As of January 1, 2023, “non-Canadians” are prohibited from purchasing residential real estate in Canada for a period of two years under the new Prohibition on the Purchase of Residential Property by Non-Canadians Act (the Act). New regulations (“Regulations”) were published in the Canada Gazette on December 21, 2022, and clarify key aspects of the Act including an expanded definition of "residential properties", control by a non-Canadian, and a broader definition of "purchase". The Act and Regulations will be repealed after 2 years.

KEY ASPECTS

- The Act prevents non-Canadians from buying residential property, directly or indirectly, in Canada for 2 years starting on January 1, 2023.
- The Act defines “non-Canadians” to include an individual who is not a Canadian citizen, not a person registered as an Indian under the Indian Act, and not a person identified as a permanent resident.
- The Act defines residential property to include, within in a census agglomeration or census metropolitan area:
  - buildings with 3 dwelling units or less,
  - parts of buildings that consist of semi-detached houses, rowhouse units, condominium units, or other similar premises.
- The Act allows for a $10,000 fine to be imposed on any non-Canadian in violation of the Act or on anyone who knowingly assists a non-Canadian with a violation. If a court finds that a non-Canadian has purchased residential property in violation of the Act, it may order the sale of the property.

EXCEPTIONS AND EXCLUSIONS

Regulations establish some exceptions for temporary residents working or studying in Canada, refugees and individuals fleeing international crises, and foreign nationals with diplomatic, consular or other special statuses, provided that such individuals satisfy the criteria for exemptions.

The prohibition on the purchase of residential property will also not apply if the non-Canadian assumed liability for the residential property under an agreement of purchase and sale prior to January 1, 2023.

Further, the following transactions are excluded from the prohibition:

- transfers to an individual arising from a death, divorce or separation or a gift,
- transfers under the terms of a trust created prior to the Act coming into force,
- rentals to tenants occupying the residential properties, and
- transfers resulting from exercise of a security interest or secured right by a secured creditor.

Regulations also include an exception for any residential property found outside of a Census Metropolitan Area or Census Agglomeration as identified in Statistics Canada’s Standard Geographical Classification 2021.
Recourses:

Prohibition on the Purchase of Residential Property by Non-Canadians Act [S.C. 2022, c. 10, s. 235]

Canada Gazette: Prohibition on the Purchase of Residential Property by Non-Canadians Regulations: SOR/2022-250

CMHC Media Room - Ensuring housing market remains available to Canadians

CMHC Media Room - Amendments to the Prohibition on the Purchase of Residential Property by Non-Canadians Act’s accompanying Regulations