



Plain Language Summary for Bill 65: *Builders' Lien Act*

The Government of the Northwest Territories' Department of Justice is proposing to replace the existing *Mechanics Lien Act* with a new, more modern *Builders' Lien Act* ("new Act") that better meets the requirements of contractors, employees and those who work on construction projects.

A lien is a legal claim against a property worked on, and that would typically be pledged to guarantee payment. Lien legislation provides a remedy to contractors and sub-contractors by allowing them to place these liens on property to protect themselves from non-payment for work or supplying building material to the property's owner.

The new Act will:

- Address modern construction practices. Many provinces have revised their legislation in recent years. While lien legislation is not uniform across the country, the basic scheme in each jurisdiction is similar;
- Uses plain language where possible, updated terminology, and takes into consideration evolving best practices in the construction business while also taking into account the size and uniqueness of the Northwest Territories; and
- Maintain and adjust some of the existing provisions, while at the same time introduces substantive changes.

The new Act contains the following changes:

- Changing the name of the Act from '*Mechanics' Lien Act* to '*Builders' Lien Act*
- Amending the scope of the Act to include "improvements"
- Extending timelines for filing and perfecting claims
- Allowing courts to order discharges when appropriate
- Creating trust provisions which requires owners and contractors to hold any money received in trust for employees and subcontractors
- Introducing the concept of 'substantial performance' and finishing holdbacks
- Allowing annual, phased, and segmented release of holdbacks for large contracts
- Eliminating the posting of payroll at the construction site
- Providing greater clarity regarding which groups or persons have priority
- Providing the right to information
- Greater clarity and readability
- Transitional legislation

In June of 2020, the Department engaged external stakeholders with an engagement paper "*A Proposed Builders' Lien Act for the Northwest Territories*" distributed to stakeholders, municipalities, the legal community, the Northwest Territories and Nunavut Construction Association, the financial services industry, the construction industry, and other GNWT departments. As the legislative changes are of interest to a small group of stakeholders who are involved with the construction industry, they were targeted directly. Seven written responses were received, and these were put into a "*What We Heard Report*".

For additional information or questions, contact:

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