

**MINISTRY OF JUSTICE
JUSTICE SERVICES BRANCH
BRIEFING NOTE**

PURPOSE: For INFORMATION for the Attorney General

ISSUE: MLA Vicki Huntington's private member's bill proposes an amendment to the *Builders Lien Act*, which would require a person to provide notice to an owner before filing a lien.

RECOMMENDED RESPONSE:

s.13

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BACKGROUND:

- MLA Huntington met with the Minister and Ministry of Justice staff on March 5, 2015, to discuss her private member's bill proposing amendments to the *Builders Lien Act*.
 - The purpose of the bill is to prevent owners who have disputes with a construction contractor from being faced with lien claims when they attempt to sell their home. The concern is that owners may have a valid right of set-off for contractual payment obligations (i.e., be entitled to reduce or eliminate the amount owed due to shoddy workmanship, mistakes, damage, etc.), and be unable to fully advance these rights due to the time constraints associated with completing the sale.
 - In 2014, the Ministry of Justice asked the British Columbia Law Institute to review the *Builders Lien Act*. The British Columbia Law Institute established a project committee on June 5, 2014.
 - The Committee is composed of lawyers who have considerable expertise in builder's lien matters. s.14
- s.14
- The Committee has met monthly since being established in June 2014 (save for a hiatus in August). The Committee is scheduled to continue meeting until at least December 8, 2015, though more or less time may be required depending on the progress of the Committee.
 - Ministry staff requested the Committee consider MLA Huntington's proposal.

s.13,s.14

- The recommendation to amend the *Builders Lien Act* to require the Land Title and Survey Authority to provide notice of a lien claim will ultimately appear in the Committee's report. Ministry staff has taken no position on the MLA Huntington's private member's bill or the Committee's alternative proposal. If legislation is ever considered, it will be necessary to consult with the Land Title and Survey Authority about the Committee's proposal.

Approved / Not Approved:



Suzanne Anton QC
Attorney General and
Minister of Justice

Date: 28 May 2015

Prepared by:
Tyler Nyvall
Legal Counsel
Justice Services Branch
250 356-8040

Approved by:
Nancy Carter
Executive Director
Justice Services Branch
250 356-6182

Approved by:
Jay Chalke, QC
Assistant Deputy Minister

Date: 5 May 2015



Richard J. M. Fyfe, Q.C.
Deputy Attorney General

Date: May 7, 2015

DRAFT

Ms. Vicki Huntington
MLA
Delta South
4805 Delta Street
Delta BC V4K 2T7

Dear Ms. Huntington:

I write further to your meeting of March 5, 2015, with staff from the Ministry of Justice, to discuss your proposed private member's bill to amend the *Builders Lien Act*. The proposed amendments would require a lien claimant to provide notice to an owner before filing a lien.

As was noted at the meeting, the British Columbia Law Institute has formed a project committee to recommend amendments to the *Builders Lien Act*. I wish to confirm that your bill has been considered by the project committee and I am advised that the committee's report will address the issue of providing notice of a lien to an owner.

Thank you for taking the time to raise this issue on behalf of your constituents.

Yours very truly,

Suzanne Anton QC
Attorney General
Minister of Justice

Cliff: 415012
X-ref 413962 and 415011
Date Prepared: April 28, 2015

From: [Don Thompson](#)
To: HJohannsen@singleton.com
Cc: [Nyvall, Tyler JAG:EX](#); s.14 [Greg Blue, BCLI](#)
Subject: FW: Builders Lien Act - P3 Meeting
Date: Monday, August 15, 2016 11:05:32 AM

Good morning Helmut.

I am forwarding this email to you since we need you at the meeting (see below).

Regards,

Don Thompson

From: Nyvall, Tyler JAG:EX [mailto:Tyler.Nyvall@gov.bc.ca]

Sent: Monday, August 15, 2016 10:54 AM

To: s.14 : Greg Blue, BCLI; Don Thompson

Subject: Builders Lien Act - P3 Meeting

Hi all,

Could you please use the following link to indicate your availability for a meeting s.14

s.14

<http://whenisgood.net/fwz5qmc>

If there are others you believe should participate in this meeting please forward this e-mail to them. I will be inviting Karen Mill (Assistant Vice President, Legal) from Partnership BC participate in the meeting using a separate e-mail. Thank you for your attention to this.

Sincerely,

Tyler

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From: [Don Thompson](#)
To: [Nyvall, Tyler JAG:EX](#)
Cc: s.15 [Greg Blue, BCLI; HJohannsen@singleton.com](#)
Subject: RE: Builders Lien Act - P3 Meeting
Date: Monday, August 15, 2016 11:08:22 AM

Good morning Tyler.

What is the proposed location of the meeting?

Thanks.

Don Thompson

From: Nyvall, Tyler JAG:EX [<mailto:Tyler.Nyvall@gov.bc.ca>]
Sent: Monday, August 15, 2016 10:54 AM
To: s.14 Greg Blue, BCLI; Don Thompson
Subject: Builders Lien Act - P3 Meeting

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