



BILL NO. 81

Government Bill

*5th Session, 61st General Assembly
Nova Scotia
62 Elizabeth II, 2013*

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

CHAPTER 14
ACTS OF 2013

**AS ASSENTED TO BY THE ADMINISTRATOR OF THE PROVINCE
MAY 10, 2013**

The Honourable Ross Landry
Minister of Justice

*Halifax, Nova Scotia
Printed by Authority of the Speaker of the House of Assembly*

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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1 Subsection 13(3) of Chapter 277 of the Revised Statutes, 1989, the *Builders' Lien Act*, is repealed and the following subsection substituted:

(3) Where, sixty days after the date on which a contract is deemed to be substantially performed, services or materials remain to be supplied to complete the contract, the person primarily liable upon the contract shall retain a separate holdback equal to ten per cent of the price of the remaining services or materials as they are actually supplied under the contract, until all liens that may be claimed against the holdback have expired or have been satisfied or discharged in accordance with this Act.

2 Chapter 277 is further amended by adding immediately after Section 13 the following Sections:

13A (1) A subcontract may, upon the request of the contractor or a subcontractor, be certified complete by the architect, engineer or other person upon whose certificate payments are to be made.

(2) Where there is no architect, engineer or other person upon whose certificate payments are to be made and the owner and the contractor determine that a subcontract is complete, the subcontract may be certified complete by the owner and the contractor acting jointly.

(3) Where there is a failure or refusal to certify, within a reasonable time, that a subcontract is complete, any person may apply to a court having jurisdiction to try an action to realize a lien, and the court, upon being satisfied that the subcontract is complete and upon such terms as to costs or otherwise as it considers fit, may issue an order certifying the subcontract to be complete.

13B Where a subcontract has been certified complete under Section 13A, the owner may, without jeopardy in respect of any other lien, 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 completed subcontract if all liens in respect of the completed subcontract have expired or have been satisfied or discharged in accordance with this Act.

3 Chapter 277 is further amended by adding immediately after Section 47 the following Section:

- 48 (1) The Governor in Council may make regulations
- (a) respecting notice that a contract is substantially performed;
 - (b) respecting notice that a subcontract is complete.

(2) The exercise by the Governor in Council of the authority contained in subsection (1) is a regulation within the meaning of the *Regulations Act*.

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