

Toronto Star

Province to fast-track settlement of Tarion home warranty claims



By [Kenyon Wallace](#) News reporter
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Buyers of new homes in Ontario will have a faster track to warranty payouts for builder defects under a massive overhaul of the Tarion home warranty system, the province has announced.

Under legislation tabled at Queen’s Park Thursday, buyers who find defects in their newly-built homes will no longer be forced to prove the cause of the problems to obtain warranty coverage, simply show that the defects exist.

“This has been a persistent issue that consumers, stakeholder and the media have been vocal about,” Tracy MacCharles, Minister of Government and Consumer Services, said at a press conference at Queen’s Park Thursday.

“If passed, the proposed legislation would clarify the dispute resolution process to make it easier and fairer for new homeowners.”

An [ongoing Star investigation](#) has found buyers who have encountered defects in their new homes are stymied by onerous requirements to prove the cause of the deficiencies in order to successfully make a warranty claim. Some new homeowners the Star spoke to were forced to hire engineers and heating and ventilation specialists in an effort to prove problems with their furnaces — a lengthy and costly process.

The legislation, “Strengthening Protection for Ontario Consumers Act,” revamps the way the new home warranty program in Ontario works by [stripping Tarion Warranty Corporation](#) of its role as regulator of new homebuilders. Under the Liberals’ plan, a new “administrative authority” will be created to regulate builders and vendors, while Tarion will continue to administer warranty claims.

The measures address what MacCharles calls “conflict of interest concerns” with the multiple roles Tarion currently plays as regulator, warranty provider and adjudicator in disputes between buyers and builders. Tarion, a private non-profit corporation, was created by the province in 1976.

The legislation also gives the Auditor General of Ontario the power to do value-for-money audits on the two authorities — something opposition parties have long called for.

While Tarion voluntarily created an ombudsperson’s office in 2009 to promote fairness in the warranty program, the legislation mandates the appointment, giving the official more authority.

Also in the legislation are measures for up-to-date protections for deposits on new homes and condos. In Ontario, the maximum deposit protection for a new home is \$40,000 while the condo deposit protection is just \$20,000 — amounts that do not reflect current home prices, especially in the GTA. The government says it will ask Tarion to come up with deposit protection amounts more aligned with today's real estate market.

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In an interview, MacCharles said she hopes the bill passes by the end of the year, but noted the new system likely won't be up and running until 2020.

The plans have been informed by recommendations made by former Associate Chief Justice J. Douglas Cunningham, who was appointed by the province in late 2015 to conduct an independent review of the Ontario New Home Warranties Plan Act and Tarion following a series of Star stories. Opposition parties have also called for greater oversight.

In March 2017, Cunningham produced a lengthy report consisting of 37 recommendations for improving the system, including:

- Setting out the minimum standards for mandatory warranty protections in legislation.
- Improving the transparency of information available on Tarion's online builder directory.
- Making the new regulator subject to transparency and oversight provisions similar to those in place for other administrative authorities.

Tarion is unique when it comes to the province's administrative authorities in that it has the power to enact its own regulations, such as those governing builder performance and warranty terms.

In her remarks, MacCharles said both newly created administrative authorities would be subject to "stronger oversight, transparency, governance and accountability" similar to Ontario's other modern authorities, such as the Electrical Safety Authority, the Technical Standards and Safety Authority and the Travel Industry Council of Ontario.

The new legislation also gives the minister the power to appoint a minority of board members for the new authorities and choose the chairs.

In statement issued Thursday, Tarion spokesperson Melanie Kearns said the corporation is analyzing the legislation's content and remains "committed to supporting the province on the smooth transition and delivery of the government's plan and will continue to seamlessly deliver on our daily responsibilities and operations."

Progressive Conservative consumer services critic Jim McDonnell called Thursday's legislation "long overdue," noting that his office has heard many complaints about Tarion from consumers.

“We want to make sure that the builders are held accountable,” he said. “Right now . . . it’s very hard for homeowners to know who they can rely on if they’re choosing a builder.”

Wayne Gates, MPP and consumer services critic for the NDP, said the bill doesn’t do enough to protect homebuyers.

“For the last decade, Ontario’s NDP has been calling for a total overhaul of Tarion, to reform it into a true consumer advocate acting in the best interests of hard working Ontario families,” Gates said in a statement.

“While the Liberals are finally talking about taking action, it remains to be seen if they will really act, or if this is another empty pre-election promise.”

One of Cunningham’s key recommendations was for new home warranties to be delivered through a competitive model with multiple providers, much like the insurance industry. MacCharles said such a measure is “not on the table right now.”

Karen Somerville, president of the consumer advocacy group Canadians for Properly Built Homes, said Ontario deserves a competitive model similar to those in existence in British Columbia, Alberta and Saskatchewan. She called Thursday’s announcement “a start” but still a “far cry from what Justice Cunningham recommended” and said the government appears to have “cherry-picked” the recommendations it liked.

“Many homeowners are still fighting with Tarion today. What about all those people who feel their claims were incorrectly dismissed? They need to be addressed,” she said. “The Wynne government seems to be out of touch with the needs of consumers.”