

IMPROVING CONSUMER PROTECTIONS

Due to market conditions, buyers may feel the need to purchase a home without conducting due diligence. REALTORS® share the government's objective of increasing protections for homebuyers; however, we are concerned about the government's framework in the *Property Law Amendment Act*, which will establish a right for purchasers to rescind (also known as a "cooling off period") on their contract of purchase of sale for all residential real estate transactions.

This brief provides recommendations to reduce unintended impacts of a "cooling off period" that would strengthen consumer confidence and protection in the residential real estate market. Improvements need to be made to housing supply to address the root causes of most consumer concerns, but there are short-term solutions that can be made to the real estate transaction to enhance consumer protection.

ENHANCE THE REAL ESTATE TRANSACTION FRAMEWORK

Given the extreme shortage of available listings, some buyers find themselves under pressure to forego proper due diligence. Buyers may not have the opportunity to view a property, have an inspection completed or review important documents, sometimes presenting subject-free offers that challenge the limits of their financing. The ability to calmly consider the key aspects of a home purchase before making an offer has been a missing element during the overheated BC real estate market.

Implementing a "cooling off period" is not the answer to this problem, as it does not provide more time for a buyer to consider a decision prior to making an offer. According to recent polling, only 35 per cent of British Columbians support a "cooling off period." Additionally, a majority of Realtors are concerned that if a "cooling off period" is implemented:

- it would worsen affordability by increasing the number of offers,
- it could worsen supply, as buyers with multiple accepted offers effectively remove properties from the market for the duration of the cooling off period,
- consumers will look for workarounds, which may lead to more unrepresented parties,
- there is a lack of metrics to understand the effectiveness of a "cooling off period,"
- the impacts will be significantly different in a seller's market compared to a buyer's market,
- there will be an imbalance between the rights of buyers and sellers,
- there will be an increase in frivolous offers,
- if used indiscriminately by buyers, a "cooling off period" could tie up multiple houses in a neighbourhood.

CONTACT

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RECOMMENDATION 1

If a "cooling off period" is implemented, create an exemption for situations where both the buyer and seller agree to waive their right to rescission.

There are many instances where a mandatory rescission period would not make sense, such as if a property needs to be sold as quickly as possible as a result of divorce, health problems, or other unexpected instances. In these circumstances, if both the buyer and seller have a clear understanding of the risks they are taking, they should be able to sign a waiver allowing themselves to be exempt. In addition, properties sold by auction negate the need for a mandatory rescission period, similar to what is already in place in Australian states.

RECOMMENDATION 2

Engage in further consultation with BCREA and real estate stakeholders to understand appropriate parameters for a "cooling off period."

To utilize the knowledge and expertise from within the sector, continued government engagement is necessary with BCREA, member boards and other real estate stakeholders prior to implementing a "cooling off period." Making the BC Financial Services Authority's report public when it is finalized and conducting a review of the measure after six months of implementation will allow BCREA and other real estate stakeholders to have more fulsome knowledge on how to best work with the government in understanding parameters and necessary exemptions.

BCREA is a professional association representing eight real estate boards with more than 24,000 Realtors in BC, focusing on provincial issues that impact real estate. BCREA provides continuing professional development, advocacy, economic research and standard forms to help Realtors provide value for their clients.

