

Prompt payment: more red tape for residential construction in B.C.

CHBA BC is opposed to any initiatives that would establish set payment terms for residential construction businesses.

Concerns

1. The provincial *Builders Lien Act* covers all forms of construction in B.C. – residential, commercial, and industrial. In reality, the payment terms and contracts for each project should be based on the size and complexity of the project. For example, prompt payment requires the same payment terms and complexity for single home renovation and a new government-owned bridge.
2. Small, owner-managed businesses cannot afford to use lawyers or significantly increase their administration load in the same way that large sophisticated organizations could. The average home builder in B.C. builds less than 5 homes a year.
3. Prompt payment exists in countries (such as the United Kingdom) where there is no *Builders Lien Act* (the system in B.C.). It is unnecessary to have both options as no jurisdiction in the world has both.
4. Having both a lien and prompt payment adjudication scheme will create more red tape and higher costs for all. This includes internal staff for adjudication processes, fees for experts and external counsel, and adjudicator fees. It will also create confusion and redundancies if a company is faced with both a lien notice holdback and adjudication determinations.
5. The suggestion of a 28-day pay period through prompt payment does not take into account that most payments are monthly. This will disrupt regular payment and invoicing cycles if the time limit is not even a full month in length.
6. If there is a dispute, it is possible that adjudication and rebuttals could stretch out project timelines and delay occupancy. Home buyers should not be affected by payment disputes between contractors.

Other jurisdictions

There are far too many risks to prompt payment, and CHBA BC does not support this legislation in B.C.

Starting in Fall 2019, Ontario will embark on a payment process that will impact all construction contracts in Ontario.

In Ontario, concerned parties include municipalities, school boards, transit commissions, universities and colleges, and government ministries. All will be affected by the new requirements when they enter contracts for new schools, buildings, roads, homes, and infrastructure - all forms of construction apply.

Once in effect, contractors will have to meet mandatory payment timelines when they receive an invoice. If a homeowner, builder, or municipality disputes the invoice, or does not respond within 14 days, a mandatory adjudication process begins to settle the dispute. This means more red tape, legal costs, and delayed projects for all. Prompt payment can only mean less building and more litigation!