



Vancouver Regional Construction Association
Professional Services Division Meeting MINUTES

Date: 3:30 – 5pm, March 7, 2024

Location: Virtual via Microsoft Teams

Attendee	Company
Scott Harcus	Alexander Holburn Beaudin + Lang LLP
Nikki Keith	Wilson M. Beck Insurance Services Inc.
Deanna Stuart	Crowe MacKay LLP
Dirk Laudan	Borden Ladner Gervais LLP
Charles Bois	Miller Thomson LLP Barristers & Solicitors
Joey Thompson	Marsh Canada Limited
Guest	
Chris Atchison	BC Construction Association
VRCA Staff	
Jeannine Martin, President	
Cecile Lopez, Director of Operations	
Erin Wormald, Member Experience Specialist	

Action Items			
Item #	Owner	Action	Timeline
PS240307-1	VRCA	Invite Mark Liedemann to the next division meeting to discuss Alliance contracts.	May



AGENDA ITEM	DISCUSSION
1. Welcome	Roundtable introductions of attendees.
2. VRCA/BCCA/CCA Updates	<p>BCCA Update</p> <p>Chris Atchison provided an overview of what BCCA does, its mandate to work on workforce development within the industry, and recent efforts on advocacy and prompt payment (see Attachment 1).</p> <ul style="list-style-type: none">• SH: Why has BC been such a laggard compared to most of the other provinces that now have it in place and what needs to be done in the future to get prompt payment legislation in place in BC? / A: There are people-first governments and that is their mandate; they don't fully understand what prompt payment legislation is, or what it brings to an industry and to community. They see this as a business-to-business challenge (rather than as people).• CB: NDP was committed to have something in place by the fall last year? / A: In early 2021, we had a commitment for a commencement of a working group and then that was pulled then. So this is really a revisitation. We felt that maybe late in 2023 would have been about the earliest we could expect legislation, but all of that got bumped as soon as they pulled that working group. Now the working group has some legs beneath it, that's not going to happen this time.• CB: Do you think they are tying it with the Buildres Lien Act? / A: The plan is to go through the comparative analysis of prompt payment and adjudication that exists in the other jurisdictions then once that review is done, go back and revisit the BC law Institute's recommendations for lien reform and fold it all into one. <p>VRCA Update</p> <p>Jeannine started with a membership update, which has grown to 840. On advocacy – VRCA is participating in the prompt payment cross-jurisdictional analysis; working on building relationships so we can influence outcomes for construction at the municipal and local government level for the Lower Mainland; hosted several panels at Buildex to help raise the profile of construction. We piloted the Bringing Trades to Schools program a few weeks ago in conjunction with BCIT & Burnaby Board of Trade and had some member firms (PCL, WPE, Division 15 Mechanical, etc) facilitate hands-on training in different trades. We are looking at ways we can scale this program. For events, we have a half-day conference for women in construction called LEAP on March 8, a mixer coming up on March 14 in Abbotsford. The CLF conference is coming up on May 2-4 and more than 50% sold so please get your tickets if interested. April is Construction month and VRCA will host a breakfast on April 15, more info to come.</p> <ul style="list-style-type: none">• SH: How is membership amongst the Professional Service Division is doing? / A: about 85 members. We have had some more engineers and architects starting to join, and tech companies, so we are starting to build professional services.
3. Open Forum	<p>Division Meetings</p> <ul style="list-style-type: none">• The division meetings focus on issues that affect that division – there are unique issues that might arise in providing services and dealing with our clients. This is a forum to raise things you've seen, where we can discuss those topics.• When you register, you will receive a survey where you can submit topics you want to discuss on these calls. Because it is for you, it's for you to bring the issues to the table for us to just have an open discussion about them.

	<p>Insurance, Surety Trends</p> <ul style="list-style-type: none"> • Rates are stabilizing as far as wrap ups go. The challenges on the high-rise construction is the water prevention plan, underwriters are wanting to see water shutoff valves installed on the plumbing. Cyber is always an issue and more sophisticated claims are coming through. AI has definitely made a change to how people are scamming, e.g., they can take someone who has a very unique voice and recreate it and use that voice to call and ask you to do something. There are more mailbox thefts happening as well where checks are stolen; the key is to make sure that accounting teams are following best practices. Forest fires is an issue that we have in the interior and remote areas, it is getting more difficult to find coverage in some of those areas for certain things. • Pollution liability - better to have as part of your program and flow that cost through the project. It's the site pollution that is more difficult to get because you have to have a site assessment done to say if there were pollutants tested on that site. • CCDC challenge is that contractors are still modifying those documents. Developers are wanting to control the insurance, so they have to modify the CCDC contract language. NK: have brought this forward to CCA – to have a couple of standard template versions of that insurance document, one that says owner shall provide and one that says contractor shall provide so that it's not leaving it up to the contractor to get a legal team to build something for them. If CCDC contracts were done in a way wherein depending on who's buying the insurance, you can exchange that one document, it would cut down on some of those gaps on those contracts. • There are more joint ventures because the capital requirements are huge, which raises all kinds of different things such as insurance liability for the various joint venture partners. • Policy exclusions – A number of things that have traditionally been included in the policy coverage have now been carved out, and you need an endorsement or another supplemental policy to deal with them. Also, there should be more conversation in the insurance document on the contract that outlines what the deductible structures might be. • Certificate of Completion – DL: Seeing high claims frequency, with certificates of completion in BC rarely issued correctly so that people's protection against liens is not always as good as they have assumed. That's one of the reasons we hope some architects will join us at these meetings as they are the payment certifier typically on these projects. • Alliance contracts – Infrastructure BC looks at this as a construction management contract, an opportunity to open up big projects to additional contractors because there is no bonding required; puts the entire risk on the owner. Action: Invite Mark Liedemann to the next division call • Construction Leadership Forum (CLF), May 2-4 - Brian Maksymetz from Better Projects Inc. will talk about collaborative contract models from the contractor perspective, having worked on them and been involved in them. We also asked Infrastructure BC to consider having a forum with our trades. We will continue to educate ourselves, more info to come.
<p>4. Other/New Business</p>	<p>No new business. The meeting adjourned at 4:45pm.</p>

Attachment 1

BCCA REPORT

MARCH 2024

Presented by: Chris Atchison
President, BCCA



British
Columbia
Construction
Association

BCCA PROGRAMS

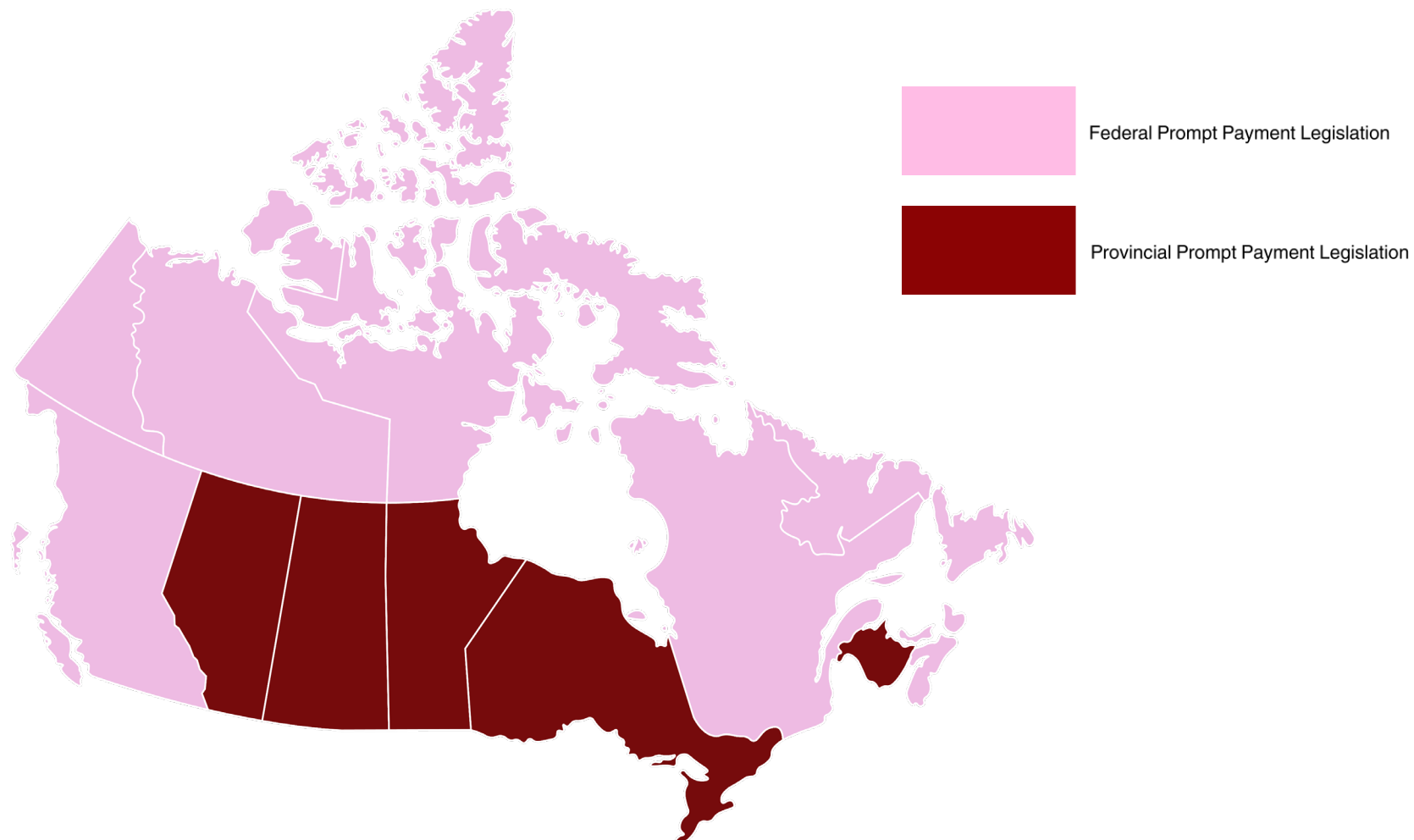
BCCA APPRENTICESHIP SERVICES



BCCA INDUSTRY PRIORITIES

Standard Practices and Prompt Payment

THE STATE OF PROMPT PAYMENT LEGISLATION IN CANADA



WHAT'S HAPPENING IN BC



CROSS-JURISDICTIONAL ANALYSIS AND RECOMMENDATIONS



Cross-jurisdictional Legislative Comparison of Prompt Payment and Adjudication Regimes Across Canada

November, 2023

Prepared by:
Glenn Ackerley and Kathleen Gregus



Applicable Legislation and Transitional Rules					
Ontario	Alberta	Saskatchewan	New Brunswick	Manitoba	Federal
b. prescribing forms and providing for their use; c. for the purposes of subsection 1.1 (5), providing for modifications in the application of portions, provisions or regulations listed in that subsection; d. governing the registry required to be established under clause 13.3 (1) (c); e. governing the setting of fees, costs and charges by the Authorized Nominating Authority under clause 13.3 (2) (a); f. for the purposes of section 13.4, prescribing fees for the training and qualification of persons as adjudicators and for the appointment of adjudicators, and requiring their payment; g. establishing procedures for the making of complaints against the Authorized Nominating Authority; h. governing adjudication procedures; i. governing the procedures for requiring a consolidated adjudication under subsection 13.8 (2), (i.1) governing the determination of fees by the Authorized Nominating	or more prescribed classes of professionals acting in a consultative capacity; iii. respecting an agreement, entity, undertaking or work or a class of agreements, entities, undertakings or works for the purposes of section 1.1(2)(c); iv. prescribing persons or entities, or classes of persons or entities, whether incorporated or not, for the purposes of section 1.1(3); v. prescribing a project agreement or a class of project agreements to finance and undertake an improvement for the purposes of section 1.1(3); vi. respecting the application of any part or all of this Act to a prescribed person, entity or project agreement or to a prescribed class of persons, entities or project agreements for the purposes of section 1.1(3) (PPCLA, s.70(a)). The Lieutenant Governor in Council may make regulations for the purposes of Part 2 and 3 (PPCLA s.70(a.01) and (a.1)). The Lieutenant Governor in Council may make	invoice for the purposes of section 5.1; c. for the purposes of section 5.11, prescribing persons or classes of persons; d. for the purposes of subsection 5.3(1), respecting the frequency with which proper invoices must be given to an owner; e. for the purposes of subsection 5.4(1), respecting the period within which an owner shall pay the amount payable after receiving a proper invoice from the contractor; f. prescribing the form of a notice of non-payment and the manner in which that notice is to be given for the purposes of subsection 5.4(2); g. prescribing the form of a notice of non-payment and the manner in which the documents are to be provided for the purposes of subsection 5.5(5); h. prescribing the form of a notice of non-payment and the manner in which that notice is to be given for the purposes of subsection 5.5(6); i. for the purposes of subsection 5.5(1), respecting the duties of a contractor if the contractor receives a	application of the provisions of this Act and the regulations; b. prescribing persons or classes of persons, contracts or classes of contracts, improvements or classes of improvements or other matters for the purposes of subsection 4(2); c. prescribing information for the purposes of paragraph 6(2)(b); d. prescribing the form and content of notices of non-payment for owners, contractors and subcontractors; e. prescribing rates of interest for the purposes of section 17 and subsection 30(1); f. prescribing criteria for the purposes of subsection 18(1); g. prescribing duties and powers for the purposes of subsections 18(2) and 19(3); h. prescribing matters for the purposes of subsection 20(4); i. respecting the setting of fees, costs and other charges by the Adjudicator Authority; j. governing fees, costs and other charges not set by the Adjudicator Authority, including prescribing fees, costs or charges or prescribing methods for	c. prescribing the period within which an owner must pay the amount payable after receiving a proper invoice from a contractor; d. prescribing the form of a notice of non-payment and the manner in which that notice is to be given; e. respecting the duties of a contractor or subcontractor on receipt of a notice of non-payment; f. respecting the records that persons who are subject to this Division are required to make and maintain, including the length of time for which and the location at which the records must be maintained; g. prescribing matters that may be referred to adjudication; h. prescribing criteria for the designation of a person or entity as the adjudication authority; i. establishing the procedures for the making of complaints against the adjudication authority; j. prescribing the requirements for registration as an adjudicator; k. prescribing the form of notice of adjudication; respecting the timing for, manner in which,	which it is to be submitted; b. the form and content of a proper invoice and the manner in which it is to be submitted; c. the form and any additional content of a notice of non-payment and the manner in which it is to be submitted; d. the powers, duties and functions of the Adjudicator Authority; e. the eligibility and qualifications of individuals who may be designated as adjudicators; f. the powers, duties and functions of adjudicators; g. the maximum fees for the services of an adjudicator; h. the form and any additional content of a notice of adjudication and the manner in which it is to be submitted, and; i. the procedure and time limits governing the adjudication (FPPCW, s.22). The Governor in Council may make regulations generally for carrying out the purposes and provisions of this Act, including regulations prescribing: a. criteria for the purpose of subsection 6(1), and

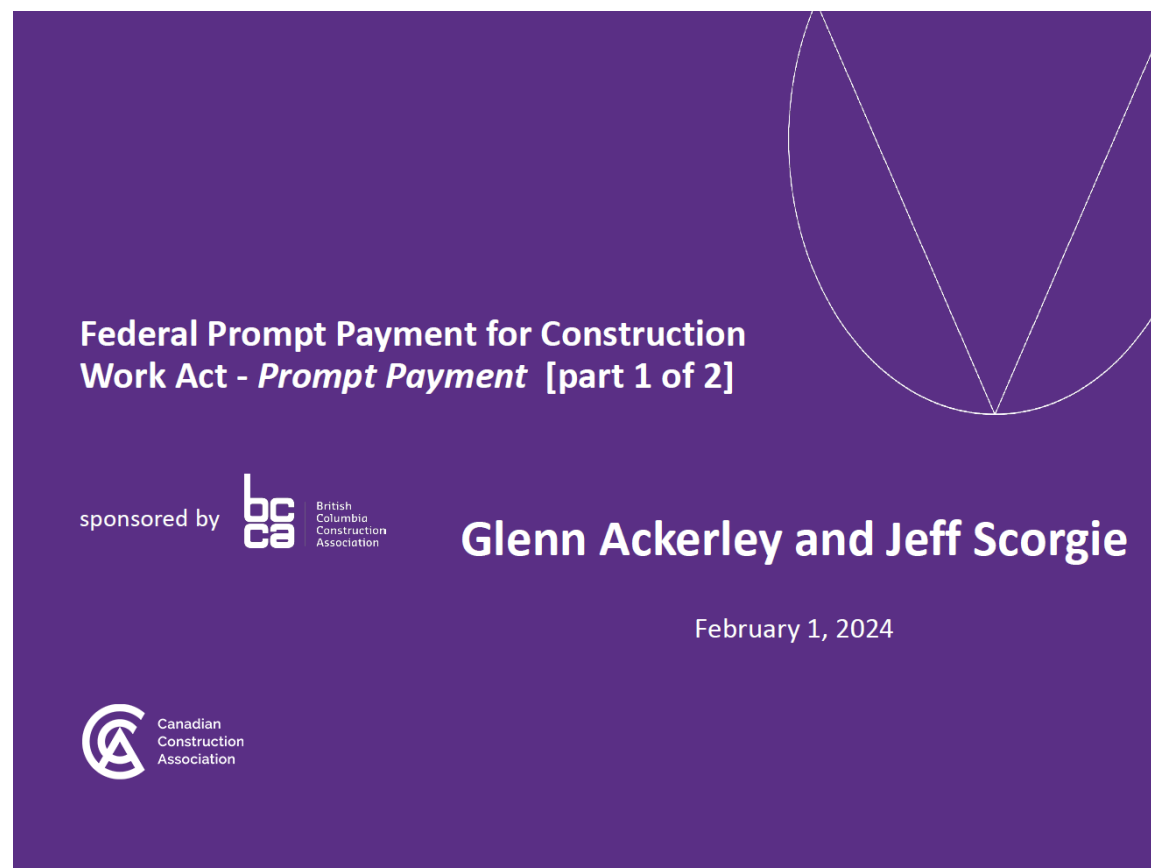
PROMPT PAYMENT WORKING GROUP

An industry working group has been established and managed by the Ministry of the Attorney General to accelerate progress on prompt payment legislation.


The group is tasked with providing industry expertise and guidance to shape development of legislation specifically for BC, informed by the cross-jurisdictional analysis.

Educational sessions on Prompt Payment and Adjudication were hosted by BCCA to facilitate meaningful discussions.

BCCA SPONSORS FEDERAL PROMPT PAYMENT EDUCATION




**Federal Prompt Payment for Construction
Work Act - *Prompt Payment* [part 1 of 2]**

sponsored by  British
Columbia
Construction
Association

Glenn Ackerley and Jeff Scorgie

February 1, 2024

 Canadian
Construction
Association

Visit the BCCA website at
bccassn.com/industry-priorities/prompt-payment/
for more information

THANK YOU.



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