

Duncan Williams

Good afternoon,

Thank you for the opportunity to speak to you today about the importance of Bill 119 for the construction industry in Nova Scotia.

The Construction Association of Nova Scotia (CANS), represents nearly 800 firms that participate in the industrial, commercial and institutional construction sector. Our industry contributes nearly \$6 billion annually to the Nova Scotia economy and employs over 30,000 men and women across the province.

After surveying our members, we know that delayed payment is a significant and growing problem in our industry. With the inclusion of Prompt Payment in the Builders Lien Act, the Province is taking an important and necessary step toward addressing this serious problem.

Prompt Payment Legislation sets out the rights and responsibilities of all parties to a construction project through the establishment of minimum standards for payment, dispute resolution and communication.

Let me define the problem. Delayed payment occurs when any one party in the construction pyramid does not pay his/her supplier of construction services or goods in a timely manor, or not at all.

Across all years surveyed, over 70% of respondents said delayed payments cause reduced working capital for their firms. In each successive year, the problem has gotten more acute (71% - 2015, 77% 2016, 84% 2018).

Approximately 75% of respondents said delayed payment increases the cost of project delivery. This response too, has trended upward year over year. (69% in 2015, 72% in 2016, 75% in 2018)

An even higher number said delayed payment increases the cost of doing business - 84% in 2015, 94% in 2016 & 2018.

The problem also causes many firms to not bid on projects. These numbers have gone up over time as well. 72% chose not to bid certain contractors in 2015 rising to 77% in 2018. 59% chose not to bid certain owners in 2015, rising to 73% in 2018.

Approximately 50% of respondents said it takes between 60-90 days after presenting an invoice to be paid. (50% in 2015, 46% in 2016, 54% in 2018). Nearly 20% of respondents said it takes over 90 days to get paid, if at all.

In 2015, 61% of respondents stated that late payment occurred most or all of the time. In 2018 that number rose to 71%.

In 2015, 56% of respondents felt that the right legal framework did not exist to improve the timeliness of payments. This increased to 70% in 2018.

In 2015, 45% of respondents said delayed payment reduced their ability to bid work. That number rose to 67% in 2018. Delayed payment is directly hurting our economy. Firms told us that they are not investing in new equipment (74%), wages & benefits (58%), training (51%) and safety (32%).

In 2015, 35% said delayed payment restricts their firm's ability to hire workers. That number rose to 51% in 2018.

Nova Scotia and Canada lag behind a majority of other jurisdictions who already have prompt payment legislation in place – 49 US states have it for public sector projects, 31 US states have it in place for the private sector, the US federal government has had prompt payment legislation in place since 1982, the European Union, United Kingdom, Ireland, New Zealand, and Australia all have prompt payment legislation.

The existing law in Nova Scotia, the Builders Lien Act (BLA), is costly, cumbersome, and inaccessible to 65% of the construction industry (small and medium-sized family-owned companies consisting of 50 or fewer employees) – it addresses non-payment as opposed to delinquent payment and the lien rights of many in the industry will expire long before they realize they will not get paid.

On average 35 construction firms file for bankruptcy in Nova Scotia each year. We estimate that approximately half of those are a direct result of delayed and delinquent payment. We further estimate that delayed payment costs our economy \$50-60 million per year. This is a significant amount of lost investment that does not benefit Nova Scotians, our firms and employees.

Prompt payment will:

- Improve the movement of money in our economy.
- Increase fairness and transparency.
- Increase efficiency and productivity.
- Lower the cost of construction projects, public and private.
- Reduce burden on our judicial system.
- Will drive investment, employment, training, innovation and purchase of equipment (ie. apprentices).
- Increase competition and number of bidders on public work.
- Allow contractors to bid more work and grow their businesses.

In summary, CANS believes that Bill 119 establishes the appropriate framework to address delayed payment in the construction industry. We look forward to working with the province to establish appropriate methodologies, financial thresholds and timing requirements.