

Legislative  
Assembly  
of Ontario



Assemblée  
législative  
de l'Ontario

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**Official Report  
of Debates  
(Hansard)**

M-25

**Journal  
des débats  
(Hansard)**

M-25

**Standing Committee on  
the Legislative Assembly**

Construction Lien  
Amendment Act, 2017

2<sup>nd</sup> Session  
41<sup>st</sup> Parliament

Wednesday 22 November 2017

**Comité permanent de  
l'Assemblée législative**

Loi de 2017 modifiant la Loi  
sur le privilège dans l'industrie  
de la construction

2<sup>e</sup> session  
41<sup>e</sup> législature

Mercredi 22 novembre 2017

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Chair: Monte McNaughton  
Clerk: William Short

Président : Monte McNaughton  
Greffier : William Short

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LEGISLATIVE ASSEMBLY OF ONTARIO

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

**STANDING COMMITTEE ON  
THE LEGISLATIVE ASSEMBLY**

**COMITÉ PERMANENT DE  
L'ASSEMBLÉE LÉGISLATIVE**

Wednesday 22 November 2017

Mercredi 22 novembre 2017

*The committee met at 1302 in committee room 1.*

**CONSTRUCTION LIEN  
AMENDMENT ACT, 2017  
LOI DE 2017 MODIFIANT LA LOI  
SUR LE PRIVILÈGE DANS L'INDUSTRIE  
DE LA CONSTRUCTION**

Consideration of the following bill:

Bill 142, An Act to amend the Construction Lien Act /  
Projet de loi 142, Loi modifiant la Loi sur le privilège  
dans l'industrie de la construction.

**The Chair (Mr. Monte McNaughton):** Good afternoon, everyone. Welcome to the Standing Committee on the Legislative Assembly. We're here for clause-by-clause consideration of Bill 142, An Act to amend the Construction Lien Act. Everyone has the amendments in front of them. Before we begin, are there any comments, questions or amendments to any section of the bill and, if so, to which section? No comments?

We'll move to section 1. Shall section 1 carry? Carried.

Section 2, government amendment number 1: Mr. Berardinetti.

**Mr. Lorenzo Berardinetti:** I'll read the amendment into the record.

Subsection 2(6.1) of the bill (subsection 1(1) of the Construction Lien Act).

I move that section 2 of the bill be amended by adding the following subsection:

“(6.1) Subsection 1(1) of the act is amended by adding the following definition:

“‘monetary supplementary benefit’ includes any contribution, remittance, union dues, deduction, payment or other additional compensation of any kind; (‘avantage pécuniaire supplémentaire’)”

**The Chair (Mr. Monte McNaughton):** Any debate? Seeing none, all those in favour? Opposed? Carried.

Government amendment number 2: Mr. Berardinetti.

**Mr. Lorenzo Berardinetti:** Subsection 2(7) of the bill (subsection 1(1) of the Construction Lien Act).

I move that subsection 2(7) of the bill be struck out and the following substituted:

“(7) The definition of ‘municipality’ in subsection 1(1) of the act is repealed and the following substituted:

“‘municipality’ means,

“(a) a municipality within the meaning of the Municipal Act, 2001, and

“(b) a local board within the meaning of the Municipal Act, 2001 or the City of Toronto Act, 2006; (‘municipalité’)”

**The Chair (Mr. Monte McNaughton):** Any debate? All those in favour? Opposed? Seeing none, it is carried.

Government amendment number 3: Mr. Berardinetti.

**Mr. Lorenzo Berardinetti:** Subsection 2(15) of the bill (subsection 1(1) of the Construction Lien Act).

I move that the definition of “written notice of a lien” in subsection 1(1) of the Construction Lien Act, as set out in subsection 2(15) of the bill, be amended by striking out “a claim for lien or”.

**The Chair (Mr. Monte McNaughton):** Any debate? All those in favour? Opposed? Seeing none, it is carried.

Shall section 2, as amended, carry? Carried.

We'll move to section 3: government amendment 3.1.

**Mr. Lorenzo Berardinetti:** Section 3 of the bill (section 1.1 of the Construction Lien Act).

I move that section 3 of the bill be struck out and the following substituted:

“3(1) The act is amended by adding the following section:

“‘Alternative financing and procurement arrangements

“1.1(1) This section applies if the crown, a municipality or a broader public sector organization, as the owner of a premises, enters into a project agreement with a special purpose entity that requires the entity to finance and undertake an improvement on behalf of the crown, municipality or broader public sector organization, as the case may be, and, for the purpose, to enter into an agreement with a contractor in respect of the improvement.

“‘Application of act, regulations

“(2) Except as provided by this section, this act and the regulations apply, with the modifications set out in this section and any other necessary modifications,

“(a) to a project agreement between the crown, a municipality or a broader public sector organization and a special purpose entity as if the project agreement were a contract and the special purpose entity were the contractor; and

“(b) to the agreement between the special purpose entity and the contractor as if the agreement were a subcontract made under the contract.

“‘Specified modifications, part IV

“(3) For the purposes of section 22, holdback amounts shall be determined in reference to the agreement between the special purpose entity and the contractor.

“Specified modifications, part XI.1

“(4) Section 85.1 applies with the following modifications:

“1. The agreement between the special purpose entity and the contractor is deemed, for the purposes of the section, to be a public contract between the crown, municipality or broader public sector organization, as the case may be, and the contractor.

“2. The crown, municipality or broader public sector organization, as the case may be, may require a coverage limit other than one specified in clause 85.1(3)(b) or 85.1(4)(b), provided that it meets or exceeds any coverage limit that may be prescribed for the purposes of this paragraph.

“3. Paragraph 2 does not apply unless the bonds required under subsection 85.1(3) and (4) and any other security required by the crown, municipality or broader public sector organization, as the case may be, taken together, reflect an appropriate balance between the adequacy of the security required to ensure the payment of persons supplying services or materials under the public contract on the one hand and the cost of the security on the other.

“Where entity deemed to be owner

“(5) The special purpose entity is deemed to be the owner of the premises in place of the crown, municipality or broader public sector organization, and the agreement between the special purpose entity and the contractor is deemed to be the contract, for the purposes of the following portions and provisions of this act and any regulations made for the purposes of them and, for the purpose, the portions, provisions and regulations apply with such modifications as may be prescribed and any other necessary modifications:

“1. Subsections 2(1) and (2).

“2. Section 31.

“3. Section 32.

“4. Section 33.

“5. Section 39.

“6. Any other portion or provision that may be prescribed.

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“Interpretation, substantial performance of a contract

“(6) For the purposes of subsection (5), a reference in the act or the regulations to the substantial performance of a contract, as it applies in relation to a project agreement, shall be read as a reference to the substantial performance of the agreement between the special purpose entity and the contractor, subject to any exceptions that may be prescribed.”

“(2) Section 1.1 of the act, as enacted by subsection (1), is amended by adding the following subsections:”—I just have one point, Mr. Clerk: I don’t have to read the commas, do I?

**The Chair (Mr. Monte McNaughton):** No, we just wanted you to finish this and then we’re going to—

**Mr. Lorenzo Berardinetti:** Okay, thank you. I was getting that feeling that the commas were a bit too much, and I’m excited today.

“Specified modifications, part I.1

“(2.1) Part I.1 applies with the following modifications:

“1. The part does not apply with respect to any portion of a project agreement that provides for the operation or maintenance of the improvement”—

*Interruption.*

**Mr. Lorenzo Berardinetti:** Pardon me, this is very silly.

**Mr. Gilles Bisson:** That’s a Superman watch.

**Mr. Lorenzo Berardinetti:** Yes, I know, I got it as a birthday present and now it creates all kinds of problems, so I’m going to have to shut it off. Sorry about that.

**Mr. Gilles Bisson:** That’s okay; you’ve got to go fight crime somewhere.

**Mr. Lorenzo Berardinetti:** Yes.

“1. The part does not apply with respect to any portion of a project agreement that provides for the operation or maintenance of the improvement by the special purpose entity, or to any portion of an agreement between the special purpose entity and the contractor or any other subcontract made under the project agreement that pertains to the operation or maintenance of the improvement by the special purpose entity.

“2. Subsection 6.2(2) does not apply, and nothing in the part shall be read as preventing the inclusion, in a project agreement or agreement between a special purpose entity and a contractor, of a provision requiring certification or approval prior to the giving of a proper invoice.

“Specified modifications, part II.1

“(2.2) Part II.1 applies with the following modifications:

“1. The following matters may not be the subject of an adjudication under the part:

“i. A determination of when,

“A. a project agreement is substantially completed, or

“B. an agreement between a special purpose entity and a contractor is substantially performed, as provided under subsection (5).

“ii. A determination of whether a milestone in relation to the improvement has been reached, if reaching the milestone requires an amount to be paid.

“iii. Any prescribed matters.

“2. If the parties to a project agreement are the parties to an adjudication and the project agreement specifies an independent certifier, the parties shall, provided that a representative of the independent certifier is listed as an adjudicator in the registry established under clause 13.3(1)(c), request that the representative conduct the adjudication, in which case subsections 13.9(2) and (3) do not apply.”

**The Chair (Mr. Monte McNaughton):** Well done.

Any debate? All in favour? Opposed? Carried.

Shall section 3, as amended, carry? Carried.

We'll move to section 4: government amendment number 4. Mr. Berardinetti.

**Mr. Lorenzo Berardinetti:** Subsection 4(3.1) of the bill (subsections 2(2.1) and (2.2) of the Construction Lien Act).

I move that the section of the bill be amended by adding the following subsection:

“(3.1) Section 2 of the act is amended by adding the following subsections:

“Adjudication amounts

“(2.1) For the purposes of this act, if an adjudicator makes a determination under part II.1 in relation to a contract before the certification or declaration of the substantial performance of the contract under section 32,

“(a) any amount determined by the adjudicator to be payable by a party to the contract shall be added to the contract price in determining substantial performance; and

“(b) any amount determined by the adjudicator to have been overpaid by a party to the contract shall be deducted from the contract price in determining substantial performance.

“Same

“(2.2) Subsection (2.1) ceases to apply if,

“(a) the adjudicator's determination ceases to be binding on the parties to the adjudication under section 13.15; or

“(b) the determination of the adjudicator is set aside on judicial review.”

**The Chair (Mr. Monte McNaughton):** Do you mind just reading the first line, “I move that section 4”—I think you missed the number 4.

**Mr. Lorenzo Berardinetti:** I move that section 4 of the bill be amended—I'm sorry.

**The Chair (Mr. Monte McNaughton):** Thank you.

Any debate? All those in favour? Opposed? Carried.

Shall section 4, as amended, carry? Carried.

Shall section 5 carry?

*Interjection.*

**The Chair (Mr. Monte McNaughton):** Sorry, did I hear—there are no amendments to section 5.

Shall section 5 carry? Carried.

We'll move to section 6. Government amendment number 5: Mr. Berardinetti.

**Mr. Lorenzo Berardinetti:** Subsection 6(2) of the bill (section 6 of the Construction Lien Act).

I move that subsection 6(2) of the bill be struck out and the following substituted:

“(2) Section 6 of the act is repealed and the following substituted:

“Minor errors, irregularities

“6.(1) No certificate, declaration or claim for lien is invalidated by reason only of a failure to comply strictly with subsection 32(2), 33(1) or 34(5) unless, in the opinion of the court, a person has been prejudiced as a result, and then only to the extent of the prejudice suffered.

“Same

“(2) Minor errors or irregularities to which subsection (1) applies include,

“(a) a minor error or irregularity in,

“(i) the name of an owner, a person for whom services or materials were supplied or a payment certifier,

“(ii) the legal description of a premises, or

“(iii) the address for service; and

“(b) including an owner's name in the wrong portion of a claim for lien.”

**The Chair (Mr. Monte McNaughton):** Any debate? All those in favour? Opposed? Carried.

Shall section 6, as amended, carry? Carried.

Section 7, government amendment number 6: Mr. Berardinetti.

**Mr. Lorenzo Berardinetti:** Section 7 of the bill (subsection 6.1(2) of the Construction Lien Act).

I move that section 6.1 of the Construction Lien Act, as set out in section 7 of the bill, be amended by adding the following subsection:

“Revisions

“(2) Nothing in this part prevents the revision of a proper invoice after it has been given, so long as the date of the proper invoice is not changed and the proper invoice continues to meet the requirements set out in subsection (1).”

**Interjection:** We've pulled that.

**Mr. Lorenzo Berardinetti:** Sorry, Mr. Chair, my apologies. We are withdrawing this motion.

**The Chair (Mr. Monte McNaughton):** You've started moving it, so—

**Mr. Lorenzo Berardinetti:** I move to withdraw.

**The Chair (Mr. Monte McNaughton):** Do you want unanimous consent?

**Mr. Lorenzo Berardinetti:** I would like unanimous consent to withdraw this motion.

**The Chair (Mr. Monte McNaughton):** Agreed? Agreed.

**Mr. Lorenzo Berardinetti:** Sorry about that. Luckily, it wasn't a long motion.

**The Chair (Mr. Monte McNaughton):** Government motion number 7: Mr. Berardinetti.

**Mr. Lorenzo Berardinetti:** Section 7 of the bill (subsection 6.1.1 of the Construction Lien Act).

I move that part 1.1 of the Construction Lien Act, as set out in section 7 of the bill be amended by adding the following section:

“Subject to holdback requirements

“6.1.1 A requirement to pay an amount in accordance with this part is subject to any requirement to retain a holdback in accordance with part IV.”

**The Chair (Mr. Monte McNaughton):** Any debate? All those in favour? Opposed? Carried.

Government motion number 8: Mr. Berardinetti.

**Mr. Lorenzo Berardinetti:** Section 7 of the bill (subsection 6.2(4) of the Construction Lien Act).

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I move that section 6.2 of the Construction Lien Act, as set out in section 7 of the bill, be amended by adding the following subsection:

“Exception

“(4) Subsection (2) does not apply to a provision in a contract that provides for the testing and commissioning of the improvement or of services or materials supplied under the contract.”

**The Chair (Mr. Monte McNaughton):** Any debate? All those in favour? Opposed? Carried.

Government motion number 8. Mr. Berardinetti?

*Interjection.*

**The Chair (Mr. Monte McNaughton):** Sorry, it’s 8.1R.

**Mr. Lorenzo Berardinetti:** I move to withdraw that motion.

*Interjection.*

**The Chair (Mr. Monte McNaughton):** Okay. That was 8.1. Now we’re moving to 8.1R. Mr. Berardinetti.

**Mr. Lorenzo Berardinetti:** I move that section 6.2 of the Construction Lien Act, as set out in section 7 of the bill, be amended by adding the following subsection:

“Revisions

“(5) A proper invoice may be revised by the contractor after the contractor has given it to the owner, if

“(a) the owner agrees in advance to the revision;

“(b) the date of the proper invoice is not changed; and

“(c) the proper invoice continues to meet the requirements referred to in the definition of ‘proper invoice’ in section 6.1.”

**The Chair (Mr. Monte McNaughton):** Any debate? Mr. Bisson.

**Mr. Gilles Bisson:** Can you give a bit of an explanation? The current motion does not indicate that the parties must agree on the revision. Could the omission allow a contractor to revise the invoice very close to the payment date? If the owner doesn’t agree, it would create a problem.

**The Chair (Mr. Monte McNaughton):** Ministry counsel?

If you would just state your name for Hansard and then you can reply, if you’re able.

**Ms. Sheryl Cornish:** It’s Sheryl Cornish with the Ministry of the Attorney General. They do have to agree, and the motion provides for that.

**The Chair (Mr. Monte McNaughton):** Any further debate?

**Mr. Gilles Bisson:** As long as they have to agree, that’s fine.

**The Chair (Mr. Monte McNaughton):** All those in favour? Opposed? Carried.

Government motion number 9. Mr. Berardinetti.

**Mr. Lorenzo Berardinetti:** I move that subclause 6.4(5)(a)(iii) of the Construction Lien Act, as set out in section 7 of the bill, be amended by striking out “14 days” and substituting “21 days”.

**The Chair (Mr. Monte McNaughton):** Any debate? All those in favour? Opposed? Carried.

Government motion number 10. Mr. Berardinetti.

**Mr. Lorenzo Berardinetti:** Section 7 of the bill (clause 6.5(6)(a) of the Construction Lien Act).

I move that clause 6.5(6)(a) of the Construction Lien Act, as set out in section 7 of the bill, be amended by striking out “and” at the end of subclause (i) and by striking out subclause (ii) and substituting the following:

“(ii) specifying the amount not being paid, and

“(iii) unless the failure of the contractor to pay is as a result of non-payment by the owner, providing an undertaking to refer the matter to adjudication under Part II.1 no later than 21 days after giving the notice to the sub-contractor; and”

**The Chair (Mr. Monte McNaughton):** Any debate? All those in favour? Opposed? Carried.

Government motion 11. Mr. Berardinetti.

**Mr. Lorenzo Berardinetti:** Section 7 of the bill (section 6.5.1 of the Construction Lien Act).

I move that Part I.1 of the Construction Lien Act, as set out in section 7 of the bill, be amended by adding the following section:

“Reasons for non-payment

“6.5.1. Reasons for non-payment in accordance with this part may include the retention of amounts under section 12 (set-off by trustee) or under subsection 17(1) (lien set-off).”

**The Chair (Mr. Monte McNaughton):** The last one, you said “bracket 1.” It should be “bracket 3.”

**Mr. Lorenzo Berardinetti:** I’m sorry: 17(3).

**The Chair (Mr. Monte McNaughton):** Any debate? All those in favour? Opposed? Carried.

Government motion number 12. Mr. Berardinetti.

**Mr. Lorenzo Berardinetti:** Section 7 of the bill (section 6.7 of the Construction Lien Act).

I move that section 6.7 of the Construction Lien Act, as set out in section 7 of the bill, be struck out and the following substituted:

“Interest on late payments

“6.7 Interest begins to accrue on an amount that is not paid when it is due to be paid under this part, at the prejudgment interest rate determined under subsection 127(2) of the Courts of Justice Act or, if the contract or subcontract specifies a different interest rate for the purpose, the greater of the prejudgment interest rate and the interest rate specified in the contract or subcontract.”

**The Chair (Mr. Monte McNaughton):** Any debate? All those in favour? Opposed? Carried.

Government motion 12.1: Mr. Berardinetti?

**Mr. Lorenzo Berardinetti:** Section 7 of the bill (section 6.8 of the Construction Lien Act).

I move that section 6.8 of the Construction Lien Act, as set out in section 7 of the bill, be struck out.

**The Chair (Mr. Monte McNaughton):** Any debate? Mr. Hillier.

**Mr. Randy Hillier:** Let me catch up here. And nothing being entered in lieu of this?

**Mr. Gilles Bisson:** What’s that?

**Mr. Randy Hillier:** We’re striking out a clause of the existing bill, and I was just taking a peek and seeing if I heard that correctly.

**The Chair (Mr. Monte McNaughton):** It’s 12.1; section 6.8, but government motion 12.1.

**Mr. Randy Hillier:** We don't have any of the members from the expert panel here today, or do we?

**The Chair (Mr. Monte McNaughton):** Ministry counsel is here.

**Mr. Randy Hillier:** Okay.

**The Chair (Mr. Monte McNaughton):** Any further debate? All those in favour? Opposed? Carried.

Shall section 7, as amended, carry? Carried.

No amendments to section 8: Shall section 8 carry? Carried?

Shall section 9 carry? Carried.

We'll move to section 10, government motion 13: Mr. Berardinetti.

**Mr. Lorenzo Berardinetti:** Subsection 10(2) of the bill (section 12 of the Construction Lien Act).

I move that subsection 10(2) of the bill be struck out and the following substituted:

"(2) Section 12 of the act is amended by striking out 'all outstanding debts, claims or damages, whether or not related to the improvement' at the end and substituting 'all outstanding debts, claims or damages related to the improvement or, if the contractor or subcontractor, as the case may be, becomes insolvent, all outstanding debts, claims or damages whether or not related to the improvement'."

**The Chair (Mr. Monte McNaughton):** Any debate? All those in favour? Opposed? Carried.

Shall section 10, as amended, carry? Carried.

We'll move to section 11, government motion number 14: Mr. Berardinetti.

**Mr. Lorenzo Berardinetti:** Subsection 11(1) of the bill (subsection 13.2(1) of the Construction Lien Act).

I move that subsection 13.2(1) of the Construction Lien Act, as set out in subsection 11(1) of the bill, be struck out and the following substituted:

"Authorized nominating authority

"(1) The minister responsible for the administration of this act may designate an entity to act as authorized nominating authority for the purposes of this part."

**The Chair (Mr. Monte McNaughton):** Any debate? All those in favour? Opposed? Carried.

Government motion number 15: Mr. Berardinetti.

**Mr. Lorenzo Berardinetti:** Subsection 11(1) of the bill (subsection 13.4(1) of the Construction Lien Act).

I move that subsection 13.4(1) of the Construction Lien Act, as set out in subsection 11(1) of the bill, be amended by striking out "The Lieutenant Governor in Council may designate the minister responsible for the administration of this act to act as authorized nominating authority" at the beginning and substituting "The minister responsible for the administration of this act may act as authorized nominating authority".

**The Chair (Mr. Monte McNaughton):** Any debate? All those in favour? Opposed? Carried.

Government motion 16: Mr. Berardinetti.

**Mr. Lorenzo Berardinetti:** Subsection 11(1) of the bill (subsection 13.4(2) of the Construction Lien Act).

I move that subsection 13.4(2) of the Construction Lien Act, as set out in subsection 11(1) of the bill, be

amended by striking out "If a designation is made under subsection (1)" in the portion before clause (a) and substituting "If the minister responsible for the administration of this act acts as authorized nominating authority".

**The Chair (Mr. Monte McNaughton):** Is there any debate? Mr. Hillier.

**Mr. Randy Hillier:** We're going through this pretty quickly. I just want to make sure that we're capturing all I understood that we were capturing. I don't want to slow things too much, but I do like to read a little bit.

1330

*Interjections.*

**Mr. Randy Hillier:** Okay.

**The Chair (Mr. Monte McNaughton):** Further debate on government motion 16? All those in favour? Opposed? Carried.

Government motion number 17: Mr. Berardinetti.

**Mr. Lorenzo Berardinetti:** I move that subsection 13.5(1) of the Construction Lien Act, as set out in subsection 11(1) of the bill, be amended by adding the following paragraph:

"4.1 Payment of a holdback under section 26.1 or 26.2."

**The Chair (Mr. Monte McNaughton):** Debate? All those in favour? Opposed? Carried.

We move to government motion 18. Mr. Berardinetti.

**Mr. Lorenzo Berardinetti:** Mr. Chair, I'd like to withdraw this motion.

**The Chair (Mr. Monte McNaughton):** Okay. Just for clarification, you withdraw after you move it. You're just not moving it.

We'll move to government motion 18R in your package. Mr. Berardinetti.

**Mr. Lorenzo Berardinetti:** I move that section 13.8 of the Construction Lien Act, as set out in subsection 11(1) of the bill, be struck out and the following substituted:

"Consolidated adjudications

"13.8(1) If the same matter or related matters in respect of an improvement are the subject of disputes to be adjudicated in separate adjudications under subsections 13.5(1) and (2), the parties to each of the adjudications may agree to the adjudication of the disputes together by a single adjudicator as a consolidated adjudication.

"May be required by contractor

"(2) If the same matter or related matters in respect of an improvement are the subject of disputes to be adjudicated in separate adjudications under subsections 13.5(1) and (2) but the parties to each of the adjudications do not agree to consolidated adjudication, the contractor may, in accordance with the regulations, nevertheless require the consolidation of the adjudications.

"Application

"(3) This part applies with the following and any other necessary modifications to a consolidated adjudication:

"1. Subsection 13.10(3) does not apply, and the adjudicator may determine how the adjudication fee is to be apportioned between the parties.

"2. The reference in subsection 13.12(3) to either or both parties to an adjudication shall be read as a reference to any or all parties to the consolidated adjudication.

"3. The references in subsection 13.17 to the other party to the adjudication shall be read as a reference to any party to the consolidated adjudication.

"Multiple matters permitted

"(4) This section applies despite subsection 13.5(4)."

**The Chair (Mr. Monte McNaughton):** Do you mind just reading point number 3 on the second page? I think you said "subsection," not "section."

**Mr. Lorenzo Berardinetti:** Okay, sorry.

"3. The references in section 13.17 to the other party to the adjudication shall be read as a reference to any party to the consolidated adjudication."

**The Chair (Mr. Monte McNaughton):** Thanks. Any debate on 18R? All those in favour? Opposed? Carried.

Government motion 19: Mr. Berardinetti.

**Mr. Lorenzo Berardinetti:** I move that paragraph 5 of subsection 13.12(1) of the Construction Lien Act, as set out in subsection 11(1) of the bill, be amended by adding "as is reasonably necessary" before "to enable him or her to determine better".

**The Chair (Mr. Monte McNaughton):** Any debate? All those in favour? Opposed? Carried.

Government motion number 20: Mr. Berardinetti.

**Mr. Lorenzo Berardinetti:** I move that clause 13.12(2)(a) of the Construction Lien Act, as set out in subsection 11(1) of the bill, be struck out and the following substituted:

"(a) the owner of the premises if,

"(i) the premises is a home in which the owner resides, or

"(ii) the owner is not a party to the adjudication; and"

**The Chair (Mr. Monte McNaughton):** Any debate? All those in favour? Opposed? Carried.

Government motion 21: Mr. Berardinetti.

**Mr. Lorenzo Berardinetti:** I move that subsection 13.12(3) of the Construction Lien Act, as set out in subsection 1(1) of the bill, be amended by adding "as is reasonable and proportionate to the dispute" after "may fix the remuneration of the person".

**The Chair (Mr. Monte McNaughton):** Any debate? All those in favour? Opposed? Carried.

Government motion 22: Mr. Berardinetti.

**Mr. Lorenzo Berardinetti:** I move that section 13.13 of the Construction Lien Act, as set out in subsection 11(1) of the bill, be amended by adding the following subsections:

"Notice of extension

"(2.1) If the party who gave the notice of adjudication also gave a notice of non-payment under part I.1 in relation to the matter that is the subject of the adjudication, the party shall give notice of an extension under clause (2)(b), specifying the period of the extension, to the person to whom he or she gave the notice of non-payment.

"Same

"(2.2) A person who receives notice of an extension under subsection (2.1) or under this subsection shall give notice of the extension, specifying the period of the extension, to any person to whom he or she gave notice of non-payment under part I.1 in relation to the matter that is the subject of the adjudication."

**The Chair (Mr. Monte McNaughton):** Debate? All those in favour? Opposed? Carried.

Government motion 23: Mr. Berardinetti.

**Mr. Lorenzo Berardinetti:** I move that section 13.13 of the Construction Lien Act, as set out in subsection 11(1) of the bill, be amended by adding the following subsection:

"Admissibility

"(5) The determination and reasons of an adjudicator are admissible as evidence in court."

**The Chair (Mr. Monte McNaughton):** Debate? All those in favour? Opposed? Carried.

Government motion 24.

**Mr. Lorenzo Berardinetti:** I move that section 13.15 of the Construction Lien Act, as set out in subsection 11(1) of the bill, be struck out and the following substituted:

"Effect of determination

"13.15(1) The determination of a matter by an adjudicator is binding on the parties to the adjudication until a determination of the matter by a court, a determination of the matter by way of an arbitration conducted under the Arbitration Act, 1991, or a written agreement between the parties respecting the matter.

"Authority of court, arbitrator

"(2) Subject to section 13.18, nothing in this part restricts the authority of a court or of an arbitrator acting under the Arbitration Act, 1991, to consider the merits of a matter determined by an adjudicator."

**The Chair (Mr. Monte McNaughton):** Debate? All those in favour? Opposed? Carried.

Government motion 25.

**Mr. Lorenzo Berardinetti:** I move that section 13.18 of the Construction Lien Act, as set out in subsection 11(1) of the bill, be struck out and the following substituted:

"Setting aside on judicial review

"Leave required

"13.18(1) An application for judicial review of a determination of an adjudicator may only be made with leave of the Divisional Court in accordance with this section and the rules of court.

"Timing

"(2) A motion for leave to bring an application for judicial review of a determination of an adjudicator shall be filed, with proof of service, in accordance with the rules of court no later than 30 days after the determination is communicated to the parties.

"Dismissal without reasons

"(3) A motion for leave to bring an application for judicial review may be dismissed without reasons.

"No appeal

(4) No appeal lies from an order on a motion for leave to bring an application for judicial review.

“Setting aside only for specified reasons

“(5) The determination of an adjudicator may only be set aside on an application for judicial review if the applicant establishes one or more of the following grounds:

“1. The applicant participated in the adjudication while under a legal incapacity.

“2. The contract or subcontract is invalid or has ceased to exist.

“3. The determination was of a matter that may not be the subject of adjudication under this part, or of a matter entirely unrelated to the subject of the adjudication.

“4. The adjudication was conducted by someone other than an adjudicator.

“5. The procedures followed in the adjudication did not comply with the procedures to which the adjudication was subject under this part, and the failure to comply prejudiced the applicant’s right to a fair adjudication.

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“6. There is a reasonable apprehension of bias on the part of the adjudicator.

“7. The determination was made as a result of fraud.

“Amounts paid

“(6) If the Divisional Court sets aside the decision of an adjudicator, the court may require that any or all amounts paid in compliance with the determination be returned.

“No stay

“(7) An application for judicial review of a decision of an adjudicator does not operate as a stay of the operation of the determination unless the Divisional Court orders otherwise.”

**The Chair (Mr. Monte McNaughton):** Any debate? All those in favour? Opposed? Carried.

Government motion 26.

**Mr. Lorenzo Berardinetti:** I move that section 13.19 of the Construction Lien Act, as set out in subsection 11(1) of the bill, be amended by adding the following subsection:

“Amounts payable

“Subject to holdback

“(0.1) A requirement to pay an amount in accordance with this section is subject to any requirement to retain a holdback in accordance with part IV.”

**The Chair (Mr. Monte McNaughton):** Debate? All those in favour? Opposed? Carried.

Government motion 27. Mr. Berardinetti.

**Mr. Lorenzo Berardinetti:** I move that subsection 13.19(2) of the Construction Lien Act, as set out in subsection 11(1) of the bill, be struck out.

**The Chair (Mr. Monte McNaughton):** Debate? Mr. Hillier.

**Mr. Randy Hillier:** Yes. I’m just catching up on this one. Okay.

**The Chair (Mr. Monte McNaughton):** Okay. Mr. Bisson, did you have something? No?

All those in favour? Opposed? Carried.

Government motion 28. Mr. Berardinetti.

**Mr. Lorenzo Berardinetti:** I move that subsection 13.19(3) of the Construction Lien Act, as set out in sub-

section 11(1) of the bill, be struck out and the following substituted:

“Interest on late payments

“(3) Interest begins to accrue on an amount that is not paid when it is due to be paid under this part, at the prejudgment interest rate determined under subsection 127(2) of the Courts of Justice Act or, if the contract or subcontract specifies a different interest rate for the purpose, the greater of the prejudgment interest rate and the interest rate specified in the contract or subcontract.”

**The Chair (Mr. Monte McNaughton):** Debate? All those in favour? Opposed? Carried.

Government motion 29.

**Mr. Lorenzo Berardinetti:** I move that section 13.20 of the Construction Lien Act, as set out in subsection 11(1) of the bill, be struck out and the following substituted:

“Enforcement by court

“13.20(1) A party to an adjudication may, no later than the date referred to in subsection (2), file a certified copy of the determination of an adjudicator with the court and, on filing, the determination is enforceable as if it were an order of the court.”

*Interjection.*

**Mr. Lorenzo Berardinetti:** Sorry, Mr. Chair. I think we’re withdrawing this motion, and I apologize for starting to read it into the record.

**The Chair (Mr. Monte McNaughton):** You started reading it again. Do you want a UC? Is that how we do it? Okay.

Mr. Berardinetti, do you want to move a UC?

**Mr. Lorenzo Berardinetti:** Yes, please. Sorry about that. I just got ahead of myself there.

**The Chair (Mr. Monte McNaughton):** So withdraw? Okay.

Government motion 29R.

**Mr. Lorenzo Berardinetti:** I move that section 13.20 of the Construction Lien Act, as set out in subsection 11(1) of the bill, be struck out and the following substituted:

“Enforcement by court

“13.20(1) A party to an adjudication may, no later than the date referred to in subsection (2), file a certified copy of the determination of an adjudicator with the court and, on filing, the determination is enforceable as if it were an order of the court.

“Deadline

“(2) The filing of a determination under subsection (1) may not be made after the later of,

“(a) the second anniversary of the communication of the determination to the parties; and

“(b) if a party makes a motion under section 13.18 for leave to bring an application for judicial review of a determination of an adjudicator, the second anniversary of the dismissal of the motion or, if the motion was not dismissed, the final determination of the application, if it did not result in the adjudicator’s determination being set aside.

“Notice of filing

“(3) A party shall, no later than 10 days after filing a determination under subsection (1), notify the other party of the filing.

“Effect on requirement to make payments

“(4) If a determination requiring that an amount be paid to a contractor or subcontractor is filed under subsection (1), any related requirement of the contractor or subcontractor, as the case may be, to make payment to a subcontractor is deferred pending the outcome of the enforcement.”

**The Chair (Mr. Monte McNaughton):** Any debate? All those in favour? Opposed? Carried.

Government motion 29.1.

**Mr. Lorenzo Berardinetti:** I move that section 13.23 of the Construction Lien Act, as set out in subsection 11(1) of the bill, be struck out.

**The Chair (Mr. Monte McNaughton):** Any debate? All those in favour? Opposed? Carried.

Shall section 11, as amended, carry? Carried.

Shall sections 12 and 13, inclusive, carry? Carried.

We’ll move to section 14. Government amendment 30.

**Mr. Lorenzo Berardinetti:** I move that subsection 14(2) of the bill be struck out and the following substituted:

“(2) Subsection 17(3) of the act is amended by striking out ‘all outstanding debts, claims or damages, whether or not related to the improvement’ at the end and substituting ‘all outstanding debts, claims or damages related to the improvement or, if the contractor or subcontractor, as the case may be, becomes insolvent, all outstanding debts, claims or damages whether or not related to the improvement.’”

**The Chair (Mr. Monte McNaughton):** Any debate? All those in favour? Opposed? Carried.

Shall section 14, as amended, carry? Carried.

Shall sections 15 to 21, inclusive, carry? Carried.

We’ll move to section 22. Government amendment 31.

**Mr. Lorenzo Berardinetti:** I move that subclause 26.1(2)(d)(ii) of the Construction Lien Act, as set out in section 22 of the bill, be amended by striking out “have expired or been satisfied” and substituting “have been satisfied”.

**The Chair (Mr. Monte McNaughton):** Any debate? All those in favour? Opposed? Carried.

Motion 32.

**Mr. Lorenzo Berardinetti:** I move that subclause 26.2(2)(c)(ii) of the Construction Lien Act, as set out in section 22 of the bill, be amended by striking out “have expired or been satisfied” and substituting “have been satisfied”.

**The Chair (Mr. Monte McNaughton):** Debate? All those in favour? Opposed? Carried.

Shall section 22, as amended, carry? Carried.

Shall section 23 carry? Carried.

We’ll move to section 24. Government amendment 33.

**Mr. Lorenzo Berardinetti:** We are withdrawing this motion.

**The Chair (Mr. Monte McNaughton):** Withdrawn. Government motion 33R.

**Mr. Lorenzo Berardinetti:** We are withdrawing this as well.

**The Chair (Mr. Monte McNaughton):** Withdrawn. Government motion 33RR.

**Mr. Lorenzo Berardinetti:** I move that section 24 of the bill be struck out and the following substituted:

“24(1) The act is amended by adding the following subsection:

“Non-payment of holdback

“27.1 An owner may refuse to pay some or all of the amount the owner is required to pay to a contractor under section 26 or 27, as the case may be, if,

“(a) no later than 40 days after publication of the applicable certification or declaration of substantial performance under section 32, the owner publishes, in the manner set out in the regulations, a notice in the prescribed form, specifying the amount of the holdback that the owner refuses to pay; and

“(b) the owner notifies, in accordance with the regulations if any, the contractor of the publication of the notice.’

“(2) Section 27.1 of the act, as enacted by subsection (1), is amended by adding the following subsections:

“Adjudication

“(2) A contractor may refuse to pay some or all of the amount the contractor is required to pay to a subcontractor under section 26 or 27, as the case may be, if,

“(a) the owner refuses to pay some or all of the amount the owner is required to pay to the contractor under that section;

“(b) the contractor refuses the matter to adjudication under part—

**The Chair (Mr. Monte McNaughton):** Mr. Berardinetti, do you mind just repeating that line?

**Mr. Lorenzo Berardinetti:** “(b) the contractor refers to the matter to adjudication under”—how do I pronounce this?

**The Chair (Mr. Monte McNaughton):** Do you mind doing it one more time?

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**Mr. Lorenzo Berardinetti:** ““(b) the contractor refers the matter to adjudication under part I.2””—

**The Chair (Mr. Monte McNaughton):** Part II.1.

**Mr. Lorenzo Berardinetti:** I’m sorry.

“(b) the contractor refers the matter to adjudication under part II.1; and

“(c) the contractor notifies, in accordance with the regulations if any, every subcontractor to whom the contractor is required to pay the amount that the amount is not being paid and that the matter is being referred to adjudication.

“Same

“(3) A subcontractor may refuse to pay some or all of the amount the subcontractor is required to pay to another

subcontractor under section 26 or 27, as the case may be, if,

“(a) the contractor refuses to pay some or all of the amount the contractor is required to pay to the subcontractor under that section;

“(b) the subcontractor refuses the matter to adjudication under part II.1;”—

**The Chair (Mr. Monte McNaughton):** That line again, (b), please.

**Mr. Lorenzo Berardinetti:** “(b) the subcontractor refers the matter to adjudication under part II.1; and

“(c) the subcontractor notifies, in accordance with the regulations if any, every subcontractor to whom the subcontractor is required to pay the amount that the amount is not being paid and that the matter is being referred to adjudication.

“Same

“(4) Subsection (3) applies, with necessary modifications, with respect to a subcontractor who receives notice under that subsection.”

**The Chair (Mr. Monte McNaughton):** I know you’re doing a lot of reading. Just under the line “I move that section 24 of the bill,” at the very beginning on page 1, would you mind repeating that line, 24(1)?

**Mr. Lorenzo Berardinetti:** I move that section 24 of the bill be struck out and the following substituted—

**The Chair (Mr. Monte McNaughton):** And the next line.

**Mr. Lorenzo Berardinetti:** “24(1) The act is amended by adding the following section:”

**The Chair (Mr. Monte McNaughton):** Perfect. Thank you. Any debate? All those in favour? Opposed? Carried.

Shall section 24, as amended, carry? Carried.

Shall sections 25 to 28, inclusive, carry? Carried.

We’ll move to section 29, government motion 34 in your package. Mr. Berardinetti.

**Mr. Lorenzo Berardinetti:** I move that subsection 29(11) of the bill be struck out and the following substituted:

“(11) Section 34 of the act is amended by adding the following subsection:

“Adjudication and expiry

“(10) If the matter that is the subject of a lien that has not expired is also a matter that is the subject of an adjudication under part II.1, the lien is deemed, for the purposes of this section only, to have expired on the later of the date on which the lien would expire under section 31 and the conclusion of the 45-day period next following the receipt by the adjudicator of documents under section 13.11.”

**The Chair (Mr. Monte McNaughton):** Debate? All those in favour? Opposed? Carried.

Shall section 29, as amended, carry? Carried.

Shall sections 30 and 31, inclusive, carry? Carried.

We move to section 32, government motion number 35. Mr. Berardinetti.

**Mr. Lorenzo Berardinetti:** Subsection 32(8) of the bill (subsection 39(4) of the Construction Lien Act).

I move that subsection 32(8) of the bill be struck out and the following substituted:

“(8) Subsection 39(4) of the act is repealed and the following substituted:

“respecting publication of certificate of substantial performance

“(4) A contractor shall, on the written request of a person, provide to the person within a reasonable time after the request is made written confirmation of the date and location of the publication of the copy of the certificate of substantial performance under subsection 32(1).”

**The Chair (Mr. Monte McNaughton):** Any debate? All those in favour? Opposed? Carried.

Shall section 32, as amended, carry? Carried.

Shall sections 33 to 42, inclusive, carry? Carried.

We’ll move to section 43, government amendment 36 in your package.

**Mr. Lorenzo Berardinetti:** I move that subsection 43(2) of the bill be struck out and the following substituted:

“(2) Subsection 58(1.1) of the act is repealed and the following substituted:

“Notice

“(1.1) Notice of a motion for a reference under clause (1)(b) or (c) shall be given to every person specified by the procedures prescribed for the purposes of this part.”

**The Chair (Mr. Monte McNaughton):** Any debate? Mr. Hillier?

**Mr. Randy Hillier:** What motion number are we on? What amendment number?

**The Chair (Mr. Monte McNaughton):** It’s section 43, government motion 36.

**Mr. Randy Hillier:** Okay. I was just missing a few amendments in my package.

**The Chair (Mr. Monte McNaughton):** Any debate on motion 36? All those in favour? Opposed? Carried.

Shall section 43, as amended, carry? Carried.

Shall sections 44 to 55—

*Interjection.*

**The Chair (Mr. Monte McNaughton):** I’m sorry. Shall sections 44 to 48, inclusive, carry? Carried.

Moving to section 49, government amendment 37: Mr. Berardinetti.

**Mr. Lorenzo Berardinetti:** I move that subsection 49(3) of the bill be struck out.

**The Chair (Mr. Monte McNaughton):** Any debate? All those in favour? Opposed? Carried.

Shall section 49, as amended, carry? Carried.

Shall sections 50 to 55, inclusive, carry? Carried.

We’ll move to section 56, government motion 38: Mr. Berardinetti.

**Mr. Lorenzo Berardinetti:** I move that section 85.1 of the Construction Lien Act, as set out in section 56 of the bill, be amended by adding the following subsection:

“Exception

“(2.1) This section does not apply in the case of a contractor who is an architect or an engineer.”

**The Chair (Mr. Monte McNaughton):** Any debate? All those in favour? Opposed? Carried.

Government motion 39: Mr. Berardinetti.

**Mr. Lorenzo Berardinetti:** I move that clause 85.1(3)(b) of the Construction Lien Act, as set out in section 56 of the bill, be struck out and the following substituted:

“(b) has a coverage limit of at least 50 per cent of the contract price, or such other percentage of the contract price as may be prescribed; and”

**The Chair (Mr. Monte McNaughton):** Any debate? All those in favour? Opposed? Carried.

Government motion 40: Mr. Berardinetti.

**Mr. Lorenzo Berardinetti:** I move that clause 85.1(4)(b) of the Construction Lien Act, as set out in section 56 of the bill, be struck out and the following substituted:

“(b) has a coverage limit of at least 50 per cent of the contract price, or such other percentage of the contract price as may be prescribed.”

**The Chair (Mr. Monte McNaughton):** Any debate? All those in favour? Opposed? Carried.

Shall section 56, as amended, carry? Carried.

Shall section 57 carry? Carried.

We move to government motion 41 and section 58. Mr. Berardinetti.

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**Mr. Lorenzo Berardinetti:** I move that section 58 of the bill be struck out and the following substituted:

“58. Section 87 of the act is amended by adding the following subsections:

“Exception, written notice of lien

“(1.1) Despite subsection (1), a written notice of lien shall be served in a manner permitted under the rules of court for service of an originating process.

“Claim for lien to municipality

“(1.2) If the regulations so provide, a copy of a claim for lien shall, despite subsection (1), be given to the clerk of a municipality under subsection 34(3.1) electronically in accordance with the regulations.”

**The Chair (Mr. Monte McNaughton):** Any debate? All those in favour? Opposed? Carried.

Shall section 58, as amended, carry? Carried.

Shall section 59 carry? Carried.

We move to section 60, government motion 42. Mr. Berardinetti.

**Mr. Lorenzo Berardinetti:** I move that the bill be amended by adding the following section:

“60.1(1) The act is amended by adding the following section:

“Transition”—

**The Chair (Mr. Monte McNaughton):** Mr. Berardinetti, can you just hold for one second, please?

Without any amendments: Shall section 60 carry? Carried.

Sorry. This is section 60.1, government motion 42. Go ahead.

**Mr. Lorenzo Berardinetti:** Okay. I move that the bill be amended by adding the following section:—no? Is that right?

**The Chair (Mr. Monte McNaughton):** You’re right. We didn’t have the 60.1 in ours. Continue.

**Mr. Lorenzo Berardinetti:** I move that the bill be amended by adding the following section:

“60.1(1) The act is amended by adding the following section:

“Transition, Construction Lien Amendment Act, 2017

“87.3(1) This act, as it read immediately before the day subsection 2(2) of the Construction Lien Amendment Act, 2017 came into force, continues to apply with respect to an improvement if,

“(a) a contract for the improvement was entered into before that day, regardless of when any subcontract under the contract was entered into;

“(b) a procurement process, if any, for the improvement was commenced before that day by the owner of the premises; or

“(c) the premises is subject to a leasehold interest, and the lease was first entered into before that day.

“Examples, procurement process

“(2) For the purposes of clause (1)(b), examples of the commencement of a procurement process include the making of a request for qualifications, a request for proposals or a call for tenders.’

“(2) Section 87.3 of the act, as enacted by subsection (1), is amended by adding the following subsection:

“Same

“(3) Parts I.1 and II.1 apply in respect of contracts entered into on or after the day subsection 11(1) of the Construction Lien Amendment Act, 2017 comes into force, and in respect of subcontracts made under those contracts.”

**The Chair (Mr. Monte McNaughton):** Any debate? All those in favour? Opposed? Carried.

We’ll move to section 61, government motion 43 in your package. Mr. Berardinetti.

**Mr. Lorenzo Berardinetti:** I move that subsection 61(2) of the bill be amended by adding the following clause to subsection 88(1) of the Construction Lien Act:

“(b.1) for the purposes of subsection 1.1(5), providing for modifications in the application of portions, provisions or regulations listed in that subsection;”

**The Chair (Mr. Monte McNaughton):** Any debate? All those in favour? Opposed? Carried.

Government motion 44: Mr. Berardinetti.

**Mr. Lorenzo Berardinetti:** I move that clause 88(1)(e) of the Construction Lien Act, as set out in subsection 61(2) of the bill, be amended by striking out “if a designation is made under subsection 13.4(1)” at the beginning and substituting “for the purposes of section 13.4”.

**The Chair (Mr. Monte McNaughton):** Any debate? All those in favour? Opposed? Carried.

Government motion 45: Mr. Berardinetti.

**Mr. Lorenzo Berardinetti:** I move that clause 88(1)(h) of the Construction Lien Act, as set out in subsection 61(2) of the bill, be amended by striking out “consecutive” and substituting “consolidated”.

**The Chair (Mr. Monte McNaughton):** Any debate? All those in favour? Opposed? Carried.

Government motion 45.1: Mr. Berardinetti.

**Mr. Lorenzo Berardinetti:** Mr. Chair, we'd like to withdraw this motion.

**The Chair (Mr. Monte McNaughton):** Withdrawn.

Government motion 45.1R: Mr. Berardinetti.

**Mr. Lorenzo Berardinetti:** I move that subsection 61(2) of the bill be amended by adding the following clause to subsection 88(1) of the Construction Lien Act:

“(i.1) providing that parts I.1 and II.1 do not apply with respect to the classes of contracts and subcontracts for improvements to land used in connection with a facility referred to in the definition of ‘nuclear facility’ in the Nuclear Safety and Control Act (Canada) that are specified by the regulations;”

**The Chair (Mr. Monte McNaughton):** Any debate? All those in favour? Opposed? Carried.

Shall section 61, as amended, carry? Carried.

We'll move to new section 61.1, PC motion 46. Mr. Hillier? It's number 46 in your package.

**Mr. Randy Hillier:** I'm just finding my place in the act.

I move that the bill be amended by adding the following section:

“61.1 The act is amended by adding the following section:

“Review of Construction Lien Amendment Act, 2017

“89. In consultation with the construction industry, a committee of the assembly shall,

“(a) begin a comprehensive review of the Construction Lien Amendment Act, 2017 not later than the fifth anniversary of the day that act receives royal assent; and

“(b) within one year after beginning that review, make recommendations to the assembly concerning amendments to this act as a result of the review.”

**The Chair (Mr. Monte McNaughton):** Any debate? Mr. Berardinetti.

**Mr. Lorenzo Berardinetti:** We don't support this amendment, with the greatest respect.

The review of the Construction Lien Act was conducted by Mr. Bruce Reynolds and Ms. Sharon Vogel, construction law experts. We had an exhaustive stakeholder consultation process. Mr. Reynolds and Ms. Vogel were able to achieve a general consensus on the key issues. Since the approach has proven to be successful, we believe that any further review should follow the same process and be led by subject-matter experts in the construction law area, as opposed to—

**The Chair (Mr. Monte McNaughton):** Sorry. Continue.

**Mr. Lorenzo Berardinetti:** Yes. There's a consistency we want to keep, and the review process will be done in a way that has been outlined by Bruce Reynolds and Sharon Vogel.

**The Chair (Mr. Monte McNaughton):** Any further debate? Mr. Hillier?

**Mr. Randy Hillier:** Yes. I will just share a few thoughts with the committee here.

I do want to first say that I think the government should be recognized for the process that they established for this bill and the significant amount of work and consultation that they've had and the expert individuals that they've had in assisting the government to develop this legislation.

I would say this: This is probably the most complicated bill that has come before the Legislature in my time, without a doubt. I don't want this to diminish anybody, but the Legislature required outside experts to bring their competencies forward to create this bill. None of us around the table are subject-matter experts on the Construction Lien Act. Even within the industry there are people who are experts on condos or on subdivisions. They needed a broad base to put this act together. Where I'm going with this is that there may be some unintended consequences that result out of this bill when it comes into practice and implementation.

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I would suggest to the members of this committee—again, I don't believe we have the technical competencies to really pass judgment on this bill. I think it behooves us to incorporate a mechanism so that if there are any unforeseen or unintended consequences, the legislation has a mechanism to come back and be reviewed without going through that arduous, long lobbying process that it generally takes to get an interest from the industry to be considered by government.

I put it out there. I don't think anything that I've said is incorrect. It's a highly technical bill. None of us here are construction industry experts. Even the industry experts have some level of conflicting interpretations or views.

I think it would be appropriate for that triggering mechanism—in five years' time it would be lovely to have the committee look at this and again invite industry experts to come back. That's what I have incorporated in here: “In consultation with the construction industry.” Maybe they'll say, “This has all worked just the way we wanted it to work and there's no need to consider anything further.”

But to think that we've got it perfect or that we've even got it the best that it could be and that there aren't some elements that may fail some elements in the industry—I don't think we're that good, and I think we should have that mechanism to permit the industry to come back and consult with the standing committee of the House.

**The Chair (Mr. Monte McNaughton):** Any further debate? Okay. All those in favour? Opposed? I declare the motion lost.

**Mr. Gilles Bisson:** It was a good, valiant try.

**The Chair (Mr. Monte McNaughton):** Shall sections 62 to 75, inclusive, carry? Carried.

Section 76, government motion 47: Mr. Berardinetti.

**Mr. Lorenzo Berardinetti:** I move that subsection 76(2) of the bill be amended by striking out “13.18(1)” and substituting “13.18(2)”.

**The Chair (Mr. Monte McNaughton):** Any debate? All those in favour? Opposed? Carried.

Shall section 76, as amended, carry? Carried.

Shall sections 77 to 84, inclusive, carry? Carried.

We move to section 85, government motion 48 in your package: Mr. Berardinetti.

**Mr. Lorenzo Berardinetti:** I move that paragraph 2 of subsection 85(2) of the bill be amended by striking out “(5), (7)” and substituting “(5), (6.1), (7)”.

**The Chair (Mr. Monte McNaughton):** Any debate? All those in favour? Opposed? Carried.

Government motion 49: Mr. Berardinetti.

**Mr. Lorenzo Berardinetti:** I move that paragraph 4 of subsection 85(2) of the bill be amended by striking out “(3), (5)” and substituting “(3), (3.1), (5)”.

**The Chair (Mr. Monte McNaughton):** Any debate? All those in favour? Opposed? Carried.

Government motion 50: Mr. Berardinetti.

**Mr. Lorenzo Berardinetti:** I move that paragraph 29 of subsection 85(2) of the bill be amended by striking out “60” at the end and substituting “60.1”.

**The Chair (Mr. Monte McNaughton):** Any debate? All those in favour? Opposed? Carried.

Shall section 85, as amended, carry? Carried.

Shall the title of the bill carry? Carried.

Shall Bill 142, as amended, carry? Carried.

Shall I report the bill, as amended, to the House? Carried.

Thank you very much, everyone, for your work on this legislation, and thanks to everyone who presented and offered input.

*The committee adjourned at 1415.*







**STANDING COMMITTEE ON THE LEGISLATIVE ASSEMBLY**

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Mr. Monte McNaughton (Lambton–Kent–Middlesex PC)

**Vice-Chair / Vice-Présidenté**

Ms. Laurie Scott (Haliburton–Kawartha Lakes–Brock PC)

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Ms. Laurie Scott (Haliburton–Kawartha Lakes–Brock PC)

Ms. Soo Wong (Scarborough–Agincourt L)

**Substitutions / Membres remplaçants**

Mr. Lorenzo Berardinetti (Scarborough Southwest / Scarborough-Sud-Ouest L)

Mr. Gilles Bisson (Timmins–James Bay / Timmins–Baie James ND)

Mr. Randy Hillier (Lanark–Frontenac–Lennox and Addington PC)

**Clerk / Greffier**

Mr. William Short

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Ms. Tamara Kuzyk, legislative counsel