

Certificate and Consent of Purchaser – Corporation or other Entity

Information

This document has been prepared by the Canadian Real Estate Association (CREA) to assist REALTORS® by providing a resource to undertake additional due diligence with the view to minimizing the risk of criminal penalties and fines.

The regulatory analysis states “the regulations do not impose information collection, processing or reporting requirements on Canadian professionals, nor do they impose requirements with respect to the completion of forms or other types of documentation.”

Despite record keeping not being a mandatory obligation, CREA recommends REALTORS® perform due diligence. To better assist REALTORS® with risk mitigation, CREA has developed this certificate. With limited information available on how this law and its regulations will be interpreted and enforced, please be aware this certificate is a risk mitigation tool to try and help REALTORS® comply with the law.

As real estate is provincially regulated, REALTORS® should ensure to comply with any guidance provided by their provincial regulator, board, and association. This guidance herein is not a substitute for obtaining legal advice.

REALTORS® should ascertain particulars of the purchasing Corporation/Entity’s ownership, structure, and control by reviewing and recording details of the Corporation/Entity’s valid and current documentation (such as articles of incorporation, trust deed, shareholder register, etc.). Additionally, REALTORS® should ascertain the *Non-Canadian* status of each of the Corporation/Entity’s owners by reviewing and recording details of the owner’s valid and current identification (such as a passport). This Certificate can be completed in conjunction with the above noted guidance with respect to identification. If REALTORS® choose to use this resource, it should be completed **prior** to assisting or advising a client with respect to the purchase of *Residential Property*, as defined by the Act. For greater clarity, key terms are defined below.

Definitions

The Act defines the following terms:

Non-Canadian means

- (a) an individual who is neither a Canadian citizen nor a person registered as an Indian under the Indian Act nor a permanent resident;
- (b) a corporation that is incorporated otherwise than under the laws of Canada or a province;
- (c) a corporation incorporated under the laws of Canada or a province whose shares are not listed on a stock exchange in Canada for which a designation under section 262 of the Income Tax Act is in effect and that is controlled by a person referred to in paragraph (a) or (b); and
- (d) a prescribed person or entity. (*non-Canadien*)¹

Residential Property means any real property or immovable, other than a prescribed real property or immovable, that is situated in Canada and that is

- (a) a detached house or similar building, containing not more than three dwelling units, together with that proportion of the appurtenances to the building and the land subjacent or immediately contiguous to the building that is reasonably necessary for its use and enjoyment as a place of residence for individuals;
- (b) a part of a building that is a semi-detached house, rowhouse unit, residential condominium unit or other similar premises that is, or is intended to be, a separate parcel or other division of real property or immovable owned, or intended to be owned, apart from any other unit in the building, together with that proportion of any common areas and other appurtenances to the building and the land subjacent or immediately contiguous to the building that is attributable to the house, unit or premises and that is reasonably necessary for its use and enjoyment as a place of residence for individuals; or
- (c) any prescribed real property or immovable. (*immeuble résidentiel*)²

¹ *Prohibition on the Purchase of Residential Property by Non-Canadians Act* at s.2;
<https://laws-lois.justice.gc.ca/eng/acts/P-25.2/page-1.html>

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The Regulations define the following terms:

control with respect to a corporation or entity, means

- (a) direct or indirect ownership of shares or ownership interests of the corporation or entity representing 3% or more of the value of the equity in it, or carrying 3% or more of its voting rights; or
- (b) control in fact of the corporation or entity, whether directly or indirectly, through ownership, agreement or otherwise. (*contrôle*)³

Non-Canadian — prescribed entities

2 For the purposes of paragraph (d) of the definition *non-Canadian* in section 2 of the Act, the following entities are prescribed:

- (a) an entity formed otherwise than under the laws of Canada or a province; and
- (b) an entity formed under the laws of Canada or a province and controlled by an entity referred to in paragraph (a) or controlled by a person referred to in paragraph (a), (b) or (c) of the definition *non-Canadian* in section 2 of the Act.⁴

³ Prohibition on the Purchase of Residential Property by Non-Canadians Regulations at s.1;

<https://laws.justice.gc.ca/eng/regulations/SOR-2022-250/page-1.html>

⁴ Prohibition on the Purchase of Residential Property by Non-Canadians Regulations at s.2;

<https://laws.justice.gc.ca/eng/regulations/SOR-2022-250/page-1.html>

This document (version 1.1) has been prepared by The Canadian Real Estate Association (“CREA”) to assist members in complying with requirements of Canada’s Prohibition on the Purchase of Residential Property by Non-Canadians.