



BILL NO. 15

Government Bill

*2nd Session, 62nd General Assembly
Nova Scotia
63 Elizabeth II, 2014*

An Act to Amend Chapter 277 of the Revised Statutes, 1989, the Builders' Lien Act

CHAPTER 42
ACTS OF 2014

**AS ASSENTED TO BY THE LIEUTENANT GOVERNOR
NOVEMBER 20, 2014**

The Honourable Lena Metlege Diab
Minister of Justice

*Halifax, Nova Scotia
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**An Act to Amend Chapter 277
of the Revised Statutes, 1989,
the Builders' Lien Act**

Be it enacted by the Governor and Assembly as follows:

1 (1) Subsection 13(3) of Chapter 277 of the Revised Statutes, 1989, the *Builders' Lien Act*, as enacted by Chapter 14 of the Acts of 2013, is further amended by striking out “or discharged” in the second last line and substituting “, discharged or vacated”.

(2) Section 13 of Chapter 277, as amended by Chapter 14 of the Acts of 2004, Chapter 8 of the Acts of 2005 and Chapter 14 of the Acts of 2013, is further amended by adding immediately after subsection (5) the following subsection:

(5A) Where the person primarily liable upon the contract has received notice in writing of a lien and has retained, in addition to any holdback required under this Section, an amount sufficient to satisfy the lien, the person may, without jeopardy in respect of any other lien, make payment on the contract up to ninety per cent of the price of the services or materials that have been supplied under the contract, less the amount retained.

(3) Subsection 13(7) of Chapter 277 is repealed and the following subsection substituted:

(7) Where, pursuant to subsection (3), anyone retains a separate holdback in respect of services or materials that remain to be supplied to complete a contract, everyone retaining the separate holdback shall make payment of the holdback retained pursuant to subsection (2).

2 Section 13A of Chapter 277, as enacted by Chapter 14 of the Acts of 2013, is amended by adding immediately after subsection (3) the following subsection:

(4) Where a subcontract is certified complete, the subcontract is deemed to have been completed on the date of certification.

3 Section 13B of Chapter 277, as enacted by Chapter 14 of the Acts of 2013, is amended by

(a) adding “(1)” immediately after the Section number;

(b) striking out “in respect of the completed subcontract” in the fifth and sixth lines and substituting “that may be claimed against the holdback”;

(c) striking out “or discharged” in the sixth line and substituting “, discharged or vacated”; and

(d) adding the following subsections:

(2) Where the owner makes payment pursuant to subsection (1), everyone retaining a holdback in respect of any subcontract to the completed subcontract, as certified under Section 13A, shall make payment reducing the holdback

required by Section 13 to the extent of the amount of holdback the payer has retained in respect of the subcontract to the completed subcontract if all liens that may be claimed against the holdback have expired or have been satisfied, discharged or vacated in accordance with this Act.

(3) Anyone retaining a holdback in respect of a completed subcontract, or any subcontract thereto, who does not make payment within sixty-five days immediately following the certification of the completed subcontract as permitted by subsection (1) or (2) is liable to the person entitled to such payment for interest on the amount that should have been paid at the prime rate of interest then commonly charged by chartered banks plus two per cent unless there has been agreement on some other rate of interest.

4 This Act comes into force on such day as the Governor in Council orders and declares by proclamation.
