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Bill 200

**An Act to amend various Acts with respect to homebuyers and homeowners,
properties of cultural heritage value or interest and certain planning matters**

The Hon. T. McCarthy
Minister of Public and Business Service Delivery

Government Bill

1st Reading May 27, 2024
2nd Reading
3rd Reading
Royal Assent



EXPLANATORY NOTE

SCHEDULE 1 NEW HOME CONSTRUCTION LICENSING ACT, 2017

The Schedule amends the *New Home Construction Licensing Act, 2017*. Here are some highlights:

1. Various definitions are added to section 1 of the Act and consequential amendments are made to subsections 53 (1) and (2).
2. Amendments are made with respect to requirements for purchase agreements and construction contracts (see the repeal of subsections 53 (3) and (4) and the enactment of section 53.1). Corresponding amendments are made to the regulation-making authorities in subsection 83 (1).
3. New section 53.2 requires vendors to deliver prescribed information to purchasers of new freehold homes and other prescribed new homes. The section also provides for when a purchase agreement is binding on a purchaser as well as for the purchaser's right to rescind a purchase agreement. Related regulation-making authorities are added to subsection 83 (1).
4. New clause 84 (1) (i.2) permits the Minister to make regulations requiring the regulatory authority to make specified documents available to the public and prescribing the means for doing so.

SCHEDULE 2 ONTARIO HERITAGE ACT

The Schedule amends the *Ontario Heritage Act*. Previously, subsection 27 (16) provided that if an undesignated property is included in the municipality's register as of December 31, 2022, the council of the municipality in which the property is situated must remove the property from the register if the council does not give a notice of intention to designate the property under subsection 29 (1) on or before January 1, 2025. Paragraph 3 of subsection 27 (18) previously provided that if subsection 27 (16) requires the removal of a property from the register, the council may not include the property again in the register until five years after January 1, 2025. The Schedule changes both of these dates to January 1, 2027 or such later date as may be prescribed.

The Schedule also adds three new subsections to section 27. Subsection 27 (19) provides that if an undesignated property included in the register is removed from the register on or after the day subsection 1 (3) of the Schedule comes into force and subsection 27 (14), (15) or (16) of the Act does not require the removal, the council may not include the property again in the register for a period of five years after the date of the removal. Subsection 27 (20) provides that if a property included in the register as of December 31, 2022 is removed from register before the day subsection 1 (3) of the Schedule comes into force and subsection 27 (14) of the Act does not require the removal, subsections 27 (14), (16) and (18) apply in respect of the property as they would if the property had not been removed from the register. The council may not include the property again in the register on or after the date on which subsection 27 (14) or (16) would have required its removal from the register had it not already been removed, except in accordance with subsection 27 (18). If the council of the municipality includes the property again in the register, subsections 27 (14), (16), (18) and (19) apply in respect of the property as they would if the property had not been removed from the register. Subsection 27 (21) provides that if a property included in the register on or after January 1, 2023 is removed from the register before the day subsection 1 (3) of the Schedule comes into force and subsection 27 (14) of the Act does not require the removal, the council may not include the property again in the register under subsection 27 (3) for a period of five years after the date of the removal.

SCHEDULE 3 ONTARIO NEW HOME WARRANTIES PLAN ACT

The *Ontario New Home Warranties Plan Act* is amended to permit the Corporation to make by-laws requiring the Corporation to make specified documents available to the public and prescribing the means for doing so. Other technical amendments are made to existing regulation-making authorities.

SCHEDULE 4 PERSONAL PROPERTY SECURITY ACT

The Schedule amends the *Personal Property Security Act*.

Section 54 of the Act is amended to provide that a notice of security interest may not be registered in a land registry office in respect of collateral that is consumer goods, except as provided by regulations that may be made by the Minister responsible for the Act's administration. Any notices of security interest in respect of collateral that is consumer goods, or extensions of such notices, that are in effect immediately before the day the Bill receives Royal Assent are deemed to have expired on that day. A notice of security interest or extension notice respecting collateral that is consumer goods that is deemed to have expired, or that expired before the day the Bill receives Royal Assent, may be deleted from title. Complementary amendments are made to sections 56 and 57. A new section 74.2 extinguishes any causes of action against the Crown or specified Crown actors arising directly or indirectly from the amendments made by the Schedule and other specified related matters, and provides for limitations on proceedings and remedies in connection with those amendments and related matters.

The Schedule also amends references in the Act to the Minister responsible for its administration and the ministry of that Minister, in order to update them and make them consistent.

**SCHEDULE 5
PLANNING ACT**

Currently, section 47 of the *Planning Act* authorizes the Minister to, by order, exercise various powers conferred upon councils of municipalities. Subsections 47 (20) to (28) set out limitations on the availability of remedies. A new subsection 47 (29) provides that those limitations do not apply, and are deemed to have never applied, in respect of land designated as transit-oriented community land under subsection 2 (1) of the *Transit-Oriented Communities Act, 2020*.

**An Act to amend various Acts with respect to homebuyers and homeowners,
properties of cultural heritage value or interest and certain planning matters**

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Preamble

The Government of Ontario:

Believes that homeowners deserve protection from exploitative business practices, including the misuse of notice of security interest registrations for consumer goods;

Recognizes that purchasing a home is among the most important decisions most Ontarians will make in their lives;

Believes that homebuyers should have adequate time to review their purchase agreement so they can make a confident and informed decision when buying a new home;

Supports increasing the clarity and flexibility of rules for non-designated properties included in municipal registers of properties of cultural heritage value or interest, while the government continues to take action to build more homes;

Believes that creating more homes, more jobs and improved access to transit helps build vibrant communities.

Therefore, His Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

Contents of this Act

1 This Act consists of this section, sections 2 and 3 and the Schedules to this Act.

Commencement

2 (1) Except as otherwise provided in this section, this Act comes into force on the day it receives Royal Assent.

(2) The Schedules to this Act come into force as provided in each Schedule.

(3) If a Schedule to this Act provides that any provisions are to come into force on a day to be named by proclamation of the Lieutenant Governor, a proclamation may apply to one or more of those provisions, and proclamations may be issued at different times with respect to any of those provisions.

Short title

3 The short title of this Act is the *Homeowner Protection Act, 2024*.

**SCHEDULE 1
NEW HOME CONSTRUCTION LICENSING ACT, 2017**

1 Subsection 1 (1) of the *New Home Construction Licensing Act, 2017* is amended by adding the following definitions:

“construction contract” means an agreement between a builder and an owner of land which provides for the construction of a new home on the land; (“contrat de construction”)

“new freehold home” means a new home of a type described in clause (a) or (b) of the definition of “home” in section 1 of the *Ontario New Home Warranties Plan Act*; (“nouveau logement franc”)

“purchase agreement” means an agreement between a vendor and any person providing for the purchase by such a person of a new home; (“convention d’achat”)

“purchaser” means a person who enters into a purchase agreement with a vendor for the purchase of a new home and includes an assignee of the purchaser’s interest in a purchase agreement; (“acquéreur”)

2 The heading to Part IV of the Act is repealed and the following substituted:

**PART IV
CONDUCT**

3 (1) Subsection 53 (1) of the Act is amended by striking out “an agreement in respect of the sale or other transfer as prescribed of a new home to a purchaser” and substituting “a purchase agreement”.

(2) Subsection 53 (2) of the Act is amended by striking out “a contract for the construction of a new home with an owner” and substituting “a construction contract”.

(3) Subsections 53 (3) and (4) of the Act are repealed.

4 The Act is amended by adding the following sections:

Requirements, purchase agreement

53.1 (1) A purchase agreement, and the parties to such an agreement, must satisfy the requirements as may be set out in the regulations.

Same, construction contract

(2) A construction contract, and the parties to such a contract, must satisfy the requirements as may be set out in the regulations.

Cooling-off period

Prescribed information

53.2 (1) In addition to any requirement under subsection 53 (1), a vendor who enters into a purchase agreement for a new freehold home, or other prescribed new home, shall,

- (a) deliver to the purchaser the information prescribed for the purposes of this section in respect of the home; and
- (b) comply with such requirements as may be prescribed in respect of the information referred to in clause (a).

Purchaser not bound

(2) A purchase agreement for a new freehold home or other prescribed new home is not binding on the purchaser until,

- (a) the vendor has delivered to the purchaser the information referred to in clause (1) (a); and
- (b) the requirements referred to in clause (1) (b), if any, are satisfied.

Rescission of purchase agreement

(3) A purchaser of a new freehold home or other prescribed new home may, in accordance with subsection (4), rescind the purchase agreement before accepting a deed to the new home being purchased that is in registerable form.

Notice of rescission

(4) To rescind a purchase agreement under this section, a purchaser shall give a written notice of rescission to the vendor who must receive the notice within 10 days after the latest of the following:

1. The date that the purchaser receives the information referred to in clause (1) (a).
2. The date that the requirements referred to in clause (1) (b), if any, are satisfied.
3. The date that the purchaser receives a copy of the purchase agreement executed by the vendor and the purchaser.

Refund upon rescission

(5) If a vendor receives a notice of rescission from a purchaser under this section, the vendor shall promptly refund, without penalty or charge, to the purchaser, all money received from the purchaser under the purchase agreement and credited towards

the purchase price, together with interest on the money calculated at the prescribed rate from the date that the vendor received the money until the date the vendor refunds it.

5 (1) Clause 83 (1) (g) of the Act is amended by striking out the portion before subclause (i) and substituting the following:

- (g) governing purchase agreements, including prescribing requirements for the purposes of subsection 53.1 (1) and including,

.

(2) Subclauses 83 (1) (g) (ii) and (iii) of the Act are repealed and the following substituted:

- (ii) requiring the agreements or the parties to each agreement to include certain terms or conditions specified in the regulations,
- (iii) prohibiting the agreements or the parties to each agreement from including certain terms or conditions specified in the regulations, and

(3) Subclause 83 (1) (g) (iv) of the Act is amended by striking out “the purchaser” and substituting “the parties”.

(4) Clause 83 (1) (h) of the Act is amended by striking out the portion before subclause (i) and substituting the following:

- (h) governing construction contracts, including prescribing requirements for the purposes of subsection 53.1 (2) and including,

.

(5) Subclauses 83 (1) (h) (ii) and (iii) of the Act are repealed and the following substituted:

- (ii) requiring the contracts or the parties to each contract to include certain terms or conditions specified in the regulations,
- (iii) prohibiting the contracts or the parties to each contract from including certain terms or conditions specified in the regulations, and

(6) Subclause 83 (1) (h) (iv) of the Act is amended by striking out “the owner” and substituting “the parties”.

(7) Subsection 83 (1) of the Act is amended by adding the following clauses:

- (h.1) governing the information that section 53.2 requires a vendor to deliver to a purchaser, including prescribing requirements in respect of the information;
- (h.2) prescribing other new homes for the purposes of section 53.2 and exempting any class of purchase agreements from the application of that section;

6 Subsection 84 (1) of the Act is amended by adding the following clause:

- (i.2) requiring the regulatory authority to make specified documents available to the public and prescribing the means for doing so;

7 Section 90 of the Act is repealed.

Commencement

8 (1) Except as otherwise provided in this section, this Schedule comes into force on a day the *Homeowner Protection Act, 2024* receives Royal Assent.

(2) Sections 1 to 5 come into force on a day to be named by proclamation of the Lieutenant Governor.

**SCHEDULE 2
ONTARIO HERITAGE ACT**

1 (1) Subsection 27 (16) of the *Ontario Heritage Act* is amended by striking out “2025” at the end and substituting “2027 or such later date as may be prescribed”.

(2) Paragraph 3 of subsection 27 (18) of the Act is amended by striking out “2025” at the end and substituting “2027 or such later date as may be prescribed”.

(3) Section 27 of the Act is amended by adding the following subsections:

Same

(19) If a property included in the register under subsection (3) on or after January 1, 2023 or a predecessor of subsection (3) as of December 31, 2022 is removed from the register on or after the day subsection 1 (3) of Schedule 2 to the *Homeowner Protection Act, 2024* comes into force and subsection (14), (15) or (16) of this section does not require the removal, the council of the municipality may not include the property again in the register under subsection (3) for a period of five years after the date of the removal.

Same

(20) If a property included in the register under a predecessor of subsection (3) as of December 31, 2022 is removed from the register before the day subsection 1 (3) of Schedule 2 to the *Homeowner Protection Act, 2024* comes into force and subsection (14) of this section does not require the removal, the following rules apply:

1. Subsections (14), (16) and (18) apply in respect of the property as they would if the property had not been removed from the register.
2. The council of the municipality may not include the property again in the register under subsection (3) on or after the date on which subsection (14) or (16) would have required the property’s removal from the register had it not already been removed, except in accordance with subsection (18).
3. If the council of the municipality includes the property again in the register, subsections (14), (16), (18) and (19) apply in respect of the property as they would if the property had not been removed from the register.

Same

(21) If a property included in the register under subsection (3) on or after January 1, 2023 is removed from the register before the day subsection 1 (3) of Schedule 2 to the *Homeowner Protection Act, 2024* comes into force and subsection (14) of this section does not require the removal, the council of the municipality may not include the property again in the register under subsection (3) for a period of five years after the date of the removal.

2 Section 71 of the Act is amended by adding the following clauses:

- (g) facilitate the implementation of amendments to this Act made by Schedule 2 to the *Homeowner Protection Act, 2024*;
- (h) deal with any problems or issues arising as a result of the enactment of a provision of this Act made by Schedule 2 to the *Homeowner Protection Act, 2024*.

Commencement

3 This Schedule comes into force on the day the *Homeowner Protection Act, 2024* receives Royal Assent.

SCHEDULE 3
ONTARIO NEW HOME WARRANTIES PLAN ACT

1 (1) Subclauses 23 (1) (m.4) (ii) and (iii) of the *Ontario New Home Warranties Plan Act* are repealed and the following substituted:

- (ii) requiring the agreements or the parties to each agreement to include certain terms or conditions specified in the regulations,
- (iii) prohibiting the agreements or the parties to each agreement from including certain terms or conditions specified in the regulations, and

(2) Subclause 23 (1) (m.4) (iv) of the Act is amended by striking out “the purchaser” and substituting “the parties”.

(3) Subsection 23 (1) of the Act is amended by adding the following clause:

(m.5) requiring the Corporation to make specified documents available to the public and prescribing the means for doing so;

Commencement

2 (1) Except as otherwise provided for in this section, this Schedule comes into force on the day the *Homeowner Protection Act, 2024* receives Royal Assent.

(2) Subsections 1 (1) and (2) come into force on a day to be named by proclamation of the Lieutenant Governor.

**SCHEDULE 4
PERSONAL PROPERTY SECURITY ACT**

1 Subsection 1 (1) of the *Personal Property Security Act* is amended by adding the following definitions:

“Minister” means the Minister of Public and Business Service Delivery or such other member of the Executive Council to whom responsibility for the administration of this Act may be assigned or transferred under the *Executive Council Act*; (“ministre”)

“Ministry” means the ministry of the Minister; (“ministère”)

2 Subsection 18 (11) of the Act is amended by striking out “responsible for the administration of this Act”.

3 (1) Subsection 42 (2) of the Act is amended by striking out “of Consumer and Business Services” at the end.

(2) Subsection 42 (5) of the Act is amended by striking out “of Consumer and Business Services”.

4 (1) Clause 54 (1) (a) of the Act is repealed and the following substituted:

- (a) the collateral is or includes fixtures or goods that may become fixtures or crops, or minerals or hydrocarbons to be extracted, or timber to be cut, subject to subsection (1.1); or

(2) Section 54 of the Act is amended by adding the following subsection:

Non-application to consumer goods

(1.1) Clause (1) (a) does not apply with respect to collateral that is consumer goods, except as may be provided by the regulations.

(3) Subsection 54 (2) of the Act is amended by adding “that is prescribed for the purposes of subsection (1.1)” after “consumer goods”.

(4) Subsection 54 (4) of the Act is amended by striking out “registered under subsection (1)”.

(5) Subsection 54 (6) of the Act is amended by adding “that is prescribed for the purposes of subsection (1.1)” after “consumer goods”.

(6) Section 54 of the Act is amended by adding the following subsections:

Deemed expiry of certain notices

(7) A notice registered under clause (1) (a) or extension notice registered under subsection (3) in respect of consumer goods that is in effect immediately before the day the *Homeowner Protection Act, 2024* receives Royal Assent is deemed to have expired on that day and,

- (a) for greater certainty, the notice may not be extended under subsection (3); and
(b) the land described in the notice is not affected by any claim under the notice.

Deletion from title

(8) A notice registered under clause (1) (a) or extension notice registered under subsection (3) may be deleted from title by registering an application in the proper land registry office in the form and manner approved by the Director of Titles appointed under the *Land Titles Act*, if,

- (a) the notice is deemed to have expired under subsection (7); or
(b) the notice was with respect to collateral that was consumer goods and it expired before the day the *Homeowner Protection Act, 2024* received Royal Assent.

5 Section 56 of the Act is amended by adding the following subsection:

Application to certain notices

(2.0.1) Subsections (1) and (2) apply with respect to a registered notice of security interest respecting collateral that is consumer goods only if the consumer goods are prescribed for the purposes of subsection 54 (1.1).

6 (1) Clause 57 (1) (b) of the Act is repealed and the following substituted:

- (b) a certificate of discharge, if the consumer goods are prescribed for the purposes of subsection 54 (1.1) and a notice of security interest has been registered under that section.

(2) Subsection 57 (1.1) of the Act is repealed and the following substituted:

Transition

(1.1) Clause (1) (b), as it read immediately before the day the *Homeowner Protection Act, 2024* received Royal Assent, continues to apply with respect to a notice of security interest registered under section 54 with respect to consumer goods before

that day, if all the obligations under a security agreement that created the security interest were performed or forgiven less than 30 days before that day.

(3) Subsection 57 (3) of the Act is repealed and the following substituted:

Rights not affected

(3) Subsections (1) and (2) do not affect any rights of a person under subsection 54 (8) or section 56.

7 Subsection 73.1 (1) of the Act is amended by striking out “responsible for the administration of this Act” in the portion before clause (a).

8 Subsection 74 (2) of the Act is amended by striking out “responsible for the administration of this Act” wherever it appears.

9 Subsection 74.1 of the Act is amended by adding the following clause:

- (b.1) for the purposes of subsection 54 (1.1),
 - (i) prescribing consumer goods, and
 - (ii) governing any transitional matter that may arise as a result of the making of a regulation under subclause (i);

10 Part VI of the Act is amended by adding the following section:

Limitations on remedies, amendments made by *Homeowner Protection Act, 2024*

74.2 (1) No cause of action arises against the Crown in right of Ontario or a current or former member of the Executive Council or employee, officer or agent of the Crown in right of Ontario as a direct or indirect result of,

- (a) the enactment, operation, administration or repeal of the amendments made to this Act by Schedule 4 to the *Homeowner Protection Act, 2024* or the making, operation, administration or revocation of any regulations under clause 74.1 (b.1);
- (b) anything done or not done under, in accordance with or otherwise in relation to the amendments made to this Act by Schedule 4 to the *Homeowner Protection Act, 2024* or regulations made under clause 74.1 (b.1), including any Minister’s orders made under section 73.1;
- (c) any effect on an instrument or on contractual or other rights, including but not limited to revocation, cessation, expiry, termination or modification of an instrument or of contractual or other rights, as a result of the amendments made to this Act by Schedule 4 to the *Homeowner Protection Act, 2024* or regulations made under clause 74.1 (b.1); or
- (d) any representation or other conduct by a current or former member of the Executive Council or employee, officer or agent of the Crown in right of Ontario that is related, directly or indirectly, to the amendments made to this Act by Schedule 4 to the *Homeowner Protection Act, 2024* or regulations made under clause 74.1 (b.1).

No remedy

(2) No costs, compensation or damages, including for loss of revenues or loss of profit, are owing or payable to any person, and no remedy, including but not limited to a remedy in contract, restitution, unjust enrichment, tort, misfeasance, bad faith, trust or fiduciary obligation, any equitable remedy or any remedy under any statute, is available to any person in connection with anything referred to in subsection (1).

Proceedings barred

(3) No proceeding that is directly or indirectly based on or related to anything referred to in subsection (1) may be brought or maintained against the Crown in right of Ontario or a current or former member of Executive Council or employee, officer or agent of the Crown in right of Ontario.

Application

(4) Subsection (3) does not apply with respect to an application for judicial review, but does apply with respect to any other court, administrative or arbitral proceeding claiming any remedy or relief, including specific performance, an injunction, declaratory relief or enforcement of a judgment, order or award made outside Ontario.

Retrospective effect

(5) Subsections (3) and (4) apply regardless of whether the cause of action on which the proceeding is purportedly based arose before, on or after the day the *Homeowner Protection Act, 2024* receives Royal Assent.

No costs on dismissal

(6) No costs shall be awarded against any person in respect of the dismissal of a proceeding that cannot be brought or maintained under subsection (3).

Proceedings by Crown not prevented

(7) This section does not apply with respect to proceedings brought by the Crown in right of Ontario.

No expropriation

(8) Nothing referred to in subsection (1) constitutes an expropriation or injurious affection for the purposes of the *Expropriations Act* or otherwise at law.

Application re certain agreements

(9) For greater certainty, this section applies with respect to a claim by a party to any of the following agreements with the Crown in right of Ontario in relation to a matter directly or indirectly arising from the agreement:

1. The “Supplemental Royalty Payment Agreement”, effective December 16, 2010, between Her Majesty the Queen in right of Ontario as represented by the Minister of Finance and Teranet Inc. and Teranet Holdings LP.
2. The “Second Amended and Restated License Agreement”, effective December 16, 2010, between Her Majesty the Queen in right of Ontario as represented by the Minister of Government Services and Teranet Inc.
3. Any other agreement between the Crown in right of Ontario and one or more of the following entities:
 - i. Teranet Inc.
 - ii. Teranet Holdings LP.
 - iii. Any entity related to Teranet Inc. or Teranet Holdings LP.
 - iv. Any permitted successor or assign of an entity referred to in subparagraph i, ii or iii.

11 Clause 78 (3) (c) of the Act is amended by striking out “of Consumer and Business Services” at the end.

Commencement

12 This Schedule comes into force on the day the *Homeowner Protection Act, 2024* receives Royal Assent.

**SCHEDULE 5
PLANNING ACT**

1 Section 47 of the *Planning Act* is amended by adding the following subsection:

Exception

(29) Subsections (20) to (28) do not apply, and are deemed to have never applied, in respect of land designated as transit-oriented community land under subsection 2 (1) of the *Transit-Oriented Communities Act, 2020*, including any causes of action, amounts owing or payable, remedies or proceedings relating directly or indirectly to such land.

Commencement

2 This Schedule comes into force on the day the *Homeowner Protection Act, 2024* receives Royal Assent.