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July 7, 2026

Re: Submission in Response to the Province of BC's Discussion Paper Regarding the Construction Prompt Payment Act

Dear Ministry of Infrastructure,

Introduction

BC Non-Profit Housing Association (BCNPHA) represents 800 non-profit housing providers across BC, who operate 80,000 affordable homes. As the provincial association representing a sector that partners with government to deliver affordable housing, BCNPHA is submitting this response to the Province's Construction Prompt Payment Act Discussion Paper to ensure regulations reflect the sector's unique funding structures and support effective implementation.

BC's non-profit housing sector is a major contributor to construction activity, delivering 20% of rental housing supply.[1] BCNPHA coached the sector in advancing over $7 million in energy retrofit projects in the past year, representing only a portion of the sector's overall construction activity in terms of energy retrofit and building renewal projects. [2] Non-profit housing providers have a strong track record of meeting contractual obligations, including paying contractors on time.

The sector supports the intent of the Act to improve payment certainty and reduce disputes, and has processes in place to enable prompt payment once funding is received. However, non-profit housing projects that are publicly funded involve multi-step payment chains, where payments to contractors are contingent on funder approval and disbursement processes (e.g., BC Housing, federal government). As a result, non-profit owners are accountable for meeting the Act's requirements even though funder payment processes are outside their control.

The following recommendations respond to key areas identified in the Discussion Paper, including payment timelines, interest on late payments, and adjudication processes, and are intended to ensure the regulations reflect these realities and support effective implementation of the Act without unintended impacts on affordable housing delivery.

Context

- Non-profits act as "owners" under the Act but do not control payment processes of funders
- Funder approval processes, including resolving minor issues such as missing signatures or rounding errors on invoices, can result in missed cheque runs, delaying the transfer of funds to non-profits and limiting their ability to pay contractors on time

[1] Canada Mortgage and Housing Corporation's project completions data (2026), provided to BCNPHA.
[2] BCNPHA, IMIS database (2026).

- Invoices for non-profit construction projects must go through two review and approval processes, the non-profit and the funder, making the 7-day dispute timelines on proper invoices difficult to meet, particularly where the funder requests clarification or revisions on invoices during their review
- Most non-profits cannot bridge large payments (which can be millions of dollars) if funder processes are delayed
- The 28-day payment timelines are more feasible for non-profits to meet than the 7-day period for disputes

Unintended Impacts for Non-Profits

- The Act places liability for meeting the Act's requirements on non-profit owners, despite being dependent on funding processes outside their control
- Interest payments owed by the non-profit owner because of payment processes outside their control lead to cost escalation for projects aiming to provide affordable housing for low-income households in BC
- Where payment timelines cannot be met due to factors outside their control, non-profits risk being perceived as "late payers," leading contractors to avoid the sector or deprioritize projects while awaiting payment, resulting in reduced competition, higher bids, and scheduling delays
- To avoid late payment penalties, non-profits may be required to release payments without confirmed funding approval, creating financial risk and potential instability for organizations delivering critical affordable housing

Considerations for Act's Regulations

1. *Ensure that responsibility for meeting prompt payment timelines reflects who controls the timing of funding and approvals*

How:

- Consider deeming non-profit owners compliant where they have submitted complete claims to funders within required timelines and any delays are attributable to funder approval or disbursement processes
- Consider transferring administration of interest for late payments or adjudication to the funder rather than the owner if the owner is a non-profit
- Consider requiring that adjudication fees be assigned to the funder where delays are caused by funder processes

Benefits:

- Submitting claims to funders within the timelines is within the control of non-profits
- Transferring liability to government funders who control the payments incentivizes funders to ensure their payment processes align with the Act

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- Prevents non-profits from being in the position of fronting payments without approval from funders, which prevents financial instability for non-profits as a result of the Act
- Avoids sector-specific exceptions to the Act's timelines that could create perception that non-profits are slow to pay, so regulations do not unintentionally incentivize contractors to avoid working with non-profits

2. Enable contractual flexibility for publicly funded projects

How:

- Consider regulations that allow payment timelines to be modified through contract where necessary to align with public funding processes

Benefits:

- Enables alignment between legislative timelines and real funding flows
- Maintains clarity and predictability for contractors through transparent contract terms

3. Strengthen Clarity and Flexibility Around "Proper Invoice", Dispute Timelines, and Adjudication

How:

- Provide clarifications through the regulations including:
    - Accountability mechanisms if adjudication timelines are not met so delays do not increase interest costs
    - Expectations for partial payment of undisputed invoice amounts while issues are resolved
    - Examples of construction projects that are and are not subject to the Act
- Consider allowing the addition of project-specific requirements for invoices in standard supplemental general conditions (e.g., supporting documentation, formatting)
- Include some adjudicators who have experience with the payment chains and multi-layered approval processes specific to publicly funded non-profit housing projects
- Consider allowing disputes to be issued within the 28-day payment period rather than 7 days, to better align with multi-layer approval processes

Benefits:

- Reduces disputes and administrative burden by improving consistency
- Makes compliance with tight timelines more feasible in a multi-layer approval environment
- Avoids delays caused by minor invoice or process errors

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Conclusion

If regulations do not account for the funding and approval structures underlying non-profit housing development, the Act risks shifting financial and operational risk onto organizations that do not control payment timing. This could result in higher costs, reduced competition, and project delays, ultimately undermining the delivery of affordable housing. Aligning responsibility with control is critical to ensuring the Act strengthens, rather than disrupts, housing outcomes in BC.

Yours sincerely,

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