

REGISTER
GET THE LATEST NEWS
RIGHT IN YOUR INBOX



Real Estate Leadership and
Entrepreneurship Certificate

Register now ▶



News

Canada's foreign buyer ban is certain; how it will be enforced is not

Mario Toneguzzi | Dec 05, 2022 | 5 comments



Beginning in the new year, non-Canadians will be subject to a two-year ban on purchasing homes in Canada.

Many have said it **wouldn't impact** the real estate market as foreign buyers represent a small number of annual transactions. But the impact could be severe for individuals associated with facilitating a foreign buyer's purchase of Canadian property.

"To enforce the ban, anyone who knowingly helps a non-Canadian to buy a house could face fines of up to \$10,000. In addition to fines levied against the non-Canadian buyer," says Romana King, bestselling author

and senior finance editor at Finder. “This new legislation makes it costly for any person involved in a real estate transaction to help a non-Canadian directly or indirectly purchase Canadian residential real estate.

“This means lawyers, notaries, realtors, and financial brokers face a \$10,000 fine if they knowingly help a foreign buyer or corporation to purchase Canadian residential property before Jan. 1, 2025. And that’s \$10,000 per offence! Given the large financial consequence — and the number of reputable people and media outlets discussing this issue — it’s doubtful that real estate professionals are unaware of this two-year ban. Every legal firm representing a builder or developer would have been in direct communication with their clients starting as early as late June 2022 after the proposed bill was officially passed.

“What is uncertain is how the regulations will be enforced and whether or not legal challenges will hinder the federal government’s ability to enforce and collect their dues. Various legal firms across Canada pointed out that while this ban is passed and will be enforced by the federal government, the legislation of residential real estate is actually a provincial mandate. This could mean challenges to this new ban — and uncertainty about whether or not the fine can and should be collected.”

What does all this mean for realtors and other real estate professionals?

“Ignoring the smallest bad-apple segment of these professions — those that fraudulently try to skirt the law — the big shift will be to adapt their business strategy,” adds King.

“For realtors, developers and builders whose primary customers are overseas buyers, it may mean eating the cost of the fine in order to do business. Let’s face it, paying \$10,000 to the federal government on a \$50,000 commission is steep, but it’s still \$40,000 in earnings (multiplied by hundreds of units) that helps keep the lights on. We’ve seen this behaviour before, with some real estate brokerages fined year after year for violations before finally having their license revoked.

“Others will help foreign buyers become ‘exempt’ by using legislative exclusions, such as students or those who marry and purchase with buyers exempt from the prohibition. Finally, the vast majority of realtors will just double down on servicing their Canadian-resident clients and use their overseas contacts to help build their new immigrant client base.”

Pierre Leduc, spokesperson with the Canadian Real Estate Association, said the federal government still needs to publish the regulations surrounding the legislation.

“That means, apart from a maximum fine of \$10,000 and that the Minister may apply to the applicable provincial court for a judicial sale order, CREA does not have at this time any further details regarding the regulations themselves, its interpretations, how the legislation will be applied or how it will be enforced,” he said.

According to Canada Mortgage and Housing Corporation, if a non-Canadian is convicted of having illegally purchased property, the superior court of the province in which the residential property is located may order the property to be sold. The Act establishes that any such court-ordered sale will result in the non-Canadian receiving no more than the purchase price paid for the residential property.

“Do third parties, like realtors or lawyers, have a role in enforcing the prohibition on the purchase of residential property by non-Canadians?” says the CMHC on its website explaining the legislation. “As part of their professional duties, realtors, lawyers, and notaries owe their clients an obligation to inform. The legislation does not rely on these professionals to enforce the prohibition. It nonetheless allows for penalties to be imposed on any party found guilty of knowingly assisting a non-Canadian in violating the prohibition.”

Meanwhile, U.S. buyers have buying up recreational property ahead of Jan. 1. A recent [Royal LePage survey of U.S. citizens living in border states](#), conducted by Leger, found that 75 per cent of those who currently own recreational property in Canada said that they made their purchase after the two-year foreign buyer ban was announced.

Of those who purchased following the announcement, 77 per cent stated that the potential impacts of the ban on their ability to buy real estate in Canada after Jan. 1, 2023, influenced their decision to purchase before the end of this year.

Among those surveyed who do not currently own a recreational property in Canada, but plan to make a purchase, 67 per cent said that the current strength of the U.S. dollar has made them more inclined to buy a home north of the border. The primary reasons for wanting to buy a recreational property in Canada are multi-season usability (39 per cent), for retirement purposes (38 per cent), and investment purposes (37 per cent).

“Canada’s winter recreational regions are a draw for our neighbours to the south who are looking for a place to live and play in the winter months. The strength of the U.S. dollar, investment opportunities and relative affordability of recreational properties have enticed buyers from south of the border,” says Pauline Aunger, broker of record, Royal LePage Advantage Real Estate. “With its world-class skiing resorts and picturesque winter landscapes, Canada will remain a desirable location for recreational buyers from all over the world.”

Tags

Canada Mortgage and Housing Corporation

CMHC

CREA

foreign buyer ban

Royal LePage



Mario Toneguzzi

Mario Toneguzzi is a contributing writer for REM. He has more than 40 years of experience as a daily newspaper writer, columnist, and editor. He worked for 35 years at the Calgary Herald, covering sports, crime, politics, health, faith, city and breaking news, and business. He now works on his own as a freelance writer for several national publications and consultant in communications and media relations/training. Mario was named in 2021 as one of the Top 10 Business Journalists in the World by PR News – the only Canadian to make the list.

Share



5 Comments



Ingrid Bennett on December 5, 2022 at 10:18 am

I don't know how or when this was “announced” but it's the first time I'm hearing about this. It sounds like this is a Canada wide policy? Glad I read this article but why has CREA not sent this info out to all realtor members?

Reply



Robert C Ede on December 5, 2022 at 10:48 am

Very good work-up!

Esp the \$10,000 as a cost of doing business aspect

It prompts the the question ... What if the law expires in two years and these prohibited non-Cdn buyers aren't discovered, prosecuted, convicted etc until after the expiry date?

And super-esp the Jurisdictional issue:

Legislation for Uniformity of Laws in Common Law Provinces

94 Notwithstanding anything in this Act, the Parliament of Canada may make Provision for the Uniformity of all or any of the Laws relative to Property and Civil Rights in Ontario, Nova Scotia, New Brunswick, any subsequent non-Civil Law provinces and of the Procedure of all or any of the Courts in those (Common Law) Provinces, and from and after the passing of any Act in that Behalf the Power of the Parliament of Canada to make Laws in relation to any Matter comprised in any such Act shall, notwithstanding anything in this Act, be unrestricted; but any Act of the Parliament of Canada making Provision for such Uniformity shall not have effect in any Province unless and until it is adopted and enacted as Law by the Legislature thereof.

97 Until the Laws relative to Property and Civil Rights in Ontario, Nova Scotia, and New Brunswick, and the Procedure of the Courts in those Provinces, are made uniform, the Judges of the Courts of those Provinces appointed by the Governor General shall be selected from the respective Bars of those Provinces.



Linda Pelletier on December 5, 2022 at 12:19 pm

Reply

This is the first I've heard of this as well. What happens if a client lives in Canada but is not a Canadian citizen? Is that client not allowed to purchase a home? Do I have to ask all of my clients now if they are Canadian citizens?

This ban might make sense for foreigners living outside of Canada, but it doesn't make any sense at all if the foreign person resides here.

Reply



Anonymous on December 6, 2022 at 9:34 am

As long as the buyer is a permanent resident or temporary resident then this ban does not apply to them.

Reply



Alex Tazi on December 6, 2022 at 11:50 am

What if my client is a Canadian citizen but works in the USA and is considered a non-resident in Canada? Can he still purchase after Dec. 31?

And what if the offer gets accepted in December, but the sale closes in 2023? Is that ok?

So many grey areas, communication is sorely lacking! Thanks for your help.

Reply

Get the latest news directly in your inbox

Stay on top of everything happening in Canada's real estate industry. Delivered every Tuesday, Friday and Sunday morning.

CREA

**REAL TIME:
A podcast for
REALTORS®**

[Listen now](#)

REALTOR® Member of The Canadian Real Estate Association (CREA) and more.

MOST POPULAR