purchaser and the vendor.

(5) If, after 30 days following the issuance of the conciliation assessment report, the vendor has not resolved the claim in accordance with the conciliation assessment report, the Corporation shall pay compensation to the purchaser in accordance with subsection 14 (1) of the Act and sections 4.9 and 6.1 of this Regulation.

SPECIAL FUND CLAIMS UNDER SUBSECTION 14 (1)

4.9 (1) This section applies in respect of a purchase agreement entered into on or after July 1, 2025 for which a claim has been submitted under section 4.7 if the purchaser did not comply with section 2.1 in respect of the purchase agreement.

(2) No later than March 1 in each calendar year starting in 2027, the Corporation shall calculate, in respect of all claims described in subsection (1) that were submitted in the previous calendar year, the total amount of compensation that would have been payable if the purchasers

who submitted the claims had complied with section 2.1 such that the limits set out in subsection 6.1 (2) would have applied.

(3) If the amount determined under subsection (2) is \$10,000,000 or less, as soon as reasonably possible, the Corporation shall issue a conciliation assessment report to each applicable purchaser and vendor and pay compensation in accordance with that report out of the special fund in respect of the claim.

(4) If the amount determined under subsection (2) exceeds \$10,000,000, the maximum amount of entitlements payable to a person out of the special fund for a claim described in subsection (1) that was submitted in the previous calendar year is the amount determined by applying the following formula:

$$X = A \times (10,000,000/B)$$

Where,

X = the amount of compensation payable for the claim out of the special fund,

A = the amount that the purchaser would have been entitled to, had the purchaser complied with subsection 2.1 such that the limits set out in subsection 6.1 (2) would have applied,

B = the sum of the amounts of all valid special fund claims submitted in the same calendar year.

(5) As soon as reasonably possible after the Corporation has completed the calculation under subsection (4), the Corporation shall issue a conciliation assessment report to each applicable purchaser and vendor and pay compensation out of the special fund in respect of each claim in accordance with the report.

3. Subsection 5 (4) of the Regulation is revoked and the following substituted:

(4) If the Corporation determines that the conciliation reveals one or more defects that is covered by a warranty or a right of compensation under section 14 of the Act, the Corporation shall refund to the purchaser or owner, as the case may be, the conciliation fee paid by the purchaser or owner.

4. (1) Clause 5.11 (1) (b) of the Regulation is amended by adding “and owners” after “purchasers”.

(2) Subsection 5.11 (3) of the Regulation is amended by adding “and owners” after “purchasers”.

5. The Regulation is amended by adding the following section:

6.1 (1) This section applies in respect of a purchase agreement entered into on or after July 1, 2025 in respect of a home of a type referred to in clause (a) or (b) of the definition of “home” in section 1 of the Act that is not a contracted home.

(2) If the purchaser has complied with section 2.1 in respect of the purchase agreement, the maximum amount of entitlements payable to a person out of the guarantee fund in the case of a claim under subsection 14 (1) of the Act, is the greater of,

- (a) \$60,000; and
- (b) the lesser of 10 per cent of the sale price of the home, and \$100,000.

(3) If the purchaser failed to comply with section 2.1, the maximum amount of entitlements payable out of the special fund to a person under subsection 14 (1) of the Act is the lesser of,

- (a) the amount determined to be the greater of,
 - (i) \$60,000, and
 - (ii) the lesser of 10 per cent of the sale price of the home, and \$100,000; and
- (b) the amount calculated under subsection 4.9 (4).

6. The Regulation is amended by adding the following section:

SPECIAL FUND

8. (1) The Corporation shall establish and maintain a special non-segregated amount within the guarantee fund, from which entitlements are to be paid in respect of special fund claims.

(2) For 2026 and for each subsequent calendar year, the amount of \$10,000,000 is designated in each calendar year for the special fund.

(3) No compensation shall be paid in respect of a special fund claim until the calendar year immediately following the calendar year in which the claim was made.

Commencement

7. [Commencement]