



An Equifax Company

JLR PUBLICATION

Portrait of Sales Made Without Legal Warranty

www.jlr.ca

HIGHLIGHTS:

- In the first five months of 2021, 68% of sales of single-family homes following a transmission (succession) were completed with no legal warranty.
- In addition, 57 percent of multi-residential properties were sold with no legal warranty during the first five months of the year.
- For single-family homes, the proportion of “regular” sales with no legal warranty increased in the province of Quebec from 17% in 2014 to 26% in 2020, and reached 32% in the first five months of 2021.
- Among all transactions in 2021, 59% of century-old homes were sold with no legal warranty, while only 12% of single-family homes built after 1980 were sold this way.

Under Quebec law, sales of properties are made by default with a legal warranty. However, non-professional sellers may specify in the notarized contract that they want to by-pass this warranty. Excluding this clause was already gaining traction before the pandemic, nevertheless, the trend has become increasingly popular in recent months due to the ease with which homeowners are able to sell their property.

WHAT IS A LEGAL WARRANTY?

Legal warranties can be divided into two parts: a warranty on the ownership title to the property and a warranty on quality. The first is generally less well known and concerns everything related to ownership rights, while the second has to do with hidden defects. Through the latter, the seller assures the buyer that the property is free of defects that may impact enjoyment of the property or render it unusable.

Stakeholders should be aware that the absence of a legal warranty of quality does not exempt sellers of all of their responsibilities. Exclusion prevents purchasers from suing the previous owner if they find hidden defects of which they were unaware. However, sellers have an obligation to honestly declare all problems with their properties, as the new owner may have recourse against the seller if the latter was aware of the defect at the time of the transaction.

For more details on the implications of legal warranties, several sources of information are available, [including the OACIQ](#).

At the time of a sale, both types of legal warranties can be excluded separately. The term “sale at the buyer’s risk” is often used in contracts when both types of warranties are excluded. For the purposes of this study, we will consider sales in which the quality warranty is waived to have no legal warranty, even if the warranty on the title is granted.

OVERVIEW OF SALES WITH NO LEGAL WARRANTY

Sales following foreclosures are usually made at the buyer’s risk. The financial institution that takes ownership following a default on loan payments is generally unaware of the condition of the house and wants to avoid being liable for hidden defects.

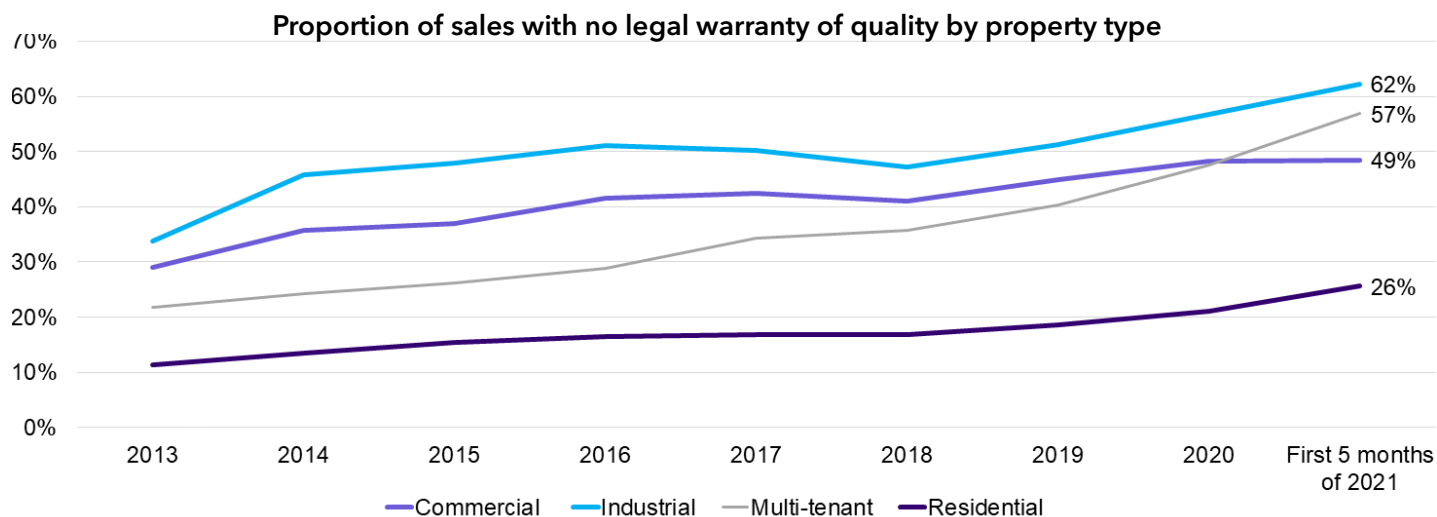
To a lesser extent, sales with no legal warranty are also common following transmissions (successions). Indeed, in these situations, 68% of sales of single-family homes were made with no legal warranty in the first five months of 2021 according to data compiled by JLR from the Quebec Land Register. This proportion has grown in recent years and is generally higher when the heir/heirress (es) do not live in the property.

For so-called “regular” sales, i.e. excluding sales following reposessions or transmissions, opting out of the legal warranty has been gaining popularity in recent years, a phenomenon that has been exacerbated by the highly active market over the past year.

LEGAL WARRANTIES ACCORDING TO BUILDING TYPE

Sales with no legal warranty have been gaining traction for several years, but this popularity has accelerated in the last two years. Recently, more homeowners have been opting to sell with no legal warranty because the high demand resulting from the pandemic enabled them to reduce the benefits granted to homebuyers without really impacting the sale of the property.

This is true in the residential sector, which has been particularly hot since mid-2020, but the trend is also being observed on other markets. However, residential properties remain the building category in which the legal warranty is most commonly used, primarily owing to the condominium sector. In the case of industrial and multi-tenant properties (4 units or more), over half of all transactions were carried out with no legal warranty.

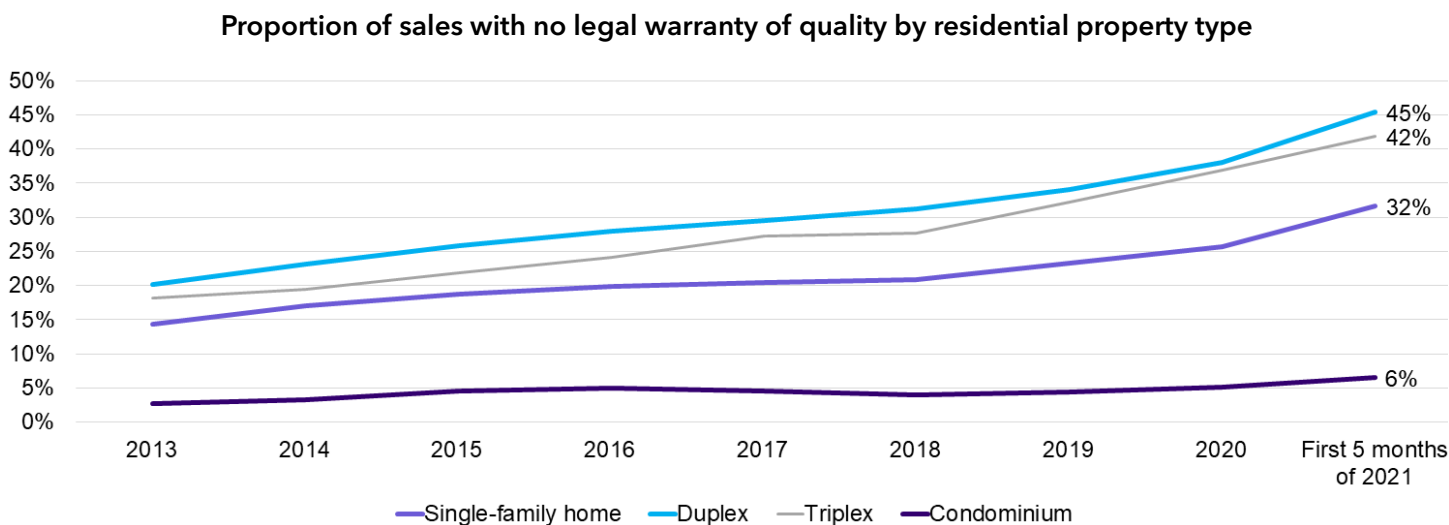


*The first 5 months of 2021 can be compared to the same period in 2020, since no significant seasonality was recorded in the data.

LEGAL WARRANTY-RESIDENTIAL

Since the onset of the pandemic, multiple bid situations have led many to forgo inspection and legal warranties to compete with other buyers and access the properties of their choice. In addition, being aware of how easy it is to sell their home at a high price and with very few constraints, several owners have opted to sell at the buyer's risk. As a result, sales with no legal warranty are growing in the residential sector.

The proportion of sales with no legal warranty varies by building type, but the increase in sales applies to all residential properties. In the case of small plexes, waiving the legal warranty is more common. Here again, the trend has gained traction, particularly in recent years, rising from 23% for duplexes and 19% for triplexes in 2014 to 45% and 42% respectively for January to May 2021.



As a result, the proportion of sales with no legal warranty has more or less doubled in the last seven years. The increase has been observable for several years, but has intensified since 2019 as shown in the graph below.

For single-family homes, the proportion of sales with no legal warranty grew from 17% in 2014 to 26% in 2020, and reached 32% in the first five months of 2021.

Although the proportion is on the rise, condominiums are still rarely sold at the buyer’s risk. This can be in part explained by the fact that these properties are on average more recent constructions.

LEGAL WARRANTY–BY YEAR OF CONSTRUCTION

The older a property, the higher the chances that it will be sold with no legal warranty. In fact, owners of “old” homes are often more reluctant to sell with a legal warranty. They are perhaps more concerned that problems may be uncovered if renovations are done. In the table below, only single-family properties were analyzed, but the findings were similar for all building types. For instance, for 2021 transactions, 59% of century-old single-family properties were sold with no legal warranty. However, that proportion dropped to 45% for properties built between 1921 and 1950 and to 39% for properties built between 1951 and 1980. Finally, for properties built in the 1980s and later, the proportion of sales with no legal warranty fell to 12%. In the case of new properties, builders must offer a five-year warranty on design, construction and workmanship defects, along with ground defects, via the warranty plan for new residential buildings¹.

Proportion of sales of single-family homes with no legal warranty by year of construction				
Year of Construction	Before 1920	1921–1950	1951–1980	1981 or later
Proportion sold without legal warranty	59%	54%	39%	12%

Sales with no legal warranty have increased for all construction year periods in recent years. They aren’t more standard in any specific region and the trends are similar across various sectors in Quebec.

PRICE GAP RELATIVE TO VALUATION

The difference in the price/valuation ratio can provide an idea, albeit likely overestimated, of the value placed on the warranty. Comparing ratios of sales prices to municipal valuations rather than just the price offsets the fact that high-value homes are more often sold with legal warranties. However, for the same municipal valuation, the condition of the property may differ greatly and have a significant impact on the price/valuation ratio and the likelihood of selling with no legal warranty. This information was not factored into the calculated ratios, hence the likelihood of it being overestimated.

The ratios were calculated based on sales of single-family homes on the Island of Montreal alone, in order to maintain a single reference period. The same principle should normally apply in all cities. The assessment roll for the 2020-2022 taxation period was used to calculate the ratios. This indicates the value of the properties on July 1st, 2018. The analysis period runs from August 2020 to May 2021, i.e. a period of fervent activity on the real estate market in which everyone was aware of the pandemic.

PRICE/VALUE RATIO IN THE ASSESSMENT ROLL BY YEAR OF CONSTRUCTION AND INCLUSION OF A LEGAL WARRANTY FOR SALES OF SINGLE-FAMILY HOMES IN MONTREAL FROM AUGUST 2020 TO MAY 2021

Price/municipal valuation ratio				
Year of Construction	Before 1920	1921–1950	1951–1980	1981 or later
No legal warranty (%)	124	126	120	114
With legal warranty (%)	128	132	127	121

The selling price/municipal valuation ratio was 4% and 7% higher depending on the year of construction when a legal warranty was provided for sales of single-family homes in Montreal between August 2020 and May 2021.

In 2016, depending on the year of construction, the municipal price/valuation ratio premium for a sale with legal warranty ranged from 8% to 11% for homes sold on the Island of Montréal. As a result, the added value placed on the legal warranty appears to have dropped.

* Click [here](#) for more information on the “Guarantee plan for new residential buildings”.

This could be the result of less emphasis being placed on legal warranties in this bidding market, in addition to the fact that more properties in very good condition were sold with no legal warranty and high municipal price/valuation ratios as a result. In short, the observed increase is a combination of several factors and is not only due to the legal warranty, although this has impacted values. In bidding situations, some buyers choose to forgo the legal warranty, hoping it will make their offers more attractive. This technique sometimes works because some sellers may choose to place an offer with no legal warranty at the expense of an offer with a higher price, which clearly demonstrates the value of the legal warranty.

CONCLUSION

Sales with no legal warranty have become common for transactions involving repossessions and transmissions. However, the rise in popularity of "regular" sales being made at the buyer's risk is now evident. Every year since 2013, the proportion of sales with no legal guarantee has increased a phenomenon that has accelerated with the highly active market in the past year. This trend is expected to continue since once a property has been acquired with no legal warranty, it is often resold again without one later. So even as the housing market slows, the proportion of sales with no legal warranty is expected to remain high and may slowly become the norm.

METHODOLOGICAL NOTE

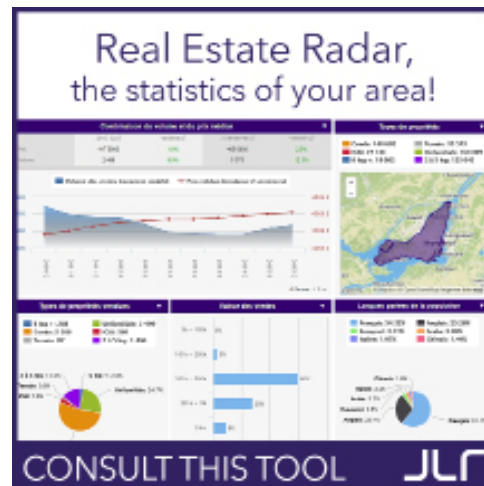
The data used were compiled by JLR from records published in the Quebec Land Register. To obtain statistics representative of the real estate market, some sales data are eliminated for statistical calculations. Thus, sales with a transaction value of less than \$5,000, transmission sales, foreclosed properties, tied selling and multiple sales are not included in the "ordinary" sales statistics.

FOR MORE DETAILS

You wish to get specific data for your area? [Contact us](#) to get a personalized study !

Check the [Real Estate Radar](#) for more information on sales, bad debts and the socio-demographic profile of your sector.

Consult JLR publications at this address: <https://solutions.jlr.ca/publications/prime-studies>





An Equifax Company

ABOUT JLR

JLR's mission is to provide financial institutions, government agencies, private companies and real estate professionals with information about a property or a sector. JLR thus allows to analyze the market, to evaluate a property, to manage a real estate portfolio, to prevent the risk and to reach a target clientele.

LEGAL NOTICE

This document / paper is published by JLR inc. JLR authorizes any reasonable use of the content of this document. This paper is for informational purposes only and is not legal advice and should not be used, or interpreted, as legal advice. The information is provided as is without any representation, warranty or guarantee of any kind, whether express or implied. JLR inc. will not under any circumstances be liable to you or to any other person for any loss or damage arising from, connected with, or relating to the use of this presentation by you or any other person. Users of this informational presentation should consult with their own lawyer for legal advice.

TERMS OF USE

No use of JLR's name, logo or other official trademarks is authorized unless JLR has given prior written consent. Whenever the content of a JLR document is used, reproduced or transmitted, including statistical data, the source should be indicated as follows: "Source: JLR.ca" or, as appropriate, "Adaptation of data from JLR.ca".

© 2021, JLR Inc, an Equifax Company. All rights reserved. JLR™ is a trademark of JLR Inc., an Equifax Company.